AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

CONTRACTS AND CONTRACTING POLICY AT THE U.S. DEPARTMENT OF VETERANS AFFAIRS

HEARING

BEFORE THE

SUBCOMMITTEE ON ECONOMIC OPPORTUNITY

OF THE

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

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

APRIL 23, 2009

Serial No. 111–14

Printed for the use of the Committee on Veterans' Affairs

U.S. GOVERNMENT PRINTING OFFICE

49–912 WASHINGTON : 2009

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
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON VETERANS' AFFAIRS

BOB FILNER, California, *Chairman*

CORRINE BROWN, Florida
VIC SNYDER, Arkansas
MICHAEL H. MICHAUD, Maine
STEPHANIE HERSETH SANDLIN, South Dakota
HARRY E. MITCHELL, Arizona
JOHN J. HALL, New York
DEBORAH L. HALVORSON, Illinois
THOMAS S.P. PERRIELLO, Virginia
HARRY TEAGUE, New Mexico
CIRO D. RODRIGUEZ, Texas
JOE DONNELLY, Indiana
JERRY MCNERNEY, California
ZACHARY T. SPACE, Ohio
TIMOTHY J. WALZ, Minnesota
JOHN H. ADLER, New Jersey
ANN KIRKPATRICK, Arizona
GLENN C. NYE, Virginia

STEVE BUYER, Indiana, *Ranking*
CLIFF STEARNS, Florida
JERRY MORAN, Kansas
HENRY E. BROWN, JR., South Carolina
JEFF MILLER, Florida
JOHN BOOZMAN, Arkansas
BRIAN P. BILBRAY, California
DOUG LAMBORN, Colorado
GUS M. BILIRAKIS, Florida
VERN BUCHANAN, Florida
DAVID P. ROE, Tennessee

MALCOM A. SHORTER, *Staff Director*

SUBCOMMITTEE ON ECONOMIC OPPORTUNITY

STEPHANIE HERSETH SANDLIN, South Dakota, *Chairwoman*

THOMAS S.P. PERRIELLO, Virginia
JOHN H. ADLER, New Jersey
ANN KIRKPATRICK, Arizona
HARRY TEAGUE, New Mexico

JOHN BOOZMAN, Arkansas, *Ranking*
JERRY MORAN, Kansas
GUS M. BILIRAKIS, Florida

Pursuant to clause 2(e)(4) of Rule XI of the Rules of the House, public hearing records of the Committee on Veterans' Affairs are also published in electronic form. **The printed hearing record remains the official version.** Because electronic submissions are used to prepare both printed and electronic versions of the hearing record, the process of converting between various electronic formats may introduce unintentional errors or omissions. Such occurrences are inherent in the current publication process and should diminish as the process is further refined.

CONTENTS

April 23, 2009

Page

Contracts and Contracting Policy at the U.S. Department of Veterans Affairs . 1

OPENING STATEMENTS

Chairwoman Stephanie Herseth Sandlin 1
Prepared statement of Chairwoman Herseth Sandlin 40
Hon. John Boozman, Ranking Republican Member 2
Prepared statement of Congressman Boozman 40

WITNESSES

U.S. Small Business Administration:
Shawne Carter McGibbon, Acting Chief Counsel for Advocacy, Office of Advocacy 29
Prepared statement of Ms. McGibbon 71
Joseph Jordan, Associate Administrator for Government Contracting and Business Development 32
Prepared statement of Mr. Jordan 87
U.S. Department of Veterans Affairs, Jan R. Frye, Deputy Assistant Secretary for Acquisition and Logistics 33
Prepared statement of Mr. Frye 89

American Veterans (AMVETS), Christina M. Roof, National Legislative Assistant 24
Prepared statement of Ms. Roof 69
CSSS.NET, Bellevue, NE, Lisa N. Wolford, President and Chief Executive Officer 10
Prepared statement of Ms. Wolford 52
Federal Sources, Inc., a Washington Management Group Company, McLean, VA, Colonel Raymond C. Bjorklund, USAF (Ret.), Senior Vice President and Chief Knowledge Officer 18
Prepared statement of Colonel Bjorklund 55
MCB Lighting and Electrical, Owings, MD, Charles Maurice Baker, President and Chief Executive Officer 8
Prepared statement of Mr. Baker 48
MicroTech, LLC, Vienna, VA, Anthony R. Jimenez, President and Chief Executive Officer 6
Prepared statement of Mr. Jimenez 43
National Veteran-Owned Business Association, Coraopolis, PA, Scott Denniston, Director of Programs 19
Prepared statement of Mr. Denniston 60
Oak Grove Technologies, Raleigh, NC, Mark J. Gross, President and Chief Executive Officer 4
Prepared statement of Mr. Gross 41
Veterans Enterprise Training and Services Group, Inc. (VETS Group), Joe Wynn, Chairman, President/Chief Executive Officer, Member, Veterans Entrepreneurship Task Force (VET–Force), and National Association for Black Veterans 22
Prepared statement of Mr. Wynn 62

SUBMISSIONS FOR THE RECORD

Greentree Environmental Services, Inc., Indianapolis, IN, John R. Casey, President, letter 91
JBC Corp, Virginia Beach, VA, Brian W. Cavolt, USN (Ret.), Chief Executive Officer, statement 92

Page

MATERIAL SUBMITTED FOR THE RECORD

Post-Hearing Questions and Responses for the Record:

Hon. Stephanie Herseth Sandlin, Chairwoman, Subcommittee on Economic Opportunity, Committee on Veterans' Affairs, to Mark Gross, President and Chief Executive Officer, Oak Grove Technologies, LLC, letter dated April 28, 2009, and response letter dated June 5, 2009 95

Hon. Stephanie Herseth Sandlin, Chairwoman, Subcommittee on Economic Opportunity, Committee on Veterans' Affairs, to Anthony R. Jimenez, President and Chief Executive Officer, MicroTech, LLC, letter dated April 28, 2009, and Mr. Jimenez's responses 97

Hon. Stephanie Herseth Sandlin, Chairwoman, Subcommittee on Economic Opportunity, Committee on Veterans' Affairs, to Charles Baker, Chief Executive Officer, MCB Lighting and Electrical, letter dated April 28, 2009, and Mr. Baker's responses 98

Hon. Stephanie Herseth Sandlin, Chairwoman, Subcommittee on Economic Opportunity, Committee on Veterans' Affairs, to Ms. Lisa Wolford, President and Chief Executive Officer, CSSS.NET, letter dated April 28, 2009, and Ms. Wolford's responses 101

Hon. Stephanie Herseth Sandlin, Chairwoman, Subcommittee on Economic Opportunity, Committee on Veterans' Affairs, to Mr. Scott F. Denniston, President, Scott Group of VA, LLC, letter dated April 28, 2009, and Mr. Denniston's responses 104

Hon. Stephanie Herseth Sandlin, Chairwoman, Subcommittee on Economic Opportunity, Committee on Veterans' Affairs, to Mr. Joe Wynn, Chairman, President and Chief Executive Officer, The Veterans Enterprise Training and Services Group, letter April 28, 2009, and Mr. Wynn's responses 105

Hon. Stephanie Herseth Sandlin, Chairwoman, Subcommittee on Economic Opportunity, Committee on Veterans' Affairs, to James King, Executive Director, American Veterans (AMVETS), letter dated April 28, 2009, and response from Christina M. Roof, National Legislative Assistant 108

Hon. Stephanie Herseth Sandlin, Chairwoman, Subcommittee on Economic Opportunity, Committee on Veterans' Affairs, to Mr. Jan Frye, Deputy Assistant Secretary for Acquisition and Logistics, U.S. Department Affairs, letter dated April 28, 2009, and VA responses 111

CONTRACTS AND CONTRACTING POLICY AT THE U.S. DEPARTMENT OF VETERANS AFFAIRS

THURSDAY, APRIL 23, 2009

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

The Subcommittee met, pursuant to notice, at 1:00 p.m., in Room 334, Cannon House Office Building, Hon. Stephanie Herseth Sandlin [Chairwoman of the Subcommittee] presiding.

Present: Representatives Herseth Sandlin, Teague, and Boozman.

OPENING STATEMENT OF CHAIRWOMAN HERSETH SANDLIN

Ms. HERSETH SANDLIN. Good afternoon, ladies and gentlemen. The Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, hearing on contracts and contracting policy at the U.S. Department of Veterans Affairs will come to order.

Before I begin with my opening statement, I would like to state that Mr. John Casey, President of Greentree Environmental Services, Incorporated, and Mr. Brian Cavolt, Chief Executive Officer of JBC Corporation, have asked to submit written statements for the hearing record. If there is no objection I ask for unanimous consent that their statements be entered for the record. Hearing no objection, so entered.

[The prepared statements of John Casey and Brian Cavolt appear on p. 89 and p. 90.]

Ms. HERSETH SANDLIN. I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks, and that written statements be made part of the record. Hearing no objection, so ordered.

As our Nation's veteran-owned small businesses encounter a challenging economic environment, it is important that we continue to provide oversight on small business opportunities for veterans and service-disabled veterans, and review laws that are ineffective, and consider possible solutions. During the 110th Congress we held 3 hearings on the subjects of veterans' entrepreneurship and self-employment, Federal procurement and the 3-percent set aside, and contract bundling. During these hearings, many of our panelists expressed several concerns, including the need to retrain Federal employees on existing laws and regulations; a majority of Federal agencies not meeting the 3-percent set aside for veteran-owned

small business; the need to streamline existing programs; and the lack of enforcement of existing laws and regulations. Furthermore, the Subcommittee recently reviewed correspondence from a veteran concerned that the Small Business Administration's (SBA's) offices in San Antonio, Texas are promoting contracts with 8(a) applicants to the detriment of service-disabled veteran-owned small businesses (SDVOBs).

While this and other veterans' concerns are discouraging to me, I am pleased that we are continuing to make progress in providing opportunities for our Nation's veterans. Last year we made progress with the enactment of Public Law 110–389, the Veterans Benefits Improvement Act of 2008, which contained language introduced by Ranking Member Boozman. This new law clarifies the intent of the small business provisions of Public Law 109–461, that these provisions apply not only to the U.S. Department of Veterans Affairs (VA) but also to any agency, entity, or person acting on its behalf. This new law requires that specific language be included in future agreements with the VA, that any agents acting on its behalf are expected to be in compliance with the VA's responsibilities under any laws and regulations promoting veteran and service-disabled veteran-owned small businesses.

Also, under the leadership of Chairwoman Nydia Velazquez of the House Small Business Committee, Congress passed Public Law 110–186, the Military Reservist and Veteran Small Business Reauthorization Opportunity Act of 2008. Among several substantive changes this law will increase the authorization of the Small Business Administration's Office of Veteran Business Development; create an interagency task force on veteran small business; create a new loan initiative providing veterans with 7(a) small business loans at 50 percent of the fees of other small businesses; increase the number of Veteran Business Outreach Centers; and provide grants to the SBA's Small Business Development Center to expand its outreach to veterans.

I applaud these efforts and the work of the thousands of Federal employees tasked to assist our Nation's veterans. But more can and should be done. I look forward to exploring all possibilities, to work with the Interagency Task Force on Veteran Small Business and the veterans community on ways to improve existing programs.

I now recognize our distinguished Ranking Member, Congressman John 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. During the 109th Congress we passed important small business legislations at sections 502 and 503 of what became Public Law 109–461 on December 22, 2006. Those provisions provided VA contracting officials with several tools to enable them to increase the number of contracts given to veteran and disabled veteran-owned small businesses. To their credit, VA has made a significant effort to increase veteran-owned small business share of contracts, and last fiscal year awarded 14.9 percent of the procurement contracts worth about $2.1 billion that went to veteran-owned small businesses, including $1.66 billion to

disabled veteran-owned small businesses. I congratulate VA staff for that accomplishment and for setting the standard for the rest of the Federal Government.

Public Law 109–461 had several important features that requires VA to set veteran-owned small businesses procurement goals. It requires VA to verify the subcontracting plans submitted in proposals, that they are carried out. It set thresholds for sole source and restricted competition. It requires that a small business seeking contracts under provisions of Public Law 109–461 be listed and verified in the database of veteran-owned small business maintained by the VA. The law also requires VA to verify that businesses applying for listing in the database are owned and controlled by veterans and the service connected disability status of the owner or owners. The law also establishes enforcement provisions, and how a business is treated when ownership passes due to the death of the veteran, and annual reporting requirements. Finally, the law clearly states that VA shall give priority to a small business owned and controlled by veterans if such business concern also meets the requirements of that contracting preference.

However, I have concerns. While VA has done an excellent job in exceeding the veteran-owned small business contracting goal, I am very concerned about the implementation of the database provisions. It is my understanding that 28 months after the provisions became law, only 974 of the 18,368 companies in the VA database have been verified as veteran-owned small businesses, with another 427 pending verification. At that rate, it will take about 20 more years to work through the entire database. To me, the law states that every business in the database must be vetted, not just those who request verification. It makes no sense to me to maintain what is purported to be a list of veteran-owned businesses that is really a list of those who request verification and those who do not. Any business that does not desire verification of its veteran and ownership status is a potential protest. In the meantime, it is entirely possible that a non-veteran-owned company could be awarded a contract by a Federal agency solely on its presence in the database.

The point I want to make to the VA witnesses here today is that the law says verify the database. And while the law did not specify a finishing date the foot dragging is preventing hard working and qualified veteran-owned companies from being eligible to compete for VA businesses under the provisions of Public Law 109–461.

I also believe we have not received the annual report due to Congress by December 31st of each year. I would like to know when we can expect that report. Madam Chair, I feel it is necessary to point out that if a lack of staff, or if there other impediments to implementing provisions of the law we need to hear about it from the Department. Otherwise, it is perfectly reasonable for us to expect reasonable progress toward implementing the legislation we pass. And in the case of the database, I think we have got some work to do.

So thank you very much, Madam Chair, and I yield back.

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

Ms. HERSETH SANDLIN. Thank you very much, Mr. Boozman. I want to welcome our panelists testifying before the Subcommittee today. Joining us on the first panel is Mr. Mark Gross, President and Chief Executive Officer of Oak Grove Technologies; Mr. Anthony Jimenez, President and Chief Executive Officer of MicroTech, LLC; Mr. Charles Baker, President and Chief Executive Officer of MCB Lighting and Electrical; and Ms. Lisa Wolford, President and Chief Executive Officer of Client Service Software Solutions, Inc. Welcome back to the Subcommittee. We look forward to your testimony.

In the interest of time, in light of the fact that we are getting a late start because of the series of votes that we had prior to the hearing starting this afternoon, and in courtesy to the panelists on the other 2 panels, we ask that you limit your testimony to 5 minutes today focusing your comments on your recommendations to the Subcommittee. Your entire written statement has been made a part of the hearing record. Mr. Gross, we will start with you. Welcome, you are recognized for 5 minutes.

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

STATEMENT OF MARK J. GROSS

Mr. GROSS. Thank you, Chairwoman. Good afternoon Chairwoman Herseth Sandlin, Ranking Member Boozman, Members of this Subcommittee. First, I would like to thank you for the invitation to come before you again and to share some of my experiences and work within the veteran businessowners community as well as discussing contract and contracting policies within the VA.

I am a veteran of the United States Army. I am Chief Executive Officer of Oak Grove Technologies. We are a service-disabled veteran-owned small business. I founded the company at my kitchen table 6 years ago. Today, I am proud to say I employ over 250 employees. Over 80 percent of them are veterans, and 22 percent are disabled veterans. Geographically we are disbursed across 19 States, Puerto Rico, the U.S. Virgin Islands, and support both Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF) in both Afghanistan and Iraq.

I think the Department of Veterans Affairs is unique in that Public Law 109–461 gives the VA special authorization in procuring veteran disabled, veteran companies. I believe this is a major reason why the VA has been able to contract a greater percentage to both veterans and disabled-veteran companies. In my opinion, the climate has changed considerably in the past few years. If you look at some of the trends today you will see that many more agencies are making improvements in awarding to service-disabled veteran-owned businesses. Although I do believe they still have a long way to go.

I think Congress has done an outstanding job in passing legislation, such as 106–50, 108–183, both of which established the disabled-veteran goals and mandates in Federal contracting. However, I think the problem really lies in lack of accountability within the agencies to meet some of these goals. I am here to offer my views on what can be done to ensure the state of veterans entrepreneurship within the Federal Government.

I will offer a few recommendations to the Subcommittee. The first is propose legislation similar to 109–461 for all Federal agencies; with respect to set asides and sole source, eliminate the rule of 2 for service-disabled veterans, which is the only socioeconomic group that has that requirement; create a level playingfield between the statutory programs by changing some of the language from "may" to "shall" when restricting competition for disabled veteran companies; on small business subcontracting plans, including all details of the plans required by large prime contractors and making that information public using electronic forms 294 and 295 upon request; and mandate that the contracting officers impose liquidated damages as predicated with Federal Acquisition Regulation (FAR) part 19.705 through 07 for large companies that fail to demonstrate good faith efforts in fulfilling the requirements of their subcontracting plan; close the loophole in the General Services Administration (GSA) FAR part 8 wherein large businesses qualify as small companies in many cases; if contracting bundling must be utilized for acquisition streamlining, ensure adequate percentages are allocated with small business plans and include disabled veteran and veteran-owned companies; and lastly, establish an ombudsman within the agencies to provide procurement oversight.

To address whether or not I believe there are enough veteran companies to fulfill these percentages, I would say without question there are. A few years ago it was stated that there were not enough companies, veteran/disabled-veteran companies, registered in the Central Contractor Registration (CCR). But yet, CCR listed 8,000 active 8(a) companies and 12,000 active veteran/disabled-veteran companies. Yet most agencies had no problem meeting their 8(a) goals, which are considerably higher than veteran goals.

As an entrepreneur and a veteran, I think the climate has certainly gotten a lot better in the past 7 years. I think we do have a long way to go, still. But I am confident that Congress and many other Federal agencies such as the Department of Veterans Affairs are committed to this cause. I thank you for your time and your efforts to improve the Federal contracting climate for disabled veteran-owned companies.

Last, I would just like to add, from my perspective we have done very well within the VA. We manage the VA data sharing program that, it is the data sharing program between the U.S. Department of Defense (DoD) and the VA. We have multiple e-Learning programs, training modules that we have developed for the VA. As few of them, is traumatic brain injury (TBI), and it is the clinician's patient communications for someone that is suffering from post-traumatic stress disorder (PTSD) and TBI. We have done the suicide risk prevention training module. We have done the teleretinal imaging, and it allows VA physicians to diagnose diabetic retinopathy. We have a compensation and pension exam for people with

TBI. We recently finished a program for training for reentry of incarcerated veterans who are suffering from a form of mental illness. And I am very happy to say as of yesterday we won another contract with the Department of Veterans Affairs, Veterans Benefits Administration, for the Federal Advisory Committee, supporting the Federal Advisory Committee that establishes disability ratings. So that is all I have.

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

Ms. HERSETH SANDLIN. Thank you, Mr. Gross. Mr. Jimenez, you are recognized.

STATEMENT OF ANTHONY R. JIMENEZ

Mr. JIMENEZ. Thank you. Good afternoon Congresswoman Herseth Sandlin, Ranking Member Boozman, and Subcommittee Members. I really appreciate the opportunity to testify at this hearing regarding how the Department of Veterans Affairs awards contracts, and I am honored to represent other veterans and service-disabled veteran small businessowners.

My name is Tony Jimenez and I am the President and Chief Executive Officer of MicroTech. We are a minority, 8(a) company and we are one of the verified service-disabled veteran companies that Congressman Boozman had spoke about earlier. We provide information technology (IT) network support as well as video teleconferencing, and a number of other things. I retired from the Army in 2003 after serving 24 years on active duty and I started MicroTech a year later after spending some time with large industry. Today we employ over 250 great Americans and my team has become a powerful job creation engine, and a force for economic development in not only my community and my State of Virginia, but in a number of other States across the Nation.

Since the last time I testified before this Committee in July of 2007, MicroTech has quadrupled in size. We have added 15 additional government contracts to our portfolio and we now manage over 400,000 government IT users daily providing products and solutions to more than 30 government agencies.

It has been nearly 4 years since President Bush issued Executive Order 13360 requiring Federal agencies to provide 3 percent of all contracting opportunities to service-disabled veterans and to date fewer than a handful have achieved that annual goal. As a former contracting officer from the Federal Government, I continue to be disappointed at how many agencies say they care but do nothing, or at best do very little, to ensure that organizations provide 3-percent of contracting opportunities.

The good news is, is that MicroTech's experience dealing with the Department of Veterans Affairs on this issue has been very positive. From my perspective, the VA awards a greater percentage of contracts to veteran-owned and service-disabled veteran-owned small businesses than any other agency in the Federal Government. Veteran businesses seem to enjoy greater success at the VA than non-veteran-owned businesses. And this is happening because of the superlative efforts of the Committee as well as others. In addition, the VA, as one expects, wants to take care of our Nation's veterans. So it makes sense that the VA strongly supports set aside opportunities for veterans. The VA keeps their eyes on the prize

and works hard to ensure veterans get their fair share of competitive contracts.

The problem is that this commitment to taking care of our veterans is not uniform across the Federal Government. As it pertains to this hearing, I believe there should be, and could be, significant improvements made to correct the systemic problems in our procurement system with regards to veterans and service-disabled veterans, and to help the Federal Government achieve its 3-percent goal.

Obviously, one of those is limiting sole source awards. Sole source is a way of satisfying the procurement requirement for VA as well as other agencies. However, sole source contracts really need to be used where they benefit the government.

I also recommend revising contract bundling. Contract bundling adversely impacts competition and hurts small business.

The proliferation of long-term indefinite delivery, indefinite quantity (IDIQ) contract vehicles has been a serious detriment to small businesses. IDIQs such as GSA VETS, NASA SEWP, a number of others that are starting to spring up, have been very good for veterans. However, they are still few and far between. There just are not enough opportunities that mirror what the large businesses do to allow the same type of opportunities for service-disabled veterans and veteran-owned businesses.

What kinds of businesses are getting the majority of contracts? Large, small, veteran-owned? The statistics that I have reviewed clearly showed that larger businesses are getting the majority of contracts, as well as the larger more lucrative contracts. There is still a belief that bigger is better. But good, service-disabled veteran small businesses and veteran-owned small businesses are doing great work on very large and visible contracts and changing the perception that only big systems integrators can adequately perform the work.

You asked me some questions coming into this Committee, and I would like to address those. One of the questions was, address concerns regarding VA contracting. What needs to be done? Contracting with the VA can be extremely difficult for small businesses. It not only requires them to understand VA's specific contracting and complex procurement requirements, but it also requires understanding of the VA organization and the culture.

On July 3, 2007, in regards to are there enough businesses, the U.S. Census Bureau released a report entitled, "The First-Ever Report on Veteran Entrepreneurs and Their Businesses." This report stated that veterans tend to be better educated before starting or acquiring their business, they are older than other would-be entrepreneurs, and the report also showed veteran businessowners comprised about 3 million, or 14.5 percent, of the estimated 20.5 million owners of all firms who responded to the survey.

In summary, what could be done to help veteran small businesses? I have often heard people in Washington say that we do not need any more laws. We just need to enforce the ones we have. In order to sustain or further increase VA's ability to contract with veteran and service-disabled veteran small businesses it requires vigilance, clear guidance, improved oversight, and effective enforcement. More will also need to be done to educate procurement offi-

cials about requirements and about the government's desire to contract with veterans. We need to do more to get the word out and let others know of procurements that provide opportunities to veteran-owned businesses owners, have the support of VA leadership, the House, the Senate, and President Obama.

I would also ask that you please carry the message you are hearing today to other committees you serve on, and do everything you can to help educate others in Washington who do not recognize the value and importance of veteran entrepreneurs.

Madam Chairwoman and distinguished Committee Members, I appreciate the time you and other Members of the Committee on Veterans' Affairs have spent on this and other critical topics affecting veteran entrepreneurship. I speak for all veteran entrepreneurs when I say how very proud we are of this Committee and the hard work that you and your staff members do for our Nation's veterans. Be assured we are not asking for a handout, just a hand up. Thank you for helping to level the playingfield and for believing in us and our ability to give back to the Nation that gave us so much.

This concludes my testimony. Thank you.

[The prepared statement of Mr. Jimenez appears on p. 43.]

Ms. HERSETH SANDLIN. Thank you, Mr. Jimenez. Mr. Baker, you are recognized for 5 minutes.

STATEMENT OF CHARLES MAURICE BAKER

Mr. BAKER. Madam Chair, Ranking Member, and Members of the Subcommittee. Thank you for the opportunity to appear before you today to discuss VA's acquisition policy, contracts, and veteran entrepreneurship. It is my privilege to once again come before this distinguished Committee as the 2009 National SBA Veteran Business Champion of the Year. As an advocate for veterans I have spent more than 4,000 hours researching acquisition, looking at spending trend analysis, observing where the most impactful changes needed to support the maximum practical utilization for service-disabled veterans and small business in general.

Part of my research included looking at the organizational management structure at VA. I believe that under the new leadership of Mr. Jan Frye, who I believe is one of the most knowledgeable heads of procurement I have spoken with, will lead VA to new horizons.

The needs of the veterans community are clearly defined as accelerated payment, is one thing that I feel very, very strongly about. I feel that the veteran community needs to, in this climate that we are in right now, we need to make sure that we can be paid immediately. And under accelerated payments, under the Prompt Payment Act, it is allowed for small business to be paid immediately. That is one of the things I would like to make sure that happens.

Let us talk about some of the must haves. We need to close the loopholes in Part 8.404. And that is a big issue that has not been done for a long time which allows large business to be able to come in and take contracts that are exclusively reserved for small business. That is one of the things, I think, that we really need to make sure that we take care of.

My biggest concern is that veterans are being taken advantage of. And that is, they are being taken advantage of by people actually paying a quarter of a percent without identifying the veterans as a legal pass through. Because the limitations of subcontracting do not apply to GSA Schedule and to full and open competition contracts, large primes are actually getting veterans and competing them to compete to do absolutely no work but then sub 100 percent of the work to large companies. And this is causing legitimate companies to not be able to get work. There are projects that have 60 to 70 percent small business participation requirements that these large primes are meeting through the legal loophole of pass throughs, which is ethical and immoral, but legal.

Another thing is, I would also like to see the non-manufacturers rule to GSA Schedules and full and open competition. When we have, the way we have these rules so we have loopholes that allow people to be able to navigate the system, all you have to do is get on GSA Schedule, pay a fee, and you can do anything you want. The rules of small businesses do not apply. You know? Parts 13 and 19 of the FAR do not apply, so therefore limitation of subcontracting does not apply, the non-manufacturers rule does not apply. A lot of the things that benefit small business just do not apply.

In my opinion, if we want to do things, we want to look at how we are going to fix small business, we have to look at how we can plug some of the loopholes. If we continue to put water in a tub and it has holes in it, if we do not look at how we can address and fix these issues, we are not going to have, we are not going to be able to develop capacity and capability. We are just going to keep talking about the same thing. We cannot find companies, they are not available, and it is because of the way the system is being structured and manipulated.

It is, to me, I talk to a lot of veterans. And one of the things, I would like to tell one quick story. I had a veteran that called me about 2 weeks ago and he wanted to talk to me about a concern that he had with the VA about a contract, where he got called and asked whether he was on GSA Schedule or not. We later found out that the GSA Schedule price was 4 times higher than the price that the veteran actually gave the government and awarded the contract. Not the GSA Schedule, but they awarded the contract to the veteran. When the phone call was given, the question was, "Are you on GSA Schedule because we want to use GSA schedule?" The answer was, "No, we are not on GSA Schedule. But you are not supposed to be using GSA Schedule for ammunition anyway."

Anyway, so when it all, it is a success story, it is not a horror story. Because the bottom line was the VA did take the consideration, they look at, and they made the procurement to the service-disabled vet instead of using GSA Schedule. The bottom line was, the original task was looking at GSA Schedule.

So I would just like to thank the Committee for me having the opportunity to be able to testify today. Thank you very much.

[The prepared statement of Mr. Baker appears on p. 48.]

Ms. HERSETH SANDLIN. Thank you, Mr. Baker. Ms. Wolford, you are now recognized.

STATEMENT OF LISA N. WOLFORD

Ms. WOLFORD. Thank you. Thank you, first of all, for having me, Chairwoman Herseth Sandlin, and Congressman Boozman. And by the way, Kathleen Piper says hello. She thinks very well of you. And I want to thank all of the Members of the Committee today, and especially to speak on such a critically important issue as contracting within the VA.

We are a prime contractor in the VA and have been doing business there since 2005. And I have been in business for over 12 years, and 8 years of that is exclusively in the Federal Government sector. I am a veteran of the Marine Corps and my firm is a service-disabled veteran 8(a) woman-owned business. And about 50 percent of our work is DoD, 50 percent is civilian agency. We provide IT engineering systems and solutions to the Federal Government nationwide. And therefore, the majority of my testimony is going to be regarding just contracting at the VA because that is the specific topic that you asked us to speak about today.

We do have an excellent record of past performance, but even with that it is still a struggle to do business with the VA. And we are a current contractor with the VA. And as you all know, veterans have vested into their citizenship rights in a very unique way that no other group can claim. And we are men and women, and we are every race, and every ethnic background possible in the veteran community. And small businesses, as you know, do not have access or money for political action Committees (PACs) or lobbyists the same as the largest do. And we spend 180 percent of our energy just growing our businesses, creating opportunities for our employees. And in our current economic climate where there is so much job loss in the economy, I think it is really important that we look at small businesses and understand that 75 percent of new jobs in our economy are created by small businesses. And, you know, small businesses generate more than half of the private-sector output. So if we want to grow our economy we should be directing our resources toward small businesses over any other type of entity.

So let me skip ahead a little bit in the interest of time. I would like to see an increase in subcontracting goals for large prime contractors winning a bundle contract. That is not a sufficient justification for bundling a contract but it is one mitigation that they could do. And there is no reason to say that a large business could not subcontract 50 to 75 percent of the work to a small business. If it has to be bundled, and they need to have only one contractor manage the contract, because those contracts are typically being taken away from small businesses. And multiple award contracts are not considered contract bundling, but it is contract bundling by default. And it is a great way to bundle a contract but not call it bundled contract. So it does not even make it into the metrics when you measure contract bundling.

The VA has had a lot of success in contracting to service-disabled veterans, and I applaud that. They have done a great job of changing the culture overall within the VA. A lot of that is from the leadership of Scott Denniston who, I am sorry he is retired, but I am happy for him. But there is still a great many changes that could

be made in the VA to help SDVOBs be more successful, and help the VA as well.

Some of my concerns with the VA contracting is the use of GSA Schedules. Some of that Mr. Baker and a couple of others already noted. And we are an IT services firm, so our GSA Schedule is a Schedule 70 contract. And you can contract out on a Schedule 70 contract and send it out, a contractor could send that out to 3 SDVOBs and notify the incumbent prime, say Lockheed Martin, Northrop Grumman, whoever, and they can remind that large prime that the limitation on subcontracting does not apply on GSA Schedules. And therefore, they can subcontract out, the prime SDVOB can subcontract 100 percent of the work and merely be a pass through.

That creates a lot of work for both the prime contractor and for the government customer. The government customer has no privity of contract with the subcontractor and the subcontractor can basically do poorly on the contract, send the contract down the tubes, and the prime contractor has no control over it because they have zero percent of the work. And the prime contractor is the one who would be debarred from government contracting not the subcontractor.

The way to get around this is to enforce the limitation on subcontracting rules. And if you want to count that as a small business award you should only get to count the portion that was actually done by the small business, whether that is zero percent or 51 percent. So that is, again, like Charles said, it is legal but it is not ethical and it is not moral. It also means the SDVOB will not be enhancing their past performance and their ability to really do a better job on the next contract that they do, because they did not get any experience out of it. And so I consider that to be a huge issue.

The next concern I have is related to the Center for Veterans Enterprise (CVE) and their certification of SDVOBs. And Congressman Boozman spoke about that. Our calculations that I heard about is that that is going to take them not 24 years but that is probably likely 7 years to get to that, just so current contractors are currently in the database. And that is if we do not create any new veterans, any new service-disabled veterans. But we have a factory over in Afghanistan and Iraq that is creating new veterans everyday. And so that is not feasible.

My firm has been doing business with the VA since 2005 as a prime contractor, and we are not yet certified. And we have been in the database from the very beginning. Think about that. And we are very active in the community. So there are easy ways to get around that. I have also heard that the CVE wants to recertify SDVOBs every year. I am not sure what the point of that really is, since once you have a service-connected disability it is a lifetime disability. It is not something you need to renew every year. If they are trying to certify the fact that you are really running the business there are other ways of doing that. We are a certified woman-owned business and we have already gone through that process. So that is an easy way I could send them the same verification paper to prove that I am really running the company and that should be basically a rubber stamp.

I would like to see the full implementation of the recommendations from former Secretary Gordon Mansfield. On June 19, 2007, IL–049–07–08 was published and detailed the first veterans procurement program. And on the February 11, 2005, he published a memorandum that was addressed to all the Under Secretaries, Assistant Secretaries, and other Department officials. And in those documents he detailed a specific plan on how to increase the use of SDVOBs and to change the contracting policy within the VA for SDVOBs. And although some portions of that have been implemented much of it has not been. And I have included a copy of both of those for your purposes.

Some of the key elements that have not been implemented that I am aware of is the use of sole source awards for service-disabled veteran-owned businesses. That gives SDVOBs the same rights that 8(a)s should have. And remember, SDVOBs have earned their seat at the table. It is not an entitlement program. Require a written justification for not using a service-disabled veteran-owned competition or sole source acquisition to an SDVOB. Incorporate SDVOBs in veteran-owned small business socioeconomic goals in the performance plans of executives and managers, and any employees who influence or are involved in the acquisition process.

And I guess I have run out of time. So I will cut it short, but you have the rest of my testimony.

[The prepared statement of Ms. Wolford appears on p. 52.]

Ms. HERSETH SANDLIN. Thank you, Ms. Wolford. I appreciate your testimony. Let me just start with getting a little bit more information from both Mr. Baker and Ms. Wolford on this pass through issue. Do either of you have any sense of how often this happens? And why a small business would want to engage in this practice in light of the risks associated with it as you describe, Ms. Wolford?

Ms. WOLFORD. Small businesses will, some of the small businesses that will do that are doing that because they are desperate for business. And the large businesses will do it because they can. And it is frequent. It is very frequent. I get, I will not bid on those contracts, personally, because I think it is unethical. But I have gotten calls about it frequently.

Mr. BAKER. Same thing. I probably get calls on that weekly, at least 6 to 7 calls a week. It is really happening a lot. And it is really sad. You know, a lot of, like Lisa said, the situation is you have a lot of veterans out there that are desperate. They do not have capability, they do not have capacity, they do not have assistance. The biggest problem in the community is we do not have anybody that really is out there to help shape and instruct you, what you need to do as a business to be a competitive, viable, successful business. Therefore, you get a lot of guys out there with one, I mean, they only have one employee. And those are most of the people that are doing pass throughs, with 1 and 2 people.

I mean, on Base Realignment And Closure (BRAC) projects in Maryland. I am on the Maryland Advisory Board for Base Realignment And Closure for the government. There must be 60, 70, 80 pass throughs with BRAC. I mean, it is prevalent. It is the way of doing business with BRAC on $100 million, $200 million contracts.

Ms. HERSETH SANDLIN. Do you agree with Ms. Wolford that the way to crack down on this practice is through enforcement of the existing limitations on subcontracting?

Mr. BAKER. No. The limitation on subcontracting does not apply. What needs to happen is that, as Ms. Wolford said, what I suggested to DoD is that we do a policy change. And with the policy change we invoke FAR Part 15.304 CI, which basically lays out the subcontracting plan. You have to tell what your subs are, how many dollars, you cannot bait and switch. The way it is done now, they put a dollar amount in. And nothing really happens. They do not really know or have the idea of who they want to subcontract with until after the fact. And then it is, like, let us go see we can find and who will take, I have heard of a quarter of a percent, what people are giving on $40 million, $50 million contracts. I have also heard of people getting wine and beer.

Ms. HERSETH SANDLIN. I want to see some clarification in just a minute, Ms. Wolford. When you stated that some of them do not even know who they are going to subcontract with, is it both a practice of large business proactively contacting small businesses like yours——

Mr. BAKER. Right.

Ms. HERSETH SANDLIN [continuing]. Wanting to use you as a pass through?

Mr. BAKER. Yes.

Ms. HERSETH SANDLIN. But also some small businesses desperate for work, even though they know they do not have the capability or the capacity, as you said, seeking the contract not knowing for sure who they are going to subcontract to? But knowing they have to subcontract to a larger business?

Mr. BAKER. No, what happens, ma'am, you go to outreach sessions. When you go to the outreach, because that is the requirement for good faith, that we were talking about earlier. As they do their requirement for good faith effort, they have outreach sessions. What they are doing is they are looking for people so they can call and figure out who is going to take the least amount of money so they can get service-disabled vet, SDV, woman, HUBZone, that is how they get their participation.

Ms. HERSETH SANDLIN. Okay. Ms. Wolford and then Mr. Jimenez.

Ms. WOLFORD. I think that there is 2 different things that are going on. One of the things that I am talking about is with GSA Schedules. That is the topic I was speaking specifically with. The GSA Schedules, the limitations on subcontracting does not apply and it needs to. That is what I am saying. That is a part of the FAR today and that needs to apply. That will plug one big loophole that is used frequently. Some of the things that Charles is talking about is not just to use the GSA Schedule. It is other ways of using firms as pass throughs. But plugging that loophole would go a long way toward it.

Ms. HERSETH SANDLIN. Mr. Jimenez.

Mr. JIMENEZ. Yes, ma'am. To caveat on what Lisa and Charles just said, there is actually a term amongst the veterans. It is called rent-a-vet. And it is, as funny as it actually sounds, what it is is companies shopping veterans and looking for the lowest price. And

it is not a matter of going forward with a veteran partner and providing the kind of opportunities, it is not the intent that the law had. And that is to provide opportunities to veterans and allow them to grow their business. It is more of an opportunity to take advantage of the veteran. Take advantage of what they bring to the table in the set asides, and allow the larger companies, or even in some instances the smaller companies that have been in grooming the contracting officer or grooming the agency, and then convincing the agency to write the proposal in such a way as to not require a small business plan.

What Charles is talking about is that many times the requirement is in there, but it does not require that you identify percentages up front. It does not require that you put in there who you are going to partner with, and what you are going to give them, and how you are going to give it to them. It just merely says 50 percent, 60 percent, or whatever the percent is, 30 percent, 20 percent. The business puts in that they intend to do that. They make a good faith effort at doing that. And then a year later when they go in and talk about it they say to the agency, and ma'am I can tell you every agency is guilty of this. They tell the agency, "We did not meet our small business plan." And the agency slaps them on the hand and away they go, only to come back a year later and not meet it. And that is the piece I am talking about, about enforcement.

There is nothing that is going to change this behavior if it is not enforced. We cannot convince the larger or medium-sized business, or even some of the small businesses, to play fair with no advocate. And the VA has been a great, great organization in terms of writing their ship and doing it. But we are in desperate need. We veterans, and service-disabled veteran small business owners, are in desperate need of an advocate agency. And we really hope that VA will be that advocate agency. And that this Committee will help us fix those issues. Because the SBA so far has not paid particular attention to the things that the veterans organizations, or the things, rather, that the veteran small businesses, need. I mean, the SBA does not even have a mentor/protégé program for service-disabled veterans, yet they have had one for 8(a)s for many, many years. So there just needs to be somebody somewhere. Hopefully, the U.S. Department of Veterans Affairs will step up and say, "We understand. Times have changed. Veterans are truly concerned about what they are going do when they leave the armed services." And if entrepreneurship is an available option to them, and how and what and who is ensuring that that viable option is not turned into a rent-a-veteran option.

Ms. HERSETH SANDLIN. Mr. Gross, did you have any comment on this issue? I noticed a couple of times you nodding your head in agreement that you are aware of the practice, and you are in agreement with the suggested solutions? Or manners in which to address?

Mr. GROSS. I am aware of it. However, we are to a point now, as far as a company, we are larger than a lot of the smaller companies, you know, these companies that they are discussing. So we do not partake in that practice.

Ms. HERSETH SANDLIN. Mr. Boozman.

Mr. BOOZMAN. Thank you, Madam Chair. I really do not have any questions. I appreciate the testimony. I think you all have raised a lot of, as you know, the Chairman and I and the Committee really are trying to be helpful, and to try and plug some of the holes. But people are pretty smart and you plug one hole and a new one, if people would not, if they spent as much time working on their business plan as laying awake at night, trying to figure out how to skirt things we would be a lot better off. So I think you have really raised a lot of things that we need to follow up on.

I also appreciate the staff, both staffs, for getting people like you here. I think we in Congress many times make the mistake of not having enough people on the ground. And you guys are out there in the real world, which is very tough right now, fighting the battle. And I appreciate your testimony. It was good to read, and I think the discussion today has been very helpful. Thank you, Madam Chair.

Ms. HERSETH SANDLIN. Thank you, Mr. Boozman. Just another follow up, Mr. Jimenez. I think it is a different recommendation than the point you made there toward the end of your response to my prior question in regards to needing an advocate agency. In your written testimony you talk about creating a small business participation enforcement team——

Mr. JIMENEZ. Yes, ma'am.

Ms. HERSETH SANDLIN [continuing]. To enforce small business participation and in accordance with your request for a proposal. Can you just tell me a little bit more about your recommendation? For example, who would make up the team? What other role could they play? Is it a team that would be different from the current integrated product team that is established by the VA? Just if you could speak a bit more to your recommendation.

Mr. JIMENEZ. Well, primarily what I was looking at when I made that recommendation was somebody somewhere who at least the large systems integrators, and some of the other organizations that do contracting with the Federal Government, know that there are people out there that are managing and monitoring what happens. What we find is that in most instances the small business advocate or the small business office is aware, but unfortunately they do not have the enforcement authority that they need. They cannot make changes. They can make recommendations. They can whisper in the right ears. They can say this is not fair. But in most instances what happens is, there is no bite. So consequently nothing, unfortunately, happens other than people get upset. And the Federal Government does not get what they intended to get.

The enforcement, and truthfully, the Committee that I had thought about is one that is already in existence. And it is an appointed Committee that works at the SBA. And Mark Gross is actually a Member of that Committee. And I have been up to see the Committee in action. But the unfortunate thing is, is it is another example of a Committee that wants to do lots of good things on behalf of service-disabled veterans but unfortunately does not have the authority to do the things they need to do to make the changes they need to make, and to provide the oversight that needs to be made. And Mark can actually talk a little bit more about that organization. But that organization is a great organization that is made

up of veterans entrepreneurs and other people that are actively involved in the veteran community. But unfortunately, it is more of a figurehead than it is an organization that has the ability to truly implement the change that needs to be implemented. Mark.

Mr. GROSS. That is correct. It is the, the Committee is the SBA's Committee for Veterans Business Affairs. Our role is really more to advise both the White House and Congress on veterans business issues. We provide written recommendations annually. And I would be more than happy to provide the last few years some of our recommendations to the Congress. I would be happy to provide that, copies of that to you.

Ms. HERSETH SANDLIN. Yes, if you could provide copies of that to the Subcommittee's staff we would appreciate it. And just along the idea of some entity, whether an existing one or creating some board to do this kind of oversight, just a question to any of you if you wish to respond. If we funded the entity, or oversight activities, from a small percentage of all awarded contracts, do you think that contractors would oppose that idea?

Mr. JIMENEZ. Ma'am, I honestly do not know. I do not want to sound pessimistic. But unfortunately, anything that takes money out of a contractor's pocket they are going to oppose. I mean, every time a recommendation is made to give business to a veteran or a woman-owned business, a HUB Zone Business, or an 8(a) small business, it takes away from the percentage that goes to the large business. And as Lisa and Charles and Mark have all talked about, and not only this time but before, is that as a small business we do not have the ability to hire a lobbying firm, or to come in, or to talk to somebody in the halls. And we do not have, frankly, the time because we are out there trying to grow our business. So what we end up finding out is that many of these things die before they ever get to Committee. So I think they would be opposed. However, I think that your will would be stronger. And that if it were the right thing to do they would eventually realize it is the right thing to do and give in to doing the right thing.

Ms. WOLFORD. The only comment I would like to extend is I can see it being as a percentage of any large business contracts. Because the small, the oversight is really about subcontracting. And so taking the percentage out of the small business contracts is not really necessary. It is really for oversight of the large contracts.

Mr. BAKER. I have a, it is a thought. The same way GSA has a surcharge, why cannot the SBA? And I believe the statute allows, and the SBA is coming up later, they can probably articulate this better than I. But I believe the statute allows the SBA, I know under the 8(a) program I think it does, if I remember correctly, it allows a fee to be charged just like GSA. If a fee was charged, what would be the difference between a small business participation example than a GSA Schedule? Matter of fact, I think if we probably did that it would be a lot more cost effective than GSA. Because I am not a proponent of GSA.

Mr. GROSS. I would not be opposed to paying a fee.

Mr. JIMENEZ. I do not think I would either. But in truthfulness, ma'am, right now the Committee that serves does it pro bono. None of the individuals that I know of receive, I think there is a very, very small amount. And most of the people who sit on the Com-

mittee do not even file travel vouchers. It is just not worth the effort to pick up the extra $35 or $40 that you may end up making. And I think that the community is full of people who care enough to volunteer their time to be able to ensure that the veteran gets a fair shake.

Mr. BAKER. And we do have the American Legion Task Force that does proactively try to help out the veteran community, and the organization called VET–Force that is very, both organizations are very active in the procurement arena trying to assist.

Mr. JIMENEZ. Absolutely, as well as a number of other veterans service organizations (VSOs). And I think that what you would find is that there would be a long line of people willing to help to ensure that it is done properly.

Ms. HERSETH SANDLIN. I appreciate that sentiment. Again, these are good ideas, helpful ideas. The reason I posed the question is that if we were to try to move forward a formal oversight board different from what Mr. Gross is explaining given his service on the Committee that you had mentioned thus far. I think oftentimes if you have sort of a more formalized relationship with the authority for that kind of oversight, we would want to be able to provide staff and other resources to be able to conduct more aggressive oversight. That is the reason that I posed that question.

I thank you. We are going to continue to work with you to, as we have over the past number of months, and really years here, to continue to delve into the specifics of the myriad issues that have come up. The pass through issue, the contract bundling issue, 3-percent set aside, and to continue to get your thoughts. And to determine sort of what is within our control to influence along the lines of Mr. Jimenez' testimony clear guidance, effective oversight, effective enforcement. Also what more we can be doing to work with our colleagues on other Committees of jurisdiction to ensure that all agencies are stepping up to the plate the way the VA has attempted to do here, particularly in recent years.

We thank you for your testimony. We thank you for your service to the Nation and wish you well in your businesses. Thank you.

I would now like to invite Panel Two to the witness table. Joining us on our second panel of witnesses is Colonel Raymond Bjorklund, Senior Vice President and Chief Knowledge Officer for Federal Sources, Inc.; Mr. Scott Denniston, Director of Programs for the National Veteran-Owned Business Association; Mr. Joe Wynn, Chairman of Veterans Enterprise Training and Services Group, Inc.; and Ms. Christina Roof, National Legislative Assistant for AMVETS.

Colonel Bjorklund, I understand you have a power point presentation. We want to provide you sufficient time so that we can review your presentation. But we do ask that you not exceed 10 minutes on the essence of time and other panelists. We will begin with you, Colonel, if you are ready.

STATEMENTS OF COLONEL RAYMOND C. BJORKLUND, USAF (RET.), SENIOR VICE PRESIDENT AND CHIEF KNOWLEDGE OFFICER, FEDERAL SOURCES, INC., A WASHINGTON MANAGEMENT GROUP COMPANY, McLEAN, VA; SCOTT DENNISTON, DIRECTOR OF PROGRAMS, NATIONAL VETERAN-OWNED BUSINESS ASSOCIATION, CORAOPOLIS, PA; JOE WYNN, CHAIRMAN, PRESIDENT/CHIEF EXECUTIVE OFFICER, VETERANS ENTERPRISE TRAINING AND SERVICES GROUP, INC. (VETS GROUP), MEMBER, VETERANS ENTREPRENEURSHIP TASK FORCE (VET–FORCE), AND NATIONAL ASSOCIATION FOR BLACK VETERANS; AND CHRISTINA M. ROOF, NATIONAL LEGISLATIVE ASSISTANT, AMERICAN VETERANS (AMVETS)

STATEMENT OF COLONEL RAYMOND C. BJORKLUND, USAF (RET.)

Colonel BJORKLUND. I am ready, Madam Chair. Madam Chair, Ranking Member Boozman, Mr. Lara, Mr. Brinck, other Members of the Committee and the staff, thank you very much for inviting me to appear before you today to provide my thoughts on the climate of veteran-owned business contracting within the Federal Government.

This is a significant issue for this Committee and our country. In my experience as a military officer managing technology acquisition programs I interacted with scores of large, small, and disadvantaged businesses. Then retiring after 26 years in the military I went to the other side of the negotiating table. Fed Sources is a public-sector market research firm. As an executive with the firm for the last 10 years, I have been advising hundreds of companies on the available strategic courses of action in pursuing in contracts with the public sector.

My bottom line in this brief presentation is that objective analysis of the market dimensions can help refine Federal outreach programs to engage more of the veteran-owned businesses and service-disabled veteran-owned businesses that may be interested in pursuing Federal contracts. An anecdote can set the stage here. When I was in the Defense Information Systems Agency, the Department of Defense asked us to take on the entire 5-percent woman-owned small business goal. I looked at that and I said, "My intuition says we cannot do that." It was not because we did not want to. It was not because we would not try to do that. But the reason why we could not do it, at that time there were not enough qualified, woman-owned small business companies working in our domain, in our agency domain, that could actually take on 5 percent of our prime contracting business. Consequently, we negotiated, we justified and negotiated a smaller number and let some other DoD subagency actually pick up the difference. We took on a different goal, we took on HBCU, the Historically Black Colleges and Universities, in balance. So the point being is that this is, it is really a difficult environment to get your hands on how big of a pool of companies that there are out there.

Now I am not suggesting at all that we change the goals for veteran-owned businesses or any of the other disadvantaged busi-

nesses. To the contrary, I am just saying analysis can help us find out more intelligently what the best course of action is.

At Fed Sources we used Census Bureau statistics to size the veteran business community. Of the 2.97 million veteran-owned businesses out there, about 194,000 are owned by service-disabled veterans. There could be a few more of those depending on how they declared themselves when they filled out the Survey of Business Owners, but this is our current estimate as of 2008. Analyzing these data raised a question: are there enough VOBs and specifically enough SDVOBs to fulfill 3 percent of the U.S. government's prime contracting business? The answer is, probably not. And again, not because the Executive Branch is not trying hard enough with its outreach programs but because there does not appear to be enough SDVOBs out there that are interested in conducting business with the government or, probably more importantly, offer what the government is looking for.

So what is the evidence for this statement? I am going to skip over that slide and go to this one. The evidence for this statement is based on the contract data to date from the Federal Government. government fiscal year 2008, the data published to date shown here shows us that only one-half of 1 percent of that pool of 2.97 million businesses actually got work as prime contractors. Many economic sectors were unrepresented and the 5 sectors we highlighted with an icon here have significant potential for veteran business participation.

As shown on this particular slide, you know, there is in our estimation about 883,000 VOBs and the subset of that about 68,000 service-disabled veteran-owned businesses that could be doing business. But they do not seem to even be taking advantage of the registration tools through the Central Contractor Registration or through the VIP pages of the VetBiz portal.

So in conclusion here, or to summarize, there will be continuing challenges in meeting the specific socioeconomic goals for SDVOB contracting and the general objectives for increasing VOB participation in government work. Going forward, we suggest that Federal agencies focus their limited resources by doing market investigations that analyze the marketplace to determine the types of services and products that government will be buying, and that also target the veteran-owned business sectors that are most likely positioned to fulfill those requirements. And all the while continuing on with all the other outreach programs in a more general sense.

Thank you, Madam Chair, and Committee Members for the opportunity to appear before you today. I stand ready for any questions.

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

Ms. HERSETH SANDLIN. Thank you, Colonel. Mr. Denniston, you are now recognized for 5 minutes.

STATEMENT OF SCOTT DENNISTON

Mr. DENNISTON. Madam Chair, Ranking Member Boozman, and staff. Thank you for the opportunity to testify today on the issues facing veteran-owned small businesses in contracting with the Department of Veterans Affairs. I am Scott Denniston, currently Di-

rector of Programs at the National Veteran-Owned Business Association, NaVOBA. We are the organization that publishes the Vetrepreneur Magazine, which we have provided our latest copy, which just happens to be on the 3-percent goal issue. We represent over 2,000 veteran-owned small businesses in the United States. I have had the pleasure of testifying before this Committee in the past while service as the Director of Small Business Programs and the Center for Veteran Enterprise at the VA. I have always appreciated the candor and forthright discussion that I have experienced with the Committee. I would ask that my formal testimony be entered for the record.

Your letter of invitation asked me to discuss how sole sourcing and contract bundling are affecting veteran-owned small businesses, my concerns regarding VA contracting, how the process can be improved, and whether there are enough veteran-owned small businesses with the capacity to meet and fulfill contracts. I want to start off by commending VA for their efforts and accomplishments in contracting with veteran and service-disabled veteran-owned small businesses. For the past 3 years, VA has exceeded the statutory 3-percent goal for service-disabled veteran-owned businesses and has also led the government in awards to both service-disabled and veteran-owned small businesses. This is a direct result of the strategic plan VA implemented in accordance with Executive Order 13360, the personal commitment of the former Deputy Secretary, and the accountability of decisionmakers to work with veteran and service-disabled vet small businesses. Results do happen with management interest and a plan.

VA should also be commended for its efforts to negate the effects of contract bundling on veteran-owned small businesses. When the Office of Management and Budget (OMB) issued its antibundling instructions to Federal agencies, OMB required agencies to review all acquisitions over $2 million to ensure certain savings criteria were met. VA, to its credit, established a $1 million threshold for reviews. The VA Office of Small Business Programs has been very aggressive in fighting bundling and helping contracting officers to do good market research to identify capable veteran and service-disabled veteran-owned businesses to work with.

There are, however, several areas of concern that I would like to bring to your attention that NaVOBA believes are impacting VA's ability to work with veteran and service-disabled veteran-owned small businesses. The first deals with VA's use of other agencies to contract work for VA. This issue appeared about a year ago when VA entered into an agreement with the Army Corps of Engineers to provide contract support to VA. NaVOBA learned that many of the VA opportunities contracted by the Corps were being awarded to 8(a) and other socioeconomic groups rather than service-disabled vets. The veteran business community believes VA was sending work to the Corps to circumvent the requirements of Public Law 109–461 requiring VA to give preference to service-disabled and veteran-owned small businesses.

VA also, we understand, has entered into an agreement with the Navy for IT contract support. These agreements, in our opinion, take legitimate contract opportunities away from the veteran business community as other agencies do not follow VA priorities for

award. Last year Congress passed Public Law 110–389 requiring agencies contracting for VA to follow VA's contracting priorities. The problem is, no one knows about the law. Just last week I was in Reno, Nevada, at the Corps of Engineers 8th Annual Veteran and Small Business Training Conference. There were several hundred veteran-owned small businesses in attendance. The very first panel consisted of the deputy commanders from the Sacramento, Los Angeles, San Francisco, and Albuquerque Corps districts. Each talked about the work their districts would do for VA this year. When I asked each of the deputy commanders if they were familiar with the requirements of Public Law 110–389, they all said they had never heard of such a law.

The question becomes, who has the responsibility for informing agencies that contract for VA that there are special requirements to work with service-disabled and veteran-owned small businesses? It appears that no one is doing that now.

The next issue we would like to address is VA's implementation of Public Law 109–461. The law was enacted on December 22, 2006, with a 180-day implementation period. To date, the final rules have not been published nearly 2½ years later. We know firsthand there is a lot of confusion in the VA field officers regarding the implementation of the law. Specifically, the use of sole source authorities for contracting with service-disabled and veteran-owned small businesses. The only guidance that VA contracting officers have that we know of is an information letter published June 19, 2007. Information letters do not, in our opinion, have the same impact as regulations.

Another issue regards interpretation of Public Law 109–461. section 508 states, "Contracting priority, in procuring goods and services pursuant to a contract preference under this Title or any other provision of law, the Secretary shall give priority to a small business concern owned and controlled by veterans if such business concern also meets the requirements of that contracting preference." We take this to mean VA is to provide a priority to veteran-owned small businesses in the purchase of everything the VA buys. The draft rule published by VA to date only addresses open market procurements. The draft rule eliminates the millions of dollars VA spends using Federal supply schedules, AbilityOne, Prime Vendor, and other contract mechanisms from consideration for veteran-owned businesses. We do not believe that this was the intent of Congress.

In the latest issue of Vetrepreneur Magazine, NaVOBA goes on record as firmly supporting VA's verification of veteran/service-disabled veteran-owned small businesses as envisioned by Public Law 109–461. We believe the VA Center for Veterans Enterprise has developed a comprehensive plan to provide the verification of veteran status as well as address the ownership and control issues identified in the law. The CVE plan requires the hiring of some minimal additional staff as well as the use of contractor support to assist in developing the verification review process, risk analysis, and procedures for onsite reviews when required. The initial requests for contractor support were submitted to VA's Acquisition Office in May 2008, and to date no contract support has been provided. The

CVE verification plan, in our opinion, will fail without contractor support.

The last issue we would like to address is training of VA acquisition professionals on the requirements and responsibilities of supporting veteran and service-disabled veteran-owned businesses. VA is to be commended for taking the initiative to establish an acquisition training academy in Frederick, Maryland. NaVOBA also wants to encourage VA to ensure that all acquisition professionals are trained on the requirements of Public Law 109–461. This is the only way that we can have consistent application of the law.

As to the Committee's questions regarding whether there are enough veteran-owned small businesses with the capacity to meet and fulfill VA's contracting needs? It is our position that there are more than enough businesses. We believe this is evident given VA's track record to date. Our Members tell us the biggest impediments to doing business with VA are access to decisionmakers to present capabilities, access to timely information on upcoming contact opportunities, consistent implementation of the provisions of Public Law 109–461, VA's administration of the Federal supply schedules regarding distributors, and VA's use of contracting vehicles such as Prime Vendor and standardization which limit opportunities.

I would once again like to thank the Committee for holding this important hearing, and will be happy to answer any questions. Thank you.

[The prepared statement of Mr. Denniston appears on p. 60.]

Ms. HERSETH SANDLIN. Thank you, Mr. Denniston. Mr. Wynn, you are now recognized.

STATEMENT OF JOE WYNN

Mr. WYNN. Thank you, Congresswoman Sandlin, and Congressman Boozman. Thank you for allowing me to be here and come before you this afternoon. And for the sake of time I would ask also that my statement be submitted for the record and I would just like to touch on just a couple of points, 2 or 3 key issues in my statement. I want also, I am Joe Wynn with the Veterans Entrepreneurship Training Group, also working with the VET–Force, and the National Association for Black Veterans.

As we have had some of these discussions before, a couple of years ago at previous hearings, there is a number of pieces of legislation that have been mentioned that Congress has passed that have helped the veterans Federal procurement program. And of course, we know that it also laid the foundation, back in 1999. We are here today, though, to kind of focus on the piece of legislation that Congress passed, 109–461, and certain sections of it pertaining to the Department of Veterans Affairs, which directed the VA to conduct a verification program and a number of things that some of the other witnesses have mentioned. Some of that legislation, though, has not been implemented, as was just mentioned in Mr. Denniston's testimony. It has been over 2 years now and it still has not been implemented. So as we have Congress trying to come forward and support veterans and do good things, we get legislation that has been passed but not fully implemented. And in some cases folks getting it misunderstood, and in some instances just not complying at all.

Now we are at a point where we hope that this program directed at the VA would become sort of the model program for other Federal agencies to look at the VA and see how we could increase contracting opportunities to service-disabled veterans. In so doing, they were going to, since they had the veterans small business database, they have and we have also been encouraging all veteran businessowners to register in that database for several years now. But it was not until a few months ago that the interim regulation came out, interim final rule, directing the VA to proceed with doing the verification process of making sure that veteran businessowners were in fact a veteran or service-disabled veteran, checking the status. Also, checking ownership and control to ensure that these veterans were in fact businessowners with the right percentage of ownership. While this is all well and good, and we had hoped that this would happen, already in just the beginning stages of this process it is getting bogged down already.

Congressman Boozman also mentioned in his opening remarks, and I will mention also, that the rate at which we are being told that they are processing applications, it would in fact take several years just for the number of veterans, 17,000 we are being told that are registered in the database today, to complete all of the verifications.

I do not want to get into a whole lot of detail about the process other than to hit on a couple of points that probably contribute to some of this. And that is after you get passed verifying the status of whether there is a veteran, or a service-disabled veteran, then there is the challenge of verifying the ownership, percentage of ownership by the veteran or group of veterans that own the company which, obviously, can be done. But then beyond that you have to get into determining the control management by the owners, and then also whether or not they are participating in the day to day operations. So you can see that they have created somewhat of a system that, to my knowledge, there are no experts in small business verification already in that VA department. So it may help to look at improving or bringing in some more expert persons.

Another key piece, though, that has come up with this verification is also that the decision apparently has been made that does not seem to appear in the regulation that only one company, if you own more than one company only one company can be verified and be registered in the database. Of course, we know that there are many persons throughout this country that own more than one company and operate those companies effectively.

So I would ask that this Committee take a look at that process. Let us see if we can correct it. Because we have now reached a point where there is a whole misperception out here in the Federal marketplace that if you are not verified by CVE you cannot do business with other agencies. And this whole verification really is directed at the VA contracting specifically, but other agencies getting it a little confused.

So I will conclude my comments and just say that there are also, in addition to looking at the VA verification process, also let us not forget some of the other things that we have mentioned in previous discussions such as the contract bundling issue. It is still destroying small business in the Federal procurement marketplace. And

also, we still need to go back and change that one little word from "may" to "shall" or something such that we will not have to allow contracting officers, once again, an option not to use service-disabled veterans. So thank you for the opportunity to share that. Thank you.

[The prepared statement of Mr. Wynn appears on p. 62.]

Ms. HERSETH SANDLIN. Thank you, Mr. Wynn. Ms. Roof, welcome to the Subcommittee. You are now recognized for 5 minutes.

STATEMENT OF CHRISTINA ROOF

Ms. ROOF. Chairwoman Herseth-Sandlin, Ranking Member Boozman, and distinguished Members of the Subcommittee, on behalf of AMVETS I would like to extend our great gratitude for being given the opportunity to discuss and share with you our recommendations and concerns on the VA's contracting policies.

AMVETS applauds the efforts of VA in exceeding its contracting goals for service-disabled veteran-owned small businesses and veteran-owned small businesses over the past 2 to 3 fiscal years. Such efforts show that VA is very capable of outstanding achievements in its pursuits to improving the lives of our veterans. These achievements come even with the staff shortages, lack of training resources, and high demand for quick and accurate application verification.

We are, however, concerned with overall verification processes. Currently, only initial or precontract verification processes are in place for most contracts. A large number of contracts are being awarded on the premise of meeting the prerequisites set forth by VA, but then fail to conduct further verification to measure the compliance of these awards. Under current policy no proof of compliance is required, nor do random labor audits occur. The Office of the Inspector General has issued more than ten reports illustrating these deficiencies over the past year. We also noted that in 2008 the VA hired an independent consulting firm to audit the current contract procurements, and the firm also reported the exact findings.

While we note the VA is making an effort to identify and improve the verification processes and policies, AMVETS most respectfully asks the Committee why none of these recommendations have been put into place?

VA's difficulties in some areas of contract administration illustrate VA's challenge in monitoring performance of previously awarded contracts. AMVETS believes that this is due to VA not having a centralized and uniform contracting system in place.

VA lacks reasonable assurance, at minimum, that it is receiving the services it has paid for and that the use of agreed subcontractors is occurring. We believe that this is a result of ineffective controls to test compliance.

AMVETS believes strengthening control over performance monitoring and contract compliancy testing will result in the avoidance of contract fraud, more efficient verification processes, and an estimated savings of $47.4 million over the next 4 years, according to the Office of Inspector General (OIG).

The VA's Office of Acquisition, Logistics, and Construction have tried implementing some additional policies to improve and bet-

ter—improve their oversight in the whole VA acquisition program. However, overall decentralization of VA's acquisition program makes this task very difficult to achieve.

Madam Chairwoman, AMVETS notes there is still no evidence that all the necessary resources and uniform training of contract officers are being furnished to VA's Office of Acquisition, Logistics, and Construction, or any of the other agencies involved in bettering the VA's procurement system.

Further, AMVETS finds it regrettable that VA's decentralized system of acquisition function and contract procurement is resulting in inconsistent applications of policy and initiatives, thus resulting in loss of employment opportunities for veteran-owned businesses in these challenging economic times.

AMVETS primary recommendations are as follows:

Authority be given to such agencies to conduct unannounced and on-site visits throughout the entire term of contract, regardless of the size of the contract.

Require all VA-awarded procurements to submit certified payrolls as evidence of complete fulfillment of their obligations and of their use of service-disabled veteran-owned small businesses and veteran-owned small businesses.

And finally, the immediate cancellation of handwritten, procurements. And the adoption of the system-wide uniformed software program.

Madam Chairwoman, Members of the Committee, I would like to thank you again for allowing me to share with you.

[The prepared statement of Ms. Roof appears on p. 69.]

Ms. HERSETH SANDLIN. Thank you, Ms. Roof. We will begin questioning with Mr. Boozman.

Mr. BOOZMAN. Thank you, Madam Chair.

Let me ask you a couple of things, Scott. And then the rest of you I would like you to comment. We have got kind of the ongoing discussion about in general excessive use of sole source procurement. Is that an impediment to small business entering the Federal business place? So think about that. And we will come back to that?

Scott, the deal with the Corps of Engineers, I have had some of my folks voice concern, that they were being shut out. And they were told that they were using a memorandum of understanding (MOU) going back to when they did Walter Reed or something. Are you familiar with that?

Mr. DENNISTON. I am familiar with the MOU that the VA is using. And it was signed about a year ago——

Mr. BOOZMAN. Okay.

Mr. DENNISTON [continuing]. With the Corps of Engineers. The challenge with it when it was first signed by both parties is it didn't go into the details on how the process would work. And our understanding is is that the VA work that went to the Corps, the Corps said that they didn't have the staff and the time to do new contract vehicles. So they basically took contract vehicles they already had in place with 8(a)'s and other groups and used those contract vehicles to make the awards for the VA work, which then eliminated the opportunities for service-disabled vets to participate.

Mr. BOOZMAN. So as far as you know that is going on and that is a problem.

Mr. DENNISTON. Yes.

Mr. BOOZMAN. Okay.

Mr. DENNISTON. And as I mentioned in my testimony, the thing that floored me last week in Reno was that here you had the upper management levels of the Corps districts who had no knowledge of the law. So if they have no knowledge of the law, obviously we know it is not being implemented.

Mr. BOOZMAN. It used to be one of the big dogs, over and did an excellent job. I think everybody wants to do what is fair, in implementing what we want done. And certainly that is not what we wanted done.

But I hope we can figure out how to do that. And it has been a challenge with this Corps of Engineer thing.

Mr. DENNISTON. Right.

Mr. BOOZMAN. Okay.

Mr. Bjorklund, I hope I got that right. I am Boozman, Bozeman, whatever. He provided data to support the position that the SDVOB community may not be able to absorb the 3-percent goal? Can you provide any evidence to the contrary to that with your position? Scott, I am sorry.

Mr. DENNISTON. Yes. I think that I would say, yes. I mean, I think if we look at what the VA has accomplished, what the Environmental Protection Agency has accomplished, what the U.S. Department of Housing and Urban Development has accomplished, those agencies that are meeting the 3-percent goal. I think we can find that we are making progress. I think the challenge comes for agencies like Department of Energy, like Department of Defense, because of the procurement mix of what they have. And I think that is where the bigger challenge comes. And I think that is where, again, working together, not only do we have to identify more companies, but then I think we have got to figure out ways to grow the capacity of those companies that we identify.

One of the things that I think is an underlying tenet of all this is what was the intent of 106–50 and 108–183? Was it to provide service-disabled vets with a contracting program, or was the intent of Congress to provide them with a true business development program like we have with 8(a)? That is why we get into these issues of shall versus may, the sole source, the mentor protégé program, and some of these other challenges that we face.

Mr. BOOZMAN. Very good. Colonel, do you want to respond?

Colonel BJORKLUND. Congressman, I think that that is—I would agree with Scott what he is saying. The point that I am making is not that there are not enough companies out there. There are, we think, 194,000 companies out there. And about 68,000 of them are in the service disabled could probably be doing business with the government. But they choose not to for whatever reason, or they can't make the connections, or somebody doesn't know how to implement public law, or, you know, any number of reasons why that might occur.

But we are just saying, you know, let us take a better look at this environment, this group of businesses out there, and see if we can find ways to match them up with government requirements.

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

Mr. WYNN. Yes, Congressman, I would just like to respond to that briefly. First of all, I find that a little bit interesting when we talk about the number of service-disabled veteran businesses whether there is enough when so many of the companies we talk with are not at their full capacity. They are not getting enough contracts. They are not raising their hands saying we have got enough. They are looking for more business.

The other thing too though is I think I kind of understand what the Colonel is alluding to in the sense that some companies may not want to come forward and participate or be identified as a veteran. We know. We went through that, particularly with us who returned during the Vietnam era. But we also have to look at even with the numbers he just mentioned, we talked about CVE reporting 17,000 companies in their database. He said there is 65,000 service-disabled veterans that he has come across. We have identified even more through SBA's records. So there is a lot more out here. But what is the Federal agencies doing to reach out and get these companies to come in?

One of the things we thought was going to help was this veteran's verification progress at VA that the other agencies would then support. But we are running into problems already. So if we can kind of straighten that out a little bit, get some things on track. Of course, there is a number of other reasons too why the agencies aren't meeting their goals. So it is still not so much so that there is not enough companies to meet the requirement.

Mr. BOOZMAN. Okay. Thank you all very much. Thank you, Madam Chair.

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

Mr. Denniston, I am dismayed as well. But senior officials at the Army Corps of Engineers weren't even aware of the law. So we know that other agencies contracting to do work for the VA are most likely similarly unaware.

Do you have any recommendations for this Subcommittee as to the best way in which to address this awareness problem? Who in the VA should be responsible for communicating the requirements based on what we have passed in Public Law 110–389?

Mr. DENNISTON. My recommendation would be that all these MOUs with the other agencies are signed somewhere within the acquisition process at VA. I would assume mostly with a senior procurement official. I think what we have to do is make sure that as part of the MOU, there is an agreement on what the requirements of the law are, so that the agencies that are going to contract for VA know those up front and agree to abide by those.

So I don't think it is necessarily that Congress has to do anything more. I think that—and, again, this was just last week. So I didn't have the opportunity to bring this to the attention of VA before the hearing. But I think that once the VA knows what the problem is, is I think they will take action and correct it.

Ms. HERSETH SANDLIN. Something specific in each memoranda of understanding so that it leads to——

Mr. DENNISTON. That it addresses the requirement.

Ms. HERSETH SANDLIN [continuing]. Contracting?

Also, Mr. Denniston, in your testimony, you mentioned that Public Law 109–461 was enacted December 22nd, 2006.

Mr. DENNISTON. Right.

Ms. HERSETH SANDLIN. That is with a 100-day implementation period. But to this day, final rules haven't been published. So, obviously, we will ask——

Mr. DENNISTON. Correct.

Ms. HERSETH SANDLIN [continuing]. Folks on the next panel about that. But part of the problem you state is that there is a lot of confusion in the VA field offices regarding implementation of the law. You repeatedly mentioned the problem with the confusion that has been created. What is creating the confusion, the information letters, the lack of regulations? How do we address that problem?

Mr. DENNISTON. My belief is it is the lack of regulations, because old-time contracting officers do not see an informational letter as having the same force and effect as a regulation. And the big issue has to do with the use of the sole source authority, because we have VA and every other agency has the ability to do the competitive contracting with service-disabled vets and limit competition by 108–183. So the issue becomes how effective and how often VA uses the sole source authority under 109–461. And I think that is where the big issue comes in, because of the lack of having regulations.

Ms. HERSETH SANDLIN. Mr. Wynn, has your organization approached other Federal agencies and Congressional Oversight Committees about extending Public Law 109–461?

Mr. WYNN. Yes, we have, Congresswoman. We have talked to it. We had promoted it. We had hoped that other agencies would support it. And we believe that other agencies had a strong interest in kind of replicating a similar program. But they were waiting to see and still are waiting to see what is going to happen at the VA first.

Ms. HERSETH SANDLIN. How recently have you been in contact with some of those other Federal agencies?

Mr. WYNN. Oh, this is on an ongoing basis.

Ms. HERSETH SANDLIN. Okay.

Mr. WYNN. Yes, ma'am.

Ms. HERSETH SANDLIN. Ms. Roof, in your testimony you mentioned that one of the biggest problems is that during the initial and pre-contract verification, a company is going to present all the required documentation, including evidence that they will use a veteran-owned small business as a subcontractor. Then you state that no proof of compliance is required nor do random labor audits occur. In your opinion who should be doing this compliance and the random labor audits, and how extensive should it be?

Ms. ROOF. If it is all right with you, Madam Chairwoman, I would like to submit my full findings after the hearing.

Ms. HERSETH SANDLIN. That is fine. You can submit that response. I will give that to you in writing. Then you can respond in writing.

Ms. ROOF. Okay.

[The information was provided in the post-hearing questions and responses for the record, which appear on p. 106.]

Ms. HERSETH SANDLIN. Do you have any thoughts on why the VA doesn't have a working performance monitoring system to enforce compliance and avoid contract fraud? Do you think that it is a resource issue or something else?

Ms. ROOF. In our opinion, from the research that we have done, it seems that there is a lack of staff for the amount of veterans and applications that need to be verified. Also, I think there is a lack of communication between offices throughout the country. So, again, I think a more centralized training program and communication will really help.

Ms. HERSETH SANDLIN. Thank you.

I will probably have additional questions for the witnesses on this panel that we will submit in writing. And if you could respond to us just for the purpose of time with our final panel.

We thank you for your testimony today. We are glad to see some of you back. Glad to welcome some of you newly in your positions, the analysis that you have provided and recommendations that you have made. We thank you for your continued service to our Nation's veterans. Thank you.

We now invite panel 3 to the witness table. Joining us on our third panel is Ms. Shawne Carter McGibbon, Acting Chief Counsel for the Office of Advocacy, U.S. Small Business Administration; Mr. Joseph Jordan, Associate Administrator for government Contracting and Business Development, also with the United States Small Business Administration; and Mr. Jan Frye, Deputy Assistant Secretary for Acquisition and Logistics, U.S. Department of Veterans Affairs.

Again, your written statements will be made part of the hearing record. Ms. McGibbon, welcome to the Subcommittee. I understand that you too have a PowerPoint or computer presentation. Again, we will provide you sufficient time. If you could keep your portion of the presentation to 10 minutes, we would appreciate it.

Okay. We will recognize you first, Ms. McGibbon.

STATEMENTS OF SHAWNE CARTER MCGIBBON, ACTING CHIEF COUNSEL FOR ADVOCACY, OFFICE OF ADVOCACY, U.S. SMALL BUSINESS ADMINISTRATION; JOSEPH JORDAN, ASSOCIATE ADMINISTRATOR FOR GOVERNMENT CONTRACTING AND BUSINESS DEVELOPMENT, U.S. SMALL BUSINESS ADMINISTRATION; AND JAN R. FRYE, DEPUTY ASSISTANT SECRETARY FOR ACQUISITION AND LOGISTICS, U.S. DEPARTMENT OF VETERANS AFFAIRS

STATEMENT OF SHAWNE CARTER MCGIBBON

Ms. MCGIBBON. Thank you for the opportunity to appear before you today to provide testimony on the composition of the veterans business community and problems they face.

My name is Shawne Carter McGibbon. I am the Acting Chief Counsel for Advocacy at the United States Small Business Administration Office of Advocacy.

My office was created in 1976 as an independent entity within the SBA to represent the views of small business within the Federal Government and to perform economic research related to small business and entrepreneurship.

Advocacy does not administer contracting, loan, or other such programs. And on questions involving program implementation and oversight, we generally defer to offices with the expertise and responsibility for those areas.

Because Advocacy was established to provide independent counsel to policymakers, its testimony is not circulated for comment through the Office of Management and Budget or other Federal agencies. The views expressed by Advocacy here do not necessarily reflect the position of the administration or SBA.

In the interest of conserving time I will summarize my prepared statement and illustrate a few key points with slides and will submit my full statement for the record.

The best source of data on veterans in business is the U.S. Census Bureau's 2002 Survey of Business Owners (SBO). In 2007, Census issued 2 major reports on veteran businessowners and veteran-owned firms using this SBO data. And Advocacy released its own report the same year interpreting the data.

How many veteran-owned firms are there? Based on respondent data, Advocacy estimates that there were about 3.3 million veteran-owned firms in 2007, of which about 230,000 were owned by service-disabled veterans.

Census found that 14.5 percent of all respondent businessowners were veterans. And about 7 percent of those were service disabled. About 12.2 percent of all businesses were veteran-owned. Newer data will be released by Census in 2011.

Looking at the first slide, veteran-owned firms were similar to all U.S. firms in most respects except for their age. The distribution by size was nearly identical to all firms as the chart indicates. The blue line represents respondent firms and the red line veteran-owned firms.

Figure 1 shows this close correspondence in terms of revenue. So we are looking at receipts in this particular slide.

Figure 2 shows the same correspondence in terms of number of employees. You can see there is a big spike between—with firms between 1 and 4 employees.

Figure 3, I apologize that it is a little hard to read on the screen, but it is available in your information packets, shows how veteran-owned firms are generally distributed among the 20 major industry groups.

The distribution of veteran-owned firms is similar to that of all SBO respondent firms, the 5 largest industries for each group being the same, as you can see in this slide. We can see that construction; professional, scientific, and technical services; and retail trade are some of the largest industry groups represented.

This correspondence between all firms and veteran-owned firms also was true in the percentage of firms which were home-based; their level of franchise ownership; sources of capital use for business startup, acquisition, and expansion; the types of workers they used; and the types of their major customers.

Chart number 4 shows us that veteran-owned firms were older, that more than half were home based, and that 3.3 percent were franchises. Importantly, government customers, both Federal and State, were a larger share of veteran-owned firms' major customers than for other firms.

Figure 5 shows us characteristics of veteran businessowners. It notes the single most striking demographic difference between veteran businessowners and all owners is their age. In 2002, 67.8 percent of all veteran owners were aged 55 and older. In contrast, only 30.9 percent of all businessowners were aged 55 and older.

We also note that the 2002 SBO found veteran owners of respondent firms were overwhelmingly male and overwhelmingly white.

Veteran businessowners tended to be better educated than other businessowners. In 2002, veteran businessowners were more likely to have post-graduate degrees and high school diplomas.

In addition to research on demographic issues, Advocacy has a continuing program of economic research relating to veteran entrepreneurship issues. Your information package includes a listing of all published research. And we have 2 more projects currently underway.

A few key findings from past Advocacy-sponsored research are listed on this slide that we are looking at now.

About 22 percent of veterans in the U.S. household population were either purchasing or starting a new business, or considering doing so.

Military service appeared to have provided necessary business skills to a significant proportion, one-third or more, of current veteran businessowners.

Figure 7 shows that the self-employment rate of male veterans was higher than that of non-veterans from 1979 through 2003.

The Committee also asked us to identify problems faced by small business. The last study that we have, which attempted to identify such problems, was released in 2004. The most important problems identified included access to and affordability of healthcare, knowledge about government programs which could be of assistance to veterans, access to financing, understanding tax law, and disadvantages in government contracting.

Last September, Advocacy commissioned a new study to look at tax and regulatory barriers faced by veteran entrepreneurs. We will, of course, be pleased to share this study with the Subcommittee as soon as it is available.

It is very likely that the rankings of some of these problems in the study that I referenced earlier have changed due to the current economic conditions.

For example, access to business credit is clearly more difficult today for most businesses. But finding quality employees is probably easier.

My prepared testimony includes 2 tables from the 2004 study that I have just addressed. And you can consult those for further information on problems that veterans indicated that they were having.

This concludes my prepared remarks. I will be happy to answer any questions that you may have. Thank you.

[The prepared statement and referenced slides of Ms. McGibbon appear on p. 71.]

Ms. HERSETH SANDLIN. Thank you, Ms. McGibbon.

We will now recognize Mr. Jordan.

STATEMENT OF JOSEPH JORDAN

Mr. JORDAN. Chairwoman Herseth Sandlin, other distinguished Members of this Subcommittee, thank you for inviting me to testify regarding Federal Procurement and veteran and service-disabled veteran-owned small business procurement in particular.

I am Joseph Jordan, Associate Administrator for government Contracting and Business Development at the Small Business Administration.

I appreciate the opportunity to discuss with you SBA's efforts to ensure that small businesses receive a fair opportunity to participate in the Federal procurement arena, especially veteran and service-disabled veteran-owned small businesses whose owners have given so much to their country.

The SBA, through its government contracting function, is responsible for assisting all small businesses in obtaining a fair share of government procurement by leveraging a variety of programs and services.

A key tool in this effort is SBA's statutory mandate to establish small business procurement goals with each agency prior to the beginning of the fiscal year in line with meeting the government-wide goals.

The goals for prime contracting include 23 percent for small business in general, 5 percent for small disadvantaged business, 5 percent for women-owned small business, 3 percent for service-disabled veteran-owned small business, and 3 percent for historically underutilized business zone certified small businesses.

SBA is also required by statute and Executive Orders, including 13–360, to report on agency's achievements in meeting their goals, as well as plans to achieve any goals not met.

SBA has established a Small Business Procurement Scorecard as a method of fulfilling these responsibilities. The Scorecard is publicly available on SBA's Web site.

Of these goals, women, HUBZone, and service-disabled veteran-owned small businesses have never been met government wide. However, the dollars contributing to the goals in all of these categories have increased each year. For service-disabled veterans, the dollars have increased steadily from $554 million in fiscal year 2001 to $3.9 billion in fiscal year 2007. Preliminary indications are that there will be another large increase in dollars in fiscal year 2008.

Although there is no government-wide goal for veteran-owned small businesses, Federal agencies in fiscal year 2007 awarded more than $10.8 billion in contracts, or 2.9 percent, to veteran-owned small businesses. That category includes service-disabled veteran small businesses.

Service-disabled veterans often are also HUBZone and/or 8(a) certified businesses as well, offering them additional tools to access Federal procurement opportunities.

The Department of Veterans Affairs has increased its goal achievement for service-disabled veterans to 7.9 percent in fiscal year 2007 from 3.6 percent in fiscal year 2006. SBA has highlighted VA's efforts in obtaining these results as a best practice for other agencies.

VA's Center for Veterans Enterprise is dedicated to working exclusively with veterans who want to establish businesses, and partners with other Federal agencies to provide market research, outreach support, and conference participation for veteran and service-disabled veteran small businesses.

SBA participates with VA and other agencies in such events, which include business matchmaking. In fact, just a couple of weeks ago SBA participated in the Kansas City Veterans Job Fair and Business Opportunity Summit in Kansas City, Missouri. This summit was a joint effort conducted by the SBA, Department of Labor, VA, and the Military Order of the Purple Heart.

Although there have been significant increases in contract awards for service-disabled veterans, clearly more work is still needed. The SBA recognizes the need to improve small business government procurement efforts, both within the agency and externally by working with Federal procuring agencies and service-disabled veterans.

Chairwoman, in your invitation letter you asked that I also address the use of liquidated damages. The Small Business Act and the implementing regulations allow the contracting officer to impose liquidated damages on a prime contractor that fails to comply with its subcontracting plan, but only if the contracting officer, after considering the totality of the circumstances, determines that the prime contractor did not make a good faith effort to comply with the subcontracting plan. The contracting officer's decision to impose liquidated damages is also subject to appeal under the Contract Disputes Act.

Thus, the process can be time consuming and costly for the government. And it turns on a very subjective standard, i.e. whether the prime contractor made a good faith effort to comply with the plan.

There are other incentives available to encourage prime contractors to comply with subcontracting plans, such as considering compliance as part of an evaluation of past performance or monetary awards.

Madam Chair and other distinguished Members of this Subcommittee, thank you again for the opportunity to testify before you regarding our work to promote government contracting opportunities for America's small businesses. I am happy to answer any questions you may have.

[The prepared statement of Mr. Jordan appears on p. 87.]

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

Mr. Frye, you are now recognized for 5 minutes.

STATEMENT OF JAN R. FRYE

Mr. FRYE. Madam Chair, Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss VA's acquisition operations and veteran entrepreneurship.

VA fully embraces the letter and spirit of the entrepreneurial provisions of Public Law 109–461, the Veterans Benefits, Healthcare and Information Technology Act of 2006. As required, sections 502 and 503 of the Act were implemented in VA on June 20, 2007, as the Veterans First Contracting Program.

As VA's Senior Procurement Executive, I am both pleased and proud to report the VA is using the unprecedented and extraordinary authorities granted by the Act to contract with veteran-owned small businesses at never-before-seen levels. In fact, VA has been and remains the Federal leader in contracting with veteran-owned small businesses, and veterans have the right to expect nothing less from us.

In fiscal year 2006, VA was one of only 3 of the 24 CFO Federal agencies to exceed the service-disabled veteran-owned small business goal of 3 percent.

In fiscal year 2007, VA broke obligation records on several fronts. For the first time, VA expenditures with all veteran-owned small businesses exceeded $1 billion. Spending with veteran-owned small businesses increased 79 percent from fiscal year 2006. Total dollars reported for service-disabled veteran-owned small businesses and veteran-owned small businesses were 6.95 percent and 10.13 percent, respectively.

For fiscal years 2008 and 2009, VA established the first-ever socioeconomic goals required by Public Law 109–461 in contracting with veteran-owned companies. These goals consist of a 7-percent goal for service-disabled veteran-owned small businesses and a 10-percent goal for veteran-owned small businesses.

We strive for continuous improvement each year by expanding upon the previous year's accomplishments. In each case, we have exceeded our goals. For example, in fiscal year 2008, spending in the service-disabled veteran-owned small business category increased by 99 percent. We also increased our spending by 73 percent in the veteran-owned small business category.

For the first time in VA history, spending with service-disabled veteran-owned small businesses surpassed the $1 billion mark. For all veteran-owned small businesses, VA's total obligations exceeded $2 billion, which is by far the highest amount obligated across all civilian Federal agencies.

Total dollars reported for service-disabled veteran-owned small businesses and veteran-owned small businesses were 12.09 percent and 15.27 percent, respectively.

As VA's Senior Procurement Executive, I have taken affirmative steps to develop and implement policies that benefit small businesses and veteran entrepreneurs. For example, in implementing VA's contract bundling review process, VA set a threshold for contract bundling reviews at $1 million, which is one-half of the $2 million threshold established by civilian agencies—for civilian agencies by the Federal Acquisition Regulation.

This lower threshold increases the number of acquisitions that receive contract bundling reviews by VA's Office of Small and Disadvantaged Business Utilization, thereby providing even more opportunities to unbundle acquisitions and make them more suitable for award to small businesses.

In 2007, VA instituted a requirement that all acquisitions valued at $5 million or greater be conducted using an Integrated Product Team, commonly referred to as an IPT. A representative from VA's Office of Small and Disadvantaged Business Utilization is included as a voting member on each IPT.

In other words, not only do small businesses have a seat at the table during this critical phase of acquisition planning, they also have a voice in the form of a vote by their advocate representatives. I am not aware of any Federal department or agency that has instituted such progressive measures to address contract bundling.

Madam Chair, the veteran's business community has expressed concern that VA has not fully implemented the entrepreneurial provisions contained in sections 502 and 503 of Public Law 109–461.

I want to assure you and the Subcommittee's Members that this is not the case. On June 20, 2007, VA implemented the Veterans First Contracting Program through an agency policy letter consistent with the requirements of the Act. VA will soon publish a final rule in the Federal Register to formally record these requirements in the Veterans Affairs Acquisition Regulation.

Veteran entrepreneurs will see no significant change in the use of these authorities. VA will still maintain the small business hierarchy set forth in the Act. In addition, to promote a higher standard of transparency, once the final rule is published, sole source acquisitions must be synopsized in Federal Business Opportunities System.

At the present time, VA does not require synopsis of sole source awards under the Public Law. The added transparency will help ensure that all veteran-owned businesses are aware of the procurement strategies employed by VA contracting officials.

When the Veterans First Contracting Program final rule is published, VA will embark on a robust and aggressive training effort to educate VA's acquisition workforce, purchase cardholders, and program managers and officials. The training will reinforce VA's commitment to veteran entrepreneurs, as well as cover the authorities granted and the hierarchy specified in Public Law 109–461.

It is important to note that the unprecedented and extraordinary contracting authorities granted to VA under Public Law 109–461 are preferences in open market contracting for veteran entrepreneurs.

Unlike the section 8(a) Business Development Program administered by the Small Business Administration, VA's Veterans First Contracting Program is not a business development program. The Veterans First Contracting Program is not an entitlement program, nor is it a substitute for vendors taking other competitive steps to be viable in the Federal marketplace, such as securing a Federal Supply Schedule contracts.

Madam Chair, I would like to close by thanking you for the opportunity to discuss the implementation of Public Law 109–461 at the VA and to reaffirm our commitment to increasing opportunities for veteran entrepreneurs. VA is grateful for the authorities and opportunities presented by our Veterans First Contracting Program.

As proud as we are of VA's accomplishments, we will continue to work diligently to improve upon them and set a standard worthy of emulation throughout the Federal acquisition community.

And with that, I would be pleased to respond to any questions you or the Subcommittee's Members may have.

[The prepared statement of Mr. Frye appears on p. 89.]

Ms. HERSETH SANDLIN. Thank you, Mr. Frye. Let us start with you then. The VA implemented Title 5 of P.L. 109–461 in June 2007, right?

Mr. FRYE. Yes, ma'am.

Ms. HERSETH SANDLIN. You indicated that an agency guidance letter was issued at about that same time?

Mr. FRYE. What is that, ma'am?

Ms. HERSETH SANDLIN. You had mentioned that an agency letter. I can't recall if you said agency guidance letter.

Mr. FRYE. Yes. We used a information letter to implement it. We had 6 months to implement this policy after the law was passed. Six months was just too short a time period.

Ms. HERSETH SANDLIN. I understand about compressed time periods for implementing new legislation at the VA. Now you say soon you are going to publish the regulations in the Federal Register. How soon is "soon"?

Mr. FRYE. On April 20th, 2008, Secretary Peake signed the proposed rule. On April 23rd, 2008, the proposed rule of 2008—the proposed rule was submitted to OMB. On August 20th, 2008, the proposed rule was published in the Federal Register. On October 20th, 2008, after the 60-day comment period ended, we received 97 comments. We were prepared to move forward. But on October 22nd, 2008, the White House Chief of Staff placed a moratorium on submitting new regulations for the remainder of the Administration.

OMB said they would not accept the Veterans First rule for review before the end of the Bush Administration.

In January 2009, an issue came up with our Office of Small and Disadvantaged Business. The issue concerned whether they would process protests regarding the status of veteran-owned and service-disabled veteran-owned small businesses if they materialized. That issue has been resolved.

We have also had a change in personnel. I now have a new boss, Mr. Glenn Haggstrom. We briefed him on April 10th. In May, we are going to brief Secretary Shinseki. Also in May we hope to have the new rule over to OMB for their concurrence. We hope to have it published in 2009. And of course it takes 30 days after publication before it becomes a final rule. And so hopefully in September of 2009, it will become a final rule.

Ms. HERSETH SANDLIN. Thank you, Mr. Frye. You obviously were anticipating the question. I appreciate the clarification on the timeline. It makes a little bit better sense.

Although obviously some questions were raised about what was happening in October of last year. But I am not going to waste the Subcommittee's time on trying to get answers to those questions.

I appreciate that you are moving forward briefing the new folks that have been appointed there in the VA. We will look forward to getting the rule finalized.

But in your opinion, you don't anticipate, based on what will be sent over to OMB for concurrence and then what happens after that, that it will substantially change from what was included in the agency guidance letter?

Mr. FRYE. We don't anticipate that it will substantially change.

Ms. HERSETH SANDLIN. Okay. Thank you. Mr. Frye, also, from some of the testimony of the prior witnesses, could you address why it is that less than 900 businesses out of approximately 17,000 have been verified?

Mr. FRYE. Yes. Unfortunately, that is not in my area of operations.

Ms. HERSETH SANDLIN. Okay.

Mr. FRYE. Verification is in the Small Business Office's area of operations. So I can't give you a good answer there. But I would be willing to take that for the record and get you an appropriate answer.

[The information is provided in the response to Question 10 of the post-hearing questions and responses for the record, which appears on p. 111.]

Ms. HERSETH SANDLIN. I would appreciate that. Thank you. Just a couple more questions for you, Mr. Frye. The VA has a draft rule for a Mentor-Protégé Program; is that correct?

Mr. FRYE. That is part of the draft rule. The draft rule that we hope to have published this coming year——

Ms. HERSETH SANDLIN. That is part of the same, okay.

Mr. FRYE [continuing]. Has Mentor-Protégé provision is included.

Ms. HERSETH SANDLIN. Okay.

Mr. FRYE. Yes, ma'am.

Ms. HERSETH SANDLIN. Finally, it is our understanding that the Inspector General for the Department of Veterans Affairs has just finished a report detailing mismanagement of contracts that the Department's IT shop farmed out to the Space Enable Systems Center. Is that correct? Can you comment on those contracts?

Mr. FRYE. I have not seen that report.

Ms. HERSETH SANDLIN. Once you have a chance to review the report, could you take this question for the record and get back to us?

Mr. FRYE. Certainly.

[The information is provided in the post-hearing questions and responses for the record, which appears on p. 109.]

Ms. HERSETH SANDLIN. Thank you.

Ms. McGibbon, does your research show and I am trying to get at Colonel Bjorklund's research from the prior panel. Does your research show if veteran small businesses can meet the 3-percent goal across the Federal Government? Are there sufficient such businesses that can compete in the Federal Government's top ten business areas?

Ms. MCGIBBON. I am afraid our data does not show that.

Ms. HERSETH SANDLIN. How about the relative size and growth of veteran-owned small businesses? In looking at those businesses over the past several years, are they growing? Do they remain the same in size? Clearly from the first panel, one of the gentleman who testified, even since he was here a year and a half ago, could see a substantial growth it sounds like in his business. Are you monitoring that?

Ms. MCGIBBON. Are you referring to receipt size or number of employees?

Ms. HERSETH SANDLIN. Either.

Ms. MCGIBBON. We have not seen a tremendous growth pattern. I believe, however, it may be due to a number of factors, the aging of the veteran's population for instance.

Ms. HERSETH SANDLIN. So you haven't seen a growth in either of those, either in receipts or number of employees?

Ms. MCGIBBON. Not a tremendous growth, no.

Ms. HERSETH SANDLIN. Mr. Jordan, in your testimony you talk about other incentives available to encourage—you acknowledge in your testimony, liquidated damages. Thank you for addressing that, but then you talk about other incentives that are available to encourage prime contractors to comply with subcontracting plans.

I am wondering if you can share with the Subcommittee how effective those incentives have been in the past. What percentage of companies have complied with the subcontracting plans as a result of those types of incentives?

Mr. JORDAN. I don't have the exact numbers with me. What I can do is come back to you and your staff with that. And in terms of on a broader level, there are a number of different components, so it may be difficult to tie the specific incentive or penalty to the outcome. But we will give you the totals. And we can list all of the different incentives that I was referring to.

Ms. HERSETH SANDLIN. Okay. That would be helpful. But you don't have any way to track, sort of to tie the particular incentive to the outcome in compliance with the contracting plan?

Mr. JORDAN. I can go back through all of the data. And I will give you everything that we have.

[The SBA subsequently provided the following information:]

Subcontracting Incentives

List of Incentives In Place to Encourage Utilization of Small Business Concerns as Subcontractors

As part of my testimony, on April 23, 2009, before the Veterans' Affairs Committee, Economic Opportunity Subcommittee, I discussed incentives—in addition to liquidated damages—available to encourage maximum use of small businesses as subcontractors. Following are a number of incentives which have proven effective:

Each year, as part of the national Small Business Week celebration, the U.S. Small Business Administration (SBA) recognizes large prime contractors that have excelled in their utilization of small businesses as suppliers and subcontractors. The Dwight D. Eisenhower Award for Excellence may be made in each of the following five (5) categories: manufacturing; service; research and development; construction; and utilities.

The SBA employs a cadre of subcontracting professionals known as Commercial Marketing Representatives (CMRs), who monitor the small business subcontracting programs of the large prime contractors within their assigned portfolios. The CMR's can nominate those large business prime contractors with an outstanding small business subcontracting program for an SBA Award of Distinction. (The Award of Distinction is considered as part of the judging criteria for the Eisenhower Award.)

Large businesses and individual industry procurement officials are also eligible to receive the SBA's Frances Perkins Vanguard Award for their excellence in the use of women-owned small businesses as subcontractors. Awardees are honored during the national Small Business Week celebration.

Large prime contractors are encouraged to nominate their outstanding small business suppliers for the SBA's Small Business Subcontractor of the Year award. One national winner is selected from among the 10 regional awardees. The large prime contractor who nominates the national (and regional) winner is recognized during national Small Business Week, giving the prime "bragging" rights as to the effectiveness of its subcontracting program.

The Department of Defense's (DoD) Defense Contract Management Agency (DCMA) also performs reviews of those DoD contracts, including monitoring subcontracting plans, for which it is assigned administrative responsibilities. DCMA assigns performance ratings to those contractors and has award ceremonies to recognize those large primes that meet/exceed their negotiated subcontracting goals.

Contracting Officers can have a contract performance element to reward prime contractor performance as part of any incentive fee provisions as it pertains to the large firm's ability to meet/exceed the small business goals stated in the contract. The fee is added to the prime's overall fee (profit), thus providing a monetary incentive to meet/exceed their small business goals.

As part of the government's Integrated Acquisition Environment (IAE) the electronic Subcontracting Reporting System (eSRS) was launched to create higher visibility and introduce a more transparency into the process of gathering information on Federal subcontracting accomplishments. This Internet-based tool will streamline the process of reporting on subcontracting plans and provide agencies with access to analytical data on subcontracting performance. Information contained in eSRS can be viewed by the public, so large primes have an incentive to be viewed as being proactive and supportive of small business.

Ms. HERSETH SANDLIN. Okay. That would be helpful. Finally, you state that the SBA has started a campaign to reach out to veteran-owned small businesses. Could you elaborate on what that campaign will entail?

Mr. JORDAN. Well, we continuously work with both the agencies and the service-disabled veteran-owned small businesses to help the agencies develop their goals. And every agency that does not meet its goals in any of the socioeconomic programs, must give to us a plan for how they will try to achieve it in the future. So that is one way. And we help educate them as to the service-disabled veteran-owned small businesses who could provide the goods and services that they are going to be purchasing.

Likewise, we reach out to the service-disabled veteran-owned small businesses to help educate them on how to become contract ready, and become alerted to what the government is likely to buy going forward, and so what goods and services, and by category, will be procured. So it is an outreach effort on both the agency side and the small business side.

Ms. HERSETH SANDLIN. Okay. Thank you. I may have some additional questions that I will submit in writing to you. I do appreciate your testimony today.

I want to thank everyone who were witnesses on our panels this afternoon for your statements, and your valuable insight, and obvious interest in this topic. There is a lot of work that lies ahead for all of us. I do want to assure you that the Subcommittee will continue to work diligently with all of the stakeholders to ensure that the concerns and the interests of our veteran-owned small-businesses are being heard and addressed.

Thank you again. The hearing stands adjourned.

[Whereupon, at 4:30 p.m., the Subcommittee was adjourned.]

APPENDIX

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

As our Nation's veteran owned small businesses encounter a challenging environment, it is important that we continue to provide oversight on small business opportunities for veterans and service disabled veterans, and review laws that are ineffective and consider possible solutions.

During the 110th Congress, we held three hearings on the subject of: veterans entrepreneurship and self employment; Federal procurement and the 3 percent set aside; and contract bundling. During these hearings, many of our panelists expressed several concerns including: the need to retrain Federal employees on existing laws and regulations; a majority of Federal agencies not meeting the 3 percent set aside for veteran owned small businesses; the need to streamline existing programs; and lack of enforcement of existing laws and regulations.

Furthermore, the Committee recently received correspondence from a veteran concerned that the Small Business Administration's offices in San Antonio, Texas are promoting contracts with 8(a) applicants at the detriment of service disabled veteran owned small businesses. While this and other veteran's concerns are discouraging to me, I am pleased that we are continuing to make progress in providing more opportunities for out Nation's veterans.

Last year we made progress with the enactment of Public Law 110–389, the Veterans' Benefits Improvement Act of 2008 which contained language introduced by Ranking Member Boozman. This new law clarifies the intent of the small business provisions in Public Law 109–461 that these provisions apply not only to the Department of Veterans Affairs, but also to any agency, entity, or person acting on its behalf. This new law requires that specific language be included in future agreements between the VA and any agents acting on its behalf are expected to be in compliance with the VA's responsibilities under any laws and regulations promoting veteran and service-disabled veteran-owned small businesses.

Under the leadership of Chairwoman Nydia Velazquez of the House Small Business Committee, the Congress passed Public Law 110–186, the Military Reservist and Veteran Small Business Reauthorization and Opportunity Act of 2008. Among several substantive changes, this law will: increase the authorization of the Small Business Administration's Office of Veteran Business Development; create an Interagency Taskforce on Veteran Small Business; create a new loan initiative providing veterans with 7(a) small business loans at 50 percent of the fees of other small businesses; increase the number of Veterans Business Outreach Centers; and provides grants to the SBA's Small Business Development Centers to expand its outreach to veterans.

I applaud these efforts and the work of the thousands of Federal employees tasked to assist our Nation's veterans, but more can and should be done. I look forward to exploring all possibilities to work with Interagency Taskforce on Veteran Small Business and the veterans community on ways to improve existing programs.

I can assure you that this Subcommittee will continue to work diligently with all stakeholders to ensure that the interests of our veteran owned small businesses are being heard and addressed.

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

Good afternoon.

Madam Chair, during the 109th Congress, we passed important small business legislation as sections 502 and 503 of what became Public Law 109–461 on December 22, 2006. Those provisions provided VA contracting officials with several tools to enable them to increase the number of contracts given to veteran and disabled

veteran-owned small businesses. To their credit, VA has made a significant effort to increase veteran-owned small business' share of contracts and last fiscal year awarded 14.9 percent of the procurement contracts worth about $2.1 billion went to veteran-owned small businesses including $1.66 billion to disabled vet small businesses. I congratulate VA staff for that accomplishment and for setting the standard for the rest of the Federal Government.

PL 109–461 had several important features. It requires VA to set veteran-owned small business procurement goals. It requires VA to verify that subcontracting plans submitted in proposals are carried out. It set thresholds for sole source and restricted competition. It requires that a small business seeking contracts under the provisions of PL 109–461 be listed and verified in the database of veteran-owned small businesses maintained by VA. The law also requires VA to verify that businesses applying for listing in the database are owned and controlled by veterans and the service-connected disability status of the owner(s). The law also establishes enforcement provisions and how a business is treated when ownership passes due to the death of the veteran and annual reporting requirements. Finally, the law clearly states that VA, "shall give priority to a small business owned and controlled by veterans if such business concern also meets the requirements of that contracting preference."

However, I have a concern. While VA has done an excellent job in exceeding the veteran-owned small business contracting goal, I am very concerned about implementation of the database provisions. It is my understanding that 28 months after the provisions became law, only 974 of the 18,368 companies in the VA database have been verified as a veteran-owned small business with another 427 pending verification. At that rate, it will take about 20 more years to work through the entire database. To me, the law states that every business in the database must be vetted, not just those who request verification. It makes no sense to me to maintain what is purported to be a list of veteran-owned businesses that is really a list of those who request verification and those who do not. Any business that does not desire verification of its veteran and ownership status is a potential protest. In the meantime, it is entirely possible that a non-veteran-owned company could be awarded a contract by a Federal agency solely on its presence in the database.

The point I want to make to the VA witnesses here today is that the law says verify the database, and while the law did not specify a finishing date, the foot-dragging is preventing hardworking and qualified veteran-owned companies from being eligible to compete for VA business under the provisions of PL 109–461. I also believe we have not received the annual report due to Congress by December 31 of each year. I would like to know when we can expect that report.

Madam Chair, I feel it is necessary to point out that if a lack of staff or if there are other impediments to implementing provisions of law, we need to hear about it from the department. Otherwise, it is perfectly reasonable for us to expect reasonable progress toward implementing the legislation we pass. And in the case of the database, VA has dropped the ball.

I yield back.

Prepared Statement of Mark J. Gross, President and Chief Executive Officer, Oak Grove Technologies, Raleigh, NC

Good afternoon Chairman Herseth-Sandlin, Ranking Member Boozman and Members of this Subcommittee. Thank you for the invitation to come before you and share my experiences and work within the veteran businessowner community, and discuss Contracts and Contracting Policy at the VA.

I am a veteran of the United States Army, and Chief Executive Officer of Oak Grove Technologies, a Service Disabled Veteran Owned small business, founded at my kitchen table 6 years ago. Today, I am proud to say, I employ over 250 employees, over 80 percent of whom are veterans, and 22 percent of those are service disabled veterans. Geographically, we are dispersed across 19 States, Puerto Rico, The U.S. Virgin Islands, and support both OEF and OIF in Afghanistan and Iraq.

The Department of Veterans Affairs is unique in that PL 109–461 gives the VA special authorization in procuring to Veteran and Disabled Veteran companies. I believe this is a major reason why the V A has been able to contract a greater percentage with Veteran and Disabled Veteran companies.

In my opinion the climate has changed considerably in the past few years. If you look at some of the trends today, you will see that many agencies are improving in making awards to Service Disabled Veteran owned businesses, although we still have a way to go. Congress has done an outstanding job in passing legislation such as 106–50 and 108–183, both of which established Service Disabled Veteran goals

and mandates in Federal contracting. However, there still lacks accountability within Agencies to meet these goals. I am here to offer my views on what can be done to ensure the state of veteran's entrepreneurship within the Federal Government.

I'll offer a few recommendations to this Subcommittee:

- Propose legislation similar to 109–461for all Federal Agencies.
- With respect to set asides and sole sources, eliminate the "Rule of Two" wherein a contracting officer
  - Has to know of 2 or more SDVOB's before an acquisition can be set aside.
  - Conversely, an "SDVO sole source" award can only be made when there is only one SDVOSB that can satisfy the requirement.

This is the only similar requirement for any of the statutory programs.

- Create a level playingfield between the statutory programs by changing the use of "MAY" to "Shall" when using restricted competition for SDVOB's.
- Small business subcontracting plans, including all details of the plans, required by large prime contractors, should be made public and accessible electronically or on Standard Forms 294/295 upon request. Mandate that contracting officers impose liquidated damages, as predicated in FAR Part 19.705–07 for those large companies that fail to demonstrate good faith efforts to fulfill the requirements of their subcontract plans.
- Close loopholes in the GSA Schedule (FAR Par 8) wherein large businesses are allowed to take away business intended for small business, or mandate that the Federal Agencies disclose the percentage of overall contracting dollars procured to small business' through the GSA Schedules.
- If contract bundling must be utilized for acquisition streamlining, ensure adequate percentages are allocated with small business plans that include service disabled veteran owned small businesses
- Establish an Ombudsman within agencies Provide procurement oversight.

To address whether there are enough Veteran business' to meet and fulfill contracts, I would state without question. It was the same argument we've had a couple of years ago when it was stated there weren't enough veteran/service disable veteran companies to fulfill the 3 percent contract goals, yet CCR listed 7k active 8a Companies and 12k veteran/disabled veteran companies— yet most agencies had no problems meeting a higher percentage requirement for 8a companies.

As an entrepreneur and Veteran, the climate certainly has gotten better over the past 7 years, but we still have a long way to go. I'm confident that Congress, and many of the Federal Agencies such as Department of the Army, and the Department of Veterans Affairs are committed to this cause.

I thank you for your time and your efforts to improve the Federal contracting climate for Service Disabled Veteran Businesses.

AMENDMENT 1

THE DEPUTY SECRETARY OF VETERANS AFFAIRS
WASHINGTON, DC
JUNE 20, 2007

MEMORANDUM FOR UNDER SECRETARIES, ASSISTANT SECRETARIES, OTHER KEY OFFICIALS, DEPUTY ASSISTANT SECRETARIES, AND FIELD FACILITY DIRECTORS

SUBJECT: Veterans First Contracting Program

Public Law (P.L.) 109–461. The Veterans Benefits, Healthcare and Information Technology Act of 2006. Sections 502 and 503 are effective June 20, 2007. This law provides VA with special authorities in contracting with service-disabled veteran-owned small businesses and veteran-owned small businesses.

VA personnel involved in the acquisition process need to become acquainted with the authorities and their responsibilities under P.L. 109–461. We must ensure that our advocacy of veterans extends to veteran entrepreneurs. I expect each of you to fully embrace the spirit and intent of this law and advance veteran entrepreneurial opportunities within VA.

I have asked Scott Denniston, Director, Office of Small and Disadvantaged Business Utilization, to monitor VA's implementation and compliance with P.L. 109–461. Mr. Denniston will report VA's progress to the Secretary and me on a regular basis.
Gordon H. Mansfield

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

Executive Summary

Introduction

It's been nearly 4 years since President George W. Bush issued Executive Order 13360 requiring Federal agencies to provide 3 percent (3 percent) of all contracting opportunities to Veteran Small Business. To date, less than a handful of agencies have been successful in achieving that annual mandate. Overall, contract opportunities for Veteran Small Business are falling short of acceptable industry goals despite businesses being willing, ready, and able to provide the necessary services and solutions.

As President & Chief Executive Officer of SDVOSB MicroTech, and a former Federal Contracting Officer, it's disappointing and a major impediment to doing business, that many agencies make little effort to achieve this 3percent goal. To counter this, significant improvements need to be enacted to correct systemic problems in the current Veteran Small Business procurement system.

Possible Solutions

- Limit Sole Sourcing
- Reform Contract Bundling
- Maximize Small Business Opportunities
- Consolidate Contracts so Veteran Small Business can Share in the Benefits of Bundling
- Place Orders under a Veteran Small Business-focused GWAC
- Solicit Quotes for GSA Federal Supply Service Orders only from Small Business, or Socioeconomic Small Business groups
- Create a Small Business Participation Enforcement Team
- Consider *Hybrid* Contract Bundling
- Establish a SBA Mentor-Protégé Program Focused on Veteran Small Business
- Enforce Mandatory Federal Acquisition Regulation (FAR) Guidelines

Leading Issues

1. What types of businesses are winning the majority of Federal contracts?

The statistics clearly show that large, more established enterprise business are winning the majority of all Federal contracts, as well as the more high-dollar lucrative award amounts.

2. What needs to be done to improve the process?

Federal contracts with the VA require complex, specific procurement requirements, and an intimate understanding of the unique VA culture, making it extremely difficult and cumbersome for Small Businesses to succeed. Clearer rules and educational efforts about the Federal "Veterans First Contracting Program" would be beneficial.

3. Are there enough Veteran Small Businesses that have the experience and resources to fulfill Federal contracts?

In 2008, more than 15,000 Veteran-Owned Businesses were registered in the Central Contracting Register (CCR), the primary registrant database for the Federal Government. The Veteran Small Business community has the experience and resources necessary to adequately fulfill Federal contracts.

4. What can be done to help Veteran Small Business grow?

In order to sustain or further increase the ability of Veteran Small Business to contract within the Federal arena, it will require more policy vigilance, clearer guidance, improved oversight, and effective policy enforcement.

Conclusion

The Veteran Small Business community is not asking for a "handout," but a "hand up." Keep the "Playing Field" level for businesses of all sizes. Limit Sole Sourcing. Reform Contract Bundling. Establish a Mentor-Protégé program at the VA. Recognize the value of Veteran Entrepreneurs. Enforce the 3 percent Veteran Small Business Contract mandate.

Good Afternoon Chairwoman Herseth Sandlin, Ranking Member Boozman and Subcommittee Members. I greatly appreciate the opportunity to testify at this hearing regarding how the Department of Veteran Affairs (VA) awards contracts and am honored to represent other Veteran-Owned and Service-Disabled Veteran-Owned Small Business Owners.

My name is Anthony (Tony) Jimenez and I am the President and Chief Executive Officer of MicroTech. MicroTech is a Minority-Owned, 8(a) and Service-Disabled Veteran-Owned Small Business (SDVOSB) providing Network and IT Enterprise Management, Information Technology Systems and Services, Strategic Solutions, Audio-Visual Telecommunications Design and Installation, Product Solutions, and Consulting Services.

I retired from the Army in 2003 after serving 24 years on active duty and started MicroTech in 2004. Today I employ over 250 great Americans and my Team has become a powerful job creation engine and force for economic development in my community, in the State of Virginia, and in a number of other states across the Nation.

Since the last time I testified before this Committee in July 2007, MicroTech has quadrupled in size and has added over 15 additional government contracts to its portfolio. MicroTech manages over 400,000 government IT users daily and provides products and solutions to more than 30 government Agencies.

MicroTech has been recognized by industry groups, diversity organizations, as well as the Federal Government, as a leading Small Business that has notably succeeded at supporting the Business of government. MicroTech's exponential growth has led to recognition such as the prestigious Inc. 500, ranking the Fastest Growing Private Companies in the U.S.; Washington Business Journal's Top 10 Fastest Growing Companies in the region; the HB500–as a Top 500 Hispanic-Owned Business; DiversityBusiness.com—as a Top 25 Disabled Veteran-Owned Business, and; the Washington Technology Top 25 8(a)—recognizing the most successful 8(a) small businesses in the government marketplace.

Like most of the Veterans who retire from active duty, initially I had no idea what I wanted to do when I left the military. But, I knew I wanted to remain close to the fight and continue, in some way, to serve the country. As an owner of a business that manages Federal projects, MicroTech allows me to do that. I have the opportunity to use my unique military skills and expertise to help the government succeed, as well as the ability to work with and provide jobs for other Veterans.

My small business competes for Federal projects, and targets contracting opportunities based not only on our core competencies, but also on our opportunity to hire Veterans and Wounded Warriors to perform the work; thus giving them a chance at a viable second career. However, in the short 5 years MicroTech has been doing business with the Federal Government, I have discovered that opportunities for Veteran-Owned Small Businesses (VOSB) and SDVOSBs are not as available as I believed they were when I started my business. The emphasis on increasing the use of SDVOSBs in fulfilling the government's contracting needs is sorely lacking.

It's been nearly 4 years since President George W. Bush issued Executive Order 13360 requiring Federal agencies to provide 3 percent of all contracting opportunities to SDVOSBs. To date, fewer than a handful have achieved that annual goal. Most of the Federal Agencies are making slow, albeit consistent progress in attaining the mark. While consistent progress is commendable, my questions are these: How many more years will it take to achieve these goals? What is being done to ensure every agency meets the 3 percent goal? Finally, what are the consequences if an agency fails to achieve the mandate?

As a former Contracting Officer for the Federal Government, I continue to be disappointed at how many agencies say they care but do nothing or at best, very little, to ensure their organizations provide 3 percent of contracting opportunities to Service-Disabled Veteran-Owned Small Business (SDVOSBs). The fact is, there currently are no penalties for failing to meet the Executive Order and very few incentives for meeting or exceeding the established standard. This lack of oversight in meeting policy requirements makes it extremely difficult for agencies to realize the advantages of contracting with SDVOSBs.

The good news is that MicroTech's experience dealing with the Department of Veteran Affairs (VA) on this issue has been very positive. From my perspective, the VA awards a greater percentage of contracts to VOSBs and SDVOSBs than any other agency in the Federal Government. Veteran-Owned Small Businesses (VOSBs) seem to enjoy greater success at the VA than non-veteran owned. This is happening because of the superlative efforts of this Committee and others. In addition, the VA, as one expects, wants to take care of our Nation's Veterans, so it makes sense that the VA strongly supports set-aside opportunities for Veterans. The VA keeps their eyes on the prize, and works hard to ensure VOSBs get their fair share of competitive contracts.

The problem is that this commitment to taking care of our veterans is not uniform across the Federal Government. As it pertains to this hearing, I believe there should be significant improvements made to correct systemic problems in the current procurement system with regard to SDVOSBs and the ability of agencies to achieve the 3 percent goal. I recommend the following steps be taken in all agencies, government-wide:

- *Limit Sole Sourcing.* Sole Source Contracting is one way of satisfying procurement requirements for the VA and other agencies; however Sole Source contracts should only be used when it benefits the Federal Government and never when more than one SDVOSB can satisfy the requirement. Awarding a Sole Source contract under any other circumstance can adversely impact competition and require the VA and other government Agencies to pay more for products and solutions.
- *Revise Contract Bundling.* Contract Bundling adversely impacts competition and hurts all small businesses. The normal procedures for Contract Bundling require agencies to provide justification for bundling decisions and have the decisions reviewed at higher levels. The problem with this is that the decision is often made in a vacuum and the affected small businesses have no means to object to a bundling decision. In most of these cases, the small businesses are not even aware that the decision is being made. Instead, they don't discover that their contract has been bundled with a larger requirement until just before the RFP is released. By then, it is too late to do anything except agree with the decision and determine how to stay involved in the competitive bid. The argument in support of Contract Bundling and Strategic Sourcing is that it saves money. That may be partially true, but not in every case. While Contract Bundling may save Contracting Officers time and effort and reduce government overhead, those dollar savings are often offset by the higher costs associated with doing business with larger organizations. This is especially true when considering the added costs associated with large businesses subcontracting work that is more difficult to staff or perform to small businesses which regularly happens on large complex contracts requiring diverse skill sets. The objective should be to find ways to use the power of procurement reforms 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 calls for the Small Business Administration (SBA) to collect and disseminate examples of successful strategies for maximizing small business opportunities. Possible "bundling" 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 specifically small business opportunities, and don't assume that because it has been bundled, that it has to be a large business focused. In most cases, making the opportunity SDVOSB-focused will lead to the very same team as if it was a full and open opportunity, but when it is an SDVOSB opportunity, the government gets a better price, more even distribution of the work among the small and large businesses, SDVOSBs are guaranteed a fair portion of the work, and SDVOSBs 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) government-wide Acquisition Contract (GWAC) and the NASA Solutions for Enterprise-Wide Procurement (SEWP) GWAC are two excellent examples of government-wide Acquisition Contracts that offer multiple award contracts with highly qualified VOSBs and SDVOSBs. U.S. Department of Veteran Affairs has done an outstanding job of using both of these GWACs. The VA's policies for using GWACs with VOSBs and SDVOSB Primes (such as VETS and SEWP) are an outstanding example of their commitment to VOSBs and SDVOSBs. 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 aside programs are not authorized under a Federal Supply Schedule, but it is permissible to limit consideration for an order to small businesses and socio—economic small businesses (SDVOSB, 8(a), WOSB,

HubZone, etc.). Once again, the VA has done an outstanding job using GSA's Federal Supply Service and limiting consideration to SDVOSBs.

- **Create a Small Business Participation Enforcement Team.** Consider taking a portion of the savings realized through Contract Bundling to 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 larger organizations 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 percent small business; 49 percent 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-Protégé program could become a joint venture as a small business for ***any*** government procurement, including procurements less than half the size standard that corresponds 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 percent in the Protégé firm.
  - Despite 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.
- **Better FAR Enforcement.** The Federal Acquisition Regulation (FAR) already includes provisions intended to help Small Business in the event that bundling occurs. Unfortunately, the FAR does not include enforcement mechanisms nor does it include a reward or punishment system. If the FAR or Code of Federal Regulations (CFR) were to include mandatory enforcement, that would go a long way toward assisting Small Business. When it comes to FAR requirements for Contract Bundling, FAR makes a good start, but fails to follow through with the most important aspect of the system. Bundled contracts are often made so complex that small businesses are precluded from competing for them. FAR Part 7 only partially addresses Contract Bundling and the requirements for how and when it is allowed.
  - FAR 7.103 states that when considering a bundled acquisition, the head of an agency must "[s]tructure 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 easier said than done. Any time either disparate services are bundled, or two or more requirements are combined, Contracting Officers can make it much more difficult for small businesses to compete.
  - FAR 7.107(c)(2) states that when bundling contracts, agency officials must ensure, "[the acquisition strategy provides for maximum practicable participation by small business concerns.]" Again, this is nice in theory, but who is guaranteeing that the strategy becomes reality?

The proliferation of long-term Indefinite-Delivery/Indefinite-Quantity (ID/IQ) Contract Vehicles has also been a serious deterrent to many small businesses. More and more Federal procurement dollars are being spent through pre-competed ID/IQs. These large business ID/IQs have the same effect as Contract Bundling.

Other than GSA's VETS and NASA's SEWP, there have been very few large ID/IQ contract opportunities for SDVOSBs. The additional few that the government has

allowed were very complex and required a very large investment by the small business to cover the bid and proposal costs, although numerous SDVOSBs still bid.

What types of businesses are getting the majority of the contracts (Large, Small, Veteran-Owned)? The statistics I have reviewed, clearly show that larger businesses are getting the majority of contracts, as well as the larger, more lucrative contracts. There is still a belief that "Bigger is Better," but good SDVOSBs and VOSBs are doing great work on very large and visible contracts, and changing the perception that only big systems integrators can adequately perform the work. How can we better highlight Service-Disabled Veteran-Owned Small Businesses and Veteran-Owned Small Business?

- *Address concerns regarding VA contracting and what needs to be done to improve the process.* Contracting with the VA can be extremely difficult for small businesses, requiring them to not only understand VA-specific contracting and complex procurement requirements, but also to understand the VA organization and culture. At MicroTech, we must constantly educate our VA customers about public policy like the "Veterans First Contracting Program" and other initiatives that are designed to help Veteran-Owned Businesses grow. There are many administrators at the VA that genuinely want to do business with Veteran-Owned Small Business; unfortunately policies and regulations designed to make it easier to do business with Veterans are either not clearly promoted, or not understood.
- *Emphasize that there are enough Veteran-Owned and Service-Disabled Veteran-Owned Small Businesses that have the experience and resources to fulfill Federal contracts.* On July 3, 2007, the U.S. Census Bureau released a report entitled: *First-Ever Reports on Veteran Entrepreneurs and Their Businesses*. This report stated that Veterans tend to be better educated before starting or acquiring their businesses, and older than other would-be entrepreneurs. The report also showed Veteran Business Owners comprised about 3 million, or 14.5 percent, of the estimated 20.5 million owners of all firms that responded to the 2002 survey.

This first-ever report examining Veterans in Business shows that prior to establishing, purchasing or acquiring their firms, military veteran owners were somewhat better educated. In 2002, veterans were about as likely to have either bachelor or postgraduate degrees as all owners of the responding surveyed businesses (40.7 percent vs. 40.1 percent). However, they were more likely to have postgraduate degrees (19.2 percent vs. 17.3 percent) and less likely not to have graduated from high school (4.3 percent vs. 6 percent).

Sixty-eight percent of military veteran owners were age 55 or over, and 32 percent were 65 or older. By contrast, among all businessowners completing the survey, 31 percent were 55 or older.

Beyond those facts, businesses owned by veterans tended to be almost virtually identical to all responding businesses in Receipts and in the Employment Size.

Other highlights of the survey:

- Nearly 7 percent of Veteran Business Owners were disabled from injuries or illnesses incurred during active military service.
- About 55 percent of veteran-owned firms reported having been originally established, purchased or acquired before 1990, compared with 36 percent of all firms responding to the survey.
- Fifty-one point 8 percent of the veteran-owned businesses were home-based, compared with 49.4 percent of all surveyed businesses.
- The percentage of veteran-owned firms with owners that relied on personal or family assets for capital, to start or acquire their businesses, was nearly identical to the percentage of all surveyed businesses (63.9 percent vs. 63.6 percent). Percentages of businesses originally financed by banks or outside investors were also nearly identical for all firms responding to the survey (14.2 percent vs. 14.8 percent), as were the percentages financed directly by government loans or government-guaranteed loans (1.3 percent vs. 1.6 percent).

In 2008, more than 15,000 Veteran-Owned Businesses were registered in the Central Contracting Register (CCR), a requirement to do business with the Federal Government. The CCR is the primary registrant database for the government. The CCR collects, validates, stores and disseminates data in support of agency acquisition missions. The CCR showed that not only were there enough Veteran-Owned and Service-Disabled Veteran-Owned Small Businesses that have the capacity to meet and fulfill contracts, the majority of those VOSBs and SDVOSBs have the experience and the resources necessary to fulfill the contracts, if awarded.

In summary, what can be done to help Veteran Small Business grow? I have often heard people in Washington say that we don't need any more laws; we just need to enforce the ones we have. In order to sustain or further increase the VA's ability to contract with VOSBs and SDVOSBs, it will require vigilance, clearer guidance, improved oversight, and effective enforcement. More will also need to be done to educate procurement officials about requirements and about the government's desire to contract with Veteran-Owned Businesses. We need to do more to get the word out and to let others know that procurements that provide opportunities to Veteran-Owned Businesses have the support of the VA leadership, the House and the Senate, and President Obama. I would also ask that you carry the message you're hearing today to the other Committees you serve on, and do everything you can to help educate others in Washington who don't recognize the value and importance of Veteran Entrepreneurs.

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 critical topics affecting Veteran Entrepreneurship. 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 our Nation's Veterans. Be assured, we are not asking for a "handout," just a "hand up." Thank you for helping to level the Playing Field and for believing in us and our ability 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 Charles Maurice Baker, President and Chief Executive Officer, MCB Lighting and Electrical, Owings, MD

Executive Summary

Today, we have a unique opportunity like none other in history to actually create the most dynamic win/win proposition between the procurement community and our Veterans.

Our presentation is based on a theme of unity, teamwork and sharing of ideas. It is not our intent to criticize, point fingers or to assess blame. We strongly support the VA and its past work with veterans. We want to share information as well as introduce viable approaches for making economic opportunity readily available for Veterans and at the end of the day; we hope that the information provided is helpful and that you agree with us and our methods.

Vision

It is our vision to help educate as many veterans about procurement as possible by identifying and communicating better business practices and strategies which will help improve the procurement process, save money and greatly reduce fraud and abuse while at the same time achieving the true intent of procurement laws.

Mission

Our mission is to help Veterans while at the same time save billions of dollars in procurement spending. We will reach out to contracting officers and agency management to identify areas of weaknesses and work as a team to fix them. We also will reach out to our Veterans to ensure they understand how to prosper under the procurement rules and how to work effectively with the procurement professionals.

Veterans

Today we have the youngest overall group of disabled veterans produced by war at anytime in our history. The effect of this will dramatically altered the lives of our soldiers and present several challenges for them to survive emotionally and economically in the future. Because this group is young, we need to come up with long-term solutions that fit their needs and the needs of our society.

We believe that this group of Veterans is intelligent and innovative. We can help compensate them for any future lost earnings by making it possible for them to survive on their own through business opportunities or providing them with the appropriate skills to re-enter the workforce.

Helping this group succeed independently improves our tax base while at the same time saves significant money by reducing or eliminating any potential future burden on our social and medical support systems.

Veteran Affairs

The Department of Veteran Affairs (VA) provides a great economic and business development opportunity for soldiers. VA has the most transactions per dollars

spent in the Federal space. It should go without saying that VA has the legal, moral and ethical responsibility to create economic and moral justice for SDVOSBs and Veterans.

VA can and should take the necessary steps to ensure that its fallen soldiers are invited to the table to participate and are trained and primed for success. The VA needs a system to identify and provide assistance to businessowners who may need special assistance.

Procurement Issues and Potential Fixes

The information that follows is either factual or our opinion and it is not intended to be inflammatory or adversarial.

Federal Procurement requires the enhancement of its procurement programs in order to make better management decisions affecting the mission of operating an efficient government in a cost effective manner.

We believe that the procurement system needs improving due to a lack of trained workforce Federal Government wide and is not being operated in an the most efficient and cost effective manner. We do strongly believe the current management starting with Mr. Jan Frye is more than capable of making a demonstrative impact on VA procurement and is going to do great things with the VA. We hope very careful consideration is made when selecting a new director of small business.

First of all let's address the lack of a trained procurement workforce. With the baby boomers maturing and leaving Federal procurement we are losing internal knowledge and expertise and there does not appear to be a smooth handoff of knowledge and information from those retiring to the new workforce. It appears at times that the new workforce is lost and doesn't demonstrate that they have a clue when it comes to procurement laws and the Federal acquisition regulations. Using credit cards as a primary contracting vehicle without a better system for compliance in place is scary.

Along with the inexperienced procurement staff, another troubling area is the reduction over the years of the procurement workforce. According to Congressman Waxman it will take 1 percent of the total dollars spent on the procurement system to fix this problem. Currently billions of dollars are being spent to fix this situation.

Second, procurement is broken beyond adding trained procurement personnel. Bodies alone will not fix this problem totally. In order to fix procurement you must, and I mean must understand:

- Needs of the customer (current mistake);
- Customer's mission (second mistake);
- Contracting rules totally; and
- The industry for each type of market segment you are contracting.

One way to augment the procurement knowledge base with true experience is with ex-government employees because of their understanding of how the procurement system works. From this base there can be a synergistic approach taken to address the issues and truly fix the procurement problem. It would be difficult to find this knowledge base at a big consulting company, but you can find this knowledge within the SDVOB and veteran community. There are those in the community who have the vision and truly understand the overall mission of government within the existing rules.

The third issue in procurement is the intent of the existing procurement laws associated with the implementation of the rules of procurement is not being followed. This is why we are having problems with Federal procurement and are not meeting the small business goals in other agencies.

Many want us to believe that procurement needs to be over hauled. That was the thinking before 1984 when the Competition in Contracting Act (CICA) and the Federal Acquisition Regulations (FAR) were created. In 1994, the Federal Acquisition Streamlined Procurement Act was supposed to overhaul contracting and it created a bigger mess with an increased utilization of GSA, DLA, and Federal schedules, and now in 2009 everybody wants to fix contracting again.

This time we recommend approaching it differently. Rather than changing anything, how about following the existing rules and complying with the intent of the existing laws first. Be creative and innovative within the rules, in the best interest of the government and not in the best interests of personal gain. 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 to large business only have increased 115 percent over the last 5 years to $145B. Large business is getting business development and small business is told to compete, if more business development and sole source to veterans were done we would increase the industrial base and reduce the need for sole source contracts

where it really hurts at the large dollars because they are the only companies capable of satisfying the requirement.

Until Congressman Waxman is successful in implementing additional staffing through his 1 percent 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.

Economic Injustice

Within Federal procurement we need a farm system (similar to sports). This system will grow what the system needs to increase competition and provide enormous saving to the taxpayers later. We also need to use multi media to work together as veterans and non veterans to do teaming and Joint Venturing. How are we going to do this? Let's look at history. For business development, the intent of the rules of procurement was to exclusively reserve all the procurements under $100K for small business (2 chapters FAR Part 13 & 19) yet we have a two sentence loophole which allows big business to circumvent and take the business utilizing FAR Part 8.404.

What is the problem when it comes to purchases over the micro purchase limit of $3K not to exceed $100K in my industry? The problem is big business everything, they take all but the scraps for the preference groups to share with one another. What are the scraps? It's 70 percent of the transactions. This is siphoned out of small business programs exclusively reserved for small business related to Maintenance Repair & Operations (MRO).

We are trying to counter this economic injustice.

Within our veterans group, we must empower the veteran community with the best methods to become a viable, sustainable, competitive company or close to 57 percent of SDVOBs will fail.

We need to empower the Veteran community with a fully funded Business Development program and a vehicle that helps them overcome the natural challenges associated with becoming a successful Prime Contractor and/or participating in material Sub-Contract opportunities.

One such vehicle would be the establishment of a Public/Private Partnership that includes our Nation's Colleges/Universities, Leading Prime Contractors, Business Trade Associations, and Trade Buying Groups. Specifically, the Colleges/Universities could expand their Graduate Course Curriculum by adding an out reach component that allows their students to deliver a comprehensive business analysis and planning engagement to the Veteran Businesses within their communities. This academic perspective could be supplemented by the real-world knowledge base that could be delivered to these engagements by the Prime Contractor's SBLOs, in concert with their Trade Association Partners.

Utilizing some of the best minds in MBA programs coupled with the leveraged buying power associated with national small business buying groups and the purchasing power of the Federal Government is a very powerful combination.

What we have outlined above is a situation ready for "prime time" and will save the government billions of dollars. These groups could be galvanized into a BD support delivery system that leverages their Enterprise knowledge base against the holistic development needs of our Veteran business community. This collective knowledge base would empower the Veteran Community with the ability to formulate an ideal strategy for pursuing a business growth initiative that incorporates a healthy mix of Public Sector and Commercial Customers, irrespective of their entry approach (i.e. Prime Contractor, Sub-Contractor, Teaming Partner, JV Member . . . etc.).

As part of our journey to help Veterans and Veterans we have to work closely with those in the other preference groups. We call in our united front.

United Front

I believe the SDVOB will create a rising tide. With that rising tide we should fight for enforcement and improvements to all small businesses programs with the theme of American flag wrapped around small business. Buried inside the SDVOB group, making up 58 percent of our number, is another preference group.

This is indicative a sub-story of that is happening in Federal procurement. There is infighting within the Designated Groups. We must not fight among the preference groups, causing a rear guard action within our own internal group and with other groups externally. These preference groups don't have the resources we need to get 3 percent of the contract dollars Federal Government wide. Somehow, we must get the contract dollars, we all deserve according to the laws put in place to help us.

Ideas/Solutions

So far we have been talking about problems and issues. I want to turn our attention to some ideas, solutions and opportunities.

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 percent of all procurement transactions are under the $100K threshold and represent only 10 percent 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.

Opportunities

We have created a logical plan for VA to use immediately to assist it in reaching its goal of maximum practical utilization.

Our experience is maximum practical utilization 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 VA from the most current Fiscal Year 2007 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 percent 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 VA procurement requirements. VA 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 2007. 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 percent
- Up to $500 million—5 percent
- Up to $1 billion—4 percent
- Up to $10 billion—3 percent
- Over $10 billion—2.5 percent

Our vision is to have VA 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 maximum practical utilization.

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 Chief Executive Officer Charles M Baker worked with Mazyck & Associates to develop this goal attainment strategy.

One final note. Our plan is applicable to all Departments and we will work with all Departments to help them realize their goals as well.

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 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 "Contracts and Contraction Policy at the VA" and it's impact on Department of Veterans Affairs (VA) awards contracts Businesses. I have been in business for over 12 years now and the last 8 years exclusively with the Federal Government. I am a veteran of the United States Marine Corps and my firm is a VO, SDVOSB, WOB, WBE 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 "Contracts and Contraction Policy at the VA" will concentrate on that sector. My firm has an excellent record of past performance and yet even with this my firm has struggled to gain new business with the VA due to the issue of how the VA awards contracts.

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 percent 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.

The majority of the contracts are awarded to.

- 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
- Over the past 5 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
- 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
- Use of GSA contract vehicles to use small businesses as pass through by Federal agencies

VA Successes in Contracting with SDVOSBs

The VA has exceeded the goals set for contracting with SDVOSBs. The VA through Scott Denniston's leadership has done a great deal to change the culture within the VA for contracting with SDVOSB, however there is still a great deal that needs to be done.

Issues and Concerns with VA Contracting

Use of GSA Schedules

One of the ways that the VA has achieved the goals that it has achieved is through the use of standard GSA schedules. 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 percent to a small business. Now on the surface that sounds great, *but since it is not a set aside the 51 percent 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 percent, 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 percent and still the agency will get credit for 100 percent of the work as small business.* been asked to bid on such opportunities by multiple Federal agencies, including the Veterans Administration.

This means that the SDVOSB will not be enhancing their past performance record, the majority of the profit will go toward the subcontractors who are doing the work and finally and most importantly it means that the subcontractor who has no privity of contract with the government customer will control and affect the ac-

tual performance of the contract. Thereby creating risk for both the government and the prime contractor. 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 (and unfortunately all too common) through the rules of the FAR and GSA contracting, these rules must be modified to prevent such atrocities.

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.

Concerns related to the Center for Veterans Enterprise Certification Program

Currently the CVE is tasked with and seen as the focal point for verifying SDVOSB status. However, they are currently so understaffed that they have stated that they can only verify 50 firms per week. *If no further veterans start businesses it will take the CVE 7 years to verify the veterans they have in the system.* I have been in business for over 12 years and has been listed in the CVE for years and my business is not certified as a SDVOSB by the CVE. A simple solution would be to hire a contractor to clear the backlog of SDVOBs that are in the system and to hire a staff sufficient to cover the average number of new firms added weekly. In addition, the CVE has set a standard that SDVOBs status must be verified annually. This practice must be terminated since once a veteran has been determined to have a service connected disability it is a lifetime disability, and not one that will go away in a year. In addition such a practice will only further increase the current backlog. Additionally a contracting officer *for any agency* can simply request a copy of the letter from the VA that verifies a veterans service connected disability. It doesn't state the nature of the disability or discuss any health issues which are private in nature but rather just states that the veteran has a verified service connected disability. This could easily be included with any proposal package submitted to the agency.

Full Implementation of the Recommendations from Former Secretary Gordon Mansfield

On June 19, 2007 IL–049–07–08 was published and detailed the Veterans First Procurement Program and on February 11, 2005 Secretary Gordon Mansfield published a memorandum that was addressed to all of the Under Secretaries, Assistant Secretaries and other Department Officials. In that letter he detailed a specific plan on how to increase the use of SDVOBs and to change contracting policy within the VA for SDVOSBs. Although some portions of the memo have been implemented much of it has not been. (I have included a copy of both of these documents at the end of my testimony) In fact some of the key elements that have not been implemented include:

- Use of sole source awards for SDVOSBs
- Requiring written justification for not using SDVOSB competition or sole source acquisitions
- Incorporate SDVOSB and veteran owned small business (VOSB) socioeconomic goals in performance plans of executives, managers, and any employees who influence or are involved in the acquisition process;

I have heard anecdotal stories from senior VA personnel that states that the acquisition office of the VA actively discourages and prevents sole source awards to SDVOSBs. I have never (to date) heard of any sole source awards to any SDVOSBs within the VA. The position that the VA acquisition management is using to date is that there is a rule of two that exists and that the effort must be competed if two or more SDVOSBs exist. We must get rid of the rule of two.

Recommendation: Restate the "Rule of Two" wherein a contracting officer has to know that there ARE NOT two or more SDVOSB's before a sole source contract award can be made to a SDVOSB. When an 8(a) is considered for a "non competitive" award FAR Part 6.302–5 (b)(4) excepts the need for justification documentation. This exception should also apply to SDVOSB sole-source awards.

I have also not heard of anyone's performance plan being impacted. This is a particularly key recommendation since I know that when you incent people through their salaries and bonuses you will see a completely different behavior and you will in fact change the culture of the organization.

Recommendation: Implement a policy impacting positively or negatively all performance plans for all senior executive and acquisition personnel across the agency to ensure that the behavior of contracting first with veterans is done.

Recommendation: Create a level playingfield between SDVOBs, 8a(s), and Hubzones by changing the use of "May" for SDVOBs should be changed to "Shall" under FAR Part 19.1405(a) and PL 108–183, section 36(b) when granting contracting officers the authority to restrict or set-aside procurements strictly for SDVOBs. For all other references in the FAR and VAAR to the use of 8a and/or Hubzone companies, SDVOBs should also be included.

Recommendation: Provide a Price Evaluation Preference of 10 percent for SDVOBs in acquisitions conducted using full and open competition.

VA Contracting going to SPAWAR and other Entities

I have learned that a great many VA requirements are being contracted out of SPAWAR Charleston. The problem with this is that it is not subject then to VA contracting rules, including the "Veterans First" rule. My firm bid on an VETS GWAC bid for the VA and then the acquisition was canceled (during source selection) and re-acquired through Charleston, not thru VETS GWAC. We were not notified of the opportunity nor did we have an opportunity to bid on the effort out of Charleston. In fact, all of the work that was originally supposed to be bid on VistA VCS (a VA BPA) is going through Charleston. So all the bidders who spent a tremendous amount of money and effort to win the BPA are completely cut out of those procurements. Unfortunately my firm is one of those firms.

Recommendation: Require that all contracting agencies that contract for VA must follow all VA procurement regulations, including the Veterans First Rule as well as the ability to do direct awards.

Capacity of SDVOSB Community to Fulfill Contractual Requirements

Finally, one of the topics you have asked me to address is the capacity of SDVOSBs to fulfill contracts and whether they have the expertise and resources to meet the demand. It is worth noting that there are 12,700 service disabled veteran owned businesses listed on the VIP at VA, while there are less than 7,400 certified 8(a) businesses in CCR.) Many veterans were running their businesses long before the SDVOSB legislation was passed. In addition, I can personally attest to the fact that there are many SDVOSBs in both Information Technology and Construction (to name two industries) that have been in existence for decades. In addition, the reality is that SDVOSBs are going to team with firms that will enhance their probability of winning. That means they will team with incumbent firms whether they are large or small. There are numerous SDVOSBs that are now in a size where their sales are exceeding 30 million a year and more.

I can speak most authoritatively about my own firm, but I can tell you we are not the only ones where this is true. My firm has been in business for over 12 years and our largest contracts to date are that we won a 23 million contract in 2005, we won a BPA in 2008 on a full and open contract that has a ceiling value of 900 million and we have a contract that is about 7 million a year with another agency that we won in December 2008. My firm has received numerous awards for quality and innovation. To name a few:

- CMMI Level II certified December 2008
- DoD Nunn Perry award in March 2009 for our Geospatial Information Systems Technology Transfer
- 2009 Chamber of Commerce award
- 2009 Chief Executive Officer named Woman of the Year for Engineering and Technology by National Association of Professional and Executive Women

These types of awards and quality certifications are directly relevant to the question of expertise and quality and capacity since that is how you they make the decision to give you the award.

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.

[The following attachments are being retained in the Committee files: Memorandum from Hon. Gordon H. Mansfield, Deputy Secretary, U.S. Department of Veterans Affairs, entitled, "VA Implementation Plan under Executive Order 13360, Contracting with Service-Disabled Veterans' Business," and attachments, dated February 11, 2005; and Memorandum from C. Ford Heard, Director, Acquisition Resources Service, Office of Acquisition and Materiel Management, U.S. Department of Veterans Affairs, entitled "Veterans First Contracting Program," and attachments, June 19, 2007.]

Prepared Statement of Colonel Raymond C. Bjorklund, USAF (Ret.), Senior Vice President and Chief Knowledge Officer, Federal Sources, Inc., a Washington Management Group Company, McLean, VA

Executive Summary

Service-disabled veteran-owned businesses (SDVOBs) and other veteran-owned businesses (VOBs) have both specific and general competitive advantages in U.S. government contracting, due to statutory goals for awarding a portion of prime contracts to SDVOBs and other assistance programs for VOBs in general.

There are several challenges in meeting the specific goals and general objectives in the assistance programs for veteran businesses: additional, overlapping statutory requirements to award contracts to other socioeconomically disadvantaged businesses; VOB firms choosing to not claim veteran status; lack of awareness about Federal business opportunities; and VOBs simply choosing to not do business with the government.

Thus there may not be enough performance capacity among the totality of SDVOBs to meet the U.S. government's 3 percent contracting goal. Of some 2.97 million VOBs in the U.S., including approximately 194,000 SDVOBs, only about 77,500 companies are registered with the U.S. government as VOBs and only about 20,400 firms are specifically registered as SDVOBs. In GFY2008 contract actions reported to date, only 15,340 VOBs won prime contracts from the U.S. government–0.5 percent of the national pool of VOBs. SDVOBs were even less represented.

Certain economic business sectors do show promise for veteran businesses: Professional, Scientific, and Technical Services; Construction; Healthcare and Social Assistance; Information; and Transportation and Warehousing. Even though there is an upside, it is unrealistic to expect that every VOB or SDVOB would seek to do contracting business with the U.S. government. We estimate that there are 883,000 VOBs and 68,000 SDVOBs who might be positioned to do Federal business.

So while there is a large pool of VOBs and SDVOBs, relatively few of them are seeking business with the U.S. government. We think a rigorous analytical foundation can help in refining Federal outreach programs to engage more of the VOBs and SDVOBs.

The major military conflicts of this decade have resulted in a great number of additional veterans and—unfortunately—too many disabled veterans. For their service to this country, veterans are entitled to assistance that, in a small way, seeks to compensate them for the sacrifices they have made in the defense of the Nation.

The Executive Branch, with the support of Congress, has established and developed a number of useful assistance programs and initiatives for veterans.

One such initiative places businesses owned by service-disabled veterans within the category of firms classified as socioeconomically disadvantaged to encourage agency contracting authorities to award them contracts. The Small Business Act and Executive Order 13360 (October 2004) require government agencies to award 3 percent of their prime and subcontract dollars to service-disabled veteran-owned businesses (SDVOBs). (Due to complexities in the datasets and criteria, FedSources cannot clearly distinguish between SDVOBs and service-disabled veteran-owned small businesses (SDVOSBs) for purposes of this analysis.)

There are several challenges in meeting this worthy objective.

First, there are additional statutory requirements to award contracts under parallel, sometimes overlapping, socioeconomic programs: 23 percent of prime contracts for small businesses; 5 percent of prime and subcontracts for small disadvantaged businesses; 5 percent of prime and subcontracts for women-owned small businesses; and 3 percent of prime and subcontracts for HubZone businesses. A VOB might also be a woman-owned business.

Second, some SDVOB firms choose not to claim or invoke the socioeconomically disadvantaged contracting status they are entitled to. In other words, they choose to not label their businesses as veteran-owned or service disabled veteran-owned.

Third, some VOB firms are not aware of the many opportunities to provide services and products to the government. We have seen the increasing successes in a number of the Federal outreach programs, but we think there is more work to be done to inform VOBs about the opportunities.

And fourth, yet other VOBs and SDVOBs choose not to do business with the government.

But probably the most daunting challenge is that there may not be enough performance capacity among SDVOBs, small and other-than-small, to meet the U.S. government's 3 percent goal. This is not to say that these firms can't do the job;

rather, requirements may exceed the production capacities of the sum of these individual firms.

Before we know how significant this challenge is, we need to know how many SDVOBs there are across the Nation. Short of a rigorous enumeration by the U.S. Census Bureau, in collaboration with the Department of Veterans Affairs (VA), we know of no straightforward means to measure the extent of the issue.

Using existing statistics, we can however start to get close to a number that could be useful in developing SDVOB contracting strategies and in developing or enhancing programs and initiatives to assist SDVOBs in pursuing government business.

The most recent U.S. Census Survey of Business Owners, including Characteristics of Veteran Business Owners which was conducted in 2002 and published in July 2007, enable us to profile VOBs to some extent. Using the 2006 American Community Survey data published by the U.S. Census Bureau, we can also get an idea of how many service-disabled veterans may be in the workforce. (VA publishes Veteran statistics, including the number of disabled veterans, but does not delineate the number that are in the workforce and definitely not a comprehensive number that may own a controlling interest in a business.)

Extrapolating the number of VOBs from the statistics collected in 2002 to the year 2008, FedSources believes there are presently at least 2.97 million VOBs in the U.S. Of that number, approximately 194,000 businesses or 7 percent also identified themselves in the Census survey as being SDVOBs. Another 6 percent of the total or approximately 179,000 businesses did not declare whether or not they were owned by a service-disabled veteran, so those 179,000 businesses could be categorized either way.

In October 2008, VA reported the number of disabled veterans as 1.1 million people. The 2006 American Community Survey estimates that 37.2 percent of all disabled Americans are currently employed in the workforce. If we apply the 37.2 percent employment number to the number of service-disabled veterans, we can conservatively extrapolate that at least 409,000 service-disabled veterans are active in the workforce. (We think that the 409,000 number is conservative because the resolute spirit of most veterans suggests they would rather work than not. On the other hand, we are aware of the high unemployment rate within certain veteran cohorts.)

Over 2.97 million VOBs, including some 194,000 SDVOBs, appears to be a comfortably large pool of companies that the U.S. government could draw upon in its acquisition activities.

But the reality is different. In analyzing the Central Contractor Registration (CCR) files and the GFY2008 Federal Procurement Data System (FPDS) files as of late CY2008, we find that only about 77,500 companies are registered as VOBs in the CCR. And only about 20,400 firms are specifically registered in CCR as SDVOBs.

Even though all GFY2008 contract actions have not yet been reported, we determined that only 15,340 VOBs (SDVOBs and otherwise) won prime contracts from the U.S. government in GFY2008. The 15,340 VOBs that won contracts represent only 0.5 percent of the national pool of VOBs. Recognizing that SDVOBs are generally a much smaller subset of the 15,340 VOBs, we can easily deduce that the number of prime contract awards to SDVOBs was, in the aggregate, less than the statutory 3 percent requirement.

In our analysis, we also looked at how the VOBs categorized themselves according to the North American Industrial Classification System (NAICS). Then we mapped the VOBs who won contracts in GFY2008 to other companies who won contracts, using the relevant NAICS sector as a key. Based on the NAICS sectors chosen by VOBs, VOBs and SDVOBs are somewhat evenly distributed across the NAICS sectors that represent the universe of Federal contractors. But we also note that VOB presence could be expanded in five NAICS sectors: Professional, Scientific, and Technical Services; Construction; Healthcare and Social Assistance; Information (Technology); and Transportation and Warehousing. We base this qualitative judgment on a combination the size of the national pool of VOBs in each of those five sectors, what the U.S. government buys and will be buying, and the military skill sets of veterans.

Some of the NAICS sectors occupied by the 2.97 million VOBs are not typically areas relevant to formal Federal contracting. Examples of businesses in these sectors include insurance brokers, fast-food franchisees, and agricultural producers. Consequently, it is unrealistic to expect that every VOB or SDVOB would seek to do contracting business with the U.S. government. Thus for this analysis, we looked at the various NAICS sectors in the context of Federal business opportunities and estimated that there are 883,000 VOBs who might be positioned to do business with the U.S. government and that there are 68,000 SDVOBs who might pursue Federal prime contracts.

So while there is a large pool of VOBs and SDVOBs across the Nation, relatively few of them are seeking and winning business with the U.S. government. There is further evidence of this shortfall in the company registration tools available to VOBs. Being registered in the Central Contractor Registration (CCR) tool is an essential pre-award requirement in U.S. government contracting. Being registered in VA's Veteran Information Pages (VIP) tool at VetBiz.gov is an important step in self-marketing a VOB to government buyers.

Within the population of 883,000 VOBs we think are in a position to do business with the U.S. government, only about 77,500 are registered in the CCR and only about 13,500 are currently registered in VA's VIP. Some VOBs are registered in CCR, but are not registered in the VetBiz portal. And a few are in the VetBiz portal, but not in the CCR. Within the population of 68,000 SDVOBs we think are likely to contract with the U.S. government, about 20,300 are registered in CCR and about 7,800 are registered in the VetBiz VIP. (SDVOBs are a subset of the VOBs.)

The good news is that since FedSources did a similar analysis of veterans business about 18 months ago, registrations in the CCR and the VetBiz VIP have essentially doubled.

In conclusion, an analytical foundation can help in refining Federal outreach programs to engage more of the VOBs and SDVOBs that may choose to do business with the government. In this way, our country can begin to compensate those who selflessly gave service in defense of our Nation, and at the same time, capitalize on the high skills those veterans have to offer.

FedSource, a Washington Management Group Company

Veteran Owned Businesses

Presentation to Subcommittee on Economic Opportunity of the House Committee on Veterans' Affairs

Ray Bjorklund, SVP and Chief Knowledge Officer

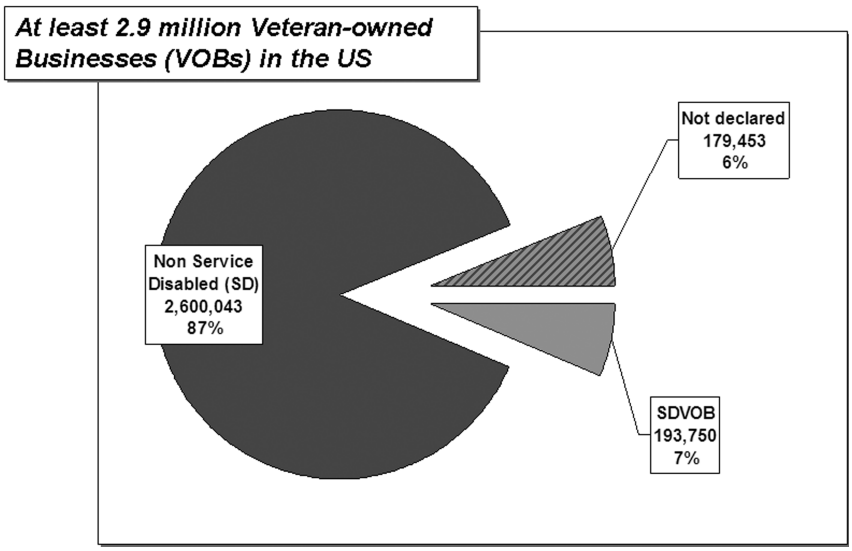
23 April 2009

Overview

- How big is the veteran business community?
- What makes up the community?
- How well is the Community being marketed?

Analysis can help determine the path ahead.

Size of VOB Community

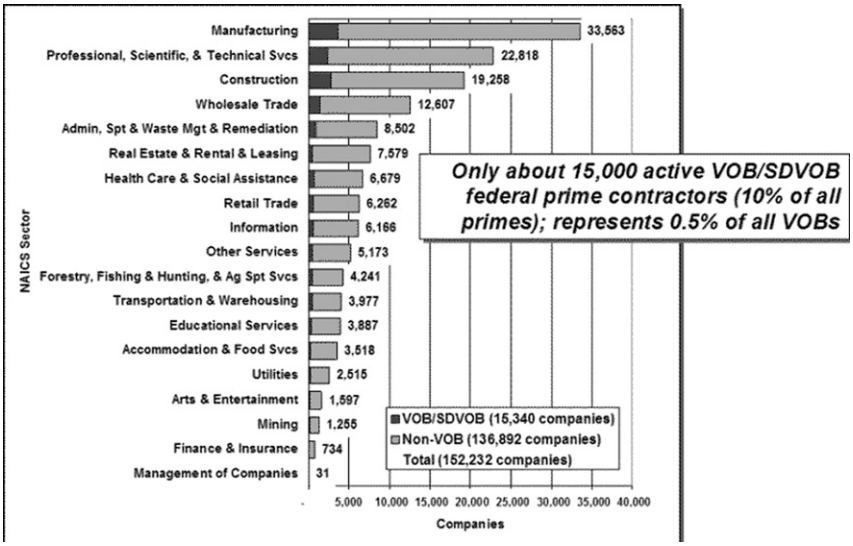


Source: FedSources analysis of U.S. Census 2002 Survey of Business Owners (SBO), U.S. Census Characteristics of Veteran Business Owners: 2002 (July 2007), and U.S. Census 2006 American Community Survey; for this analysis, FedSources does not distinguish between SDVOB and SDVOSB.

Size of the SDVOB Community

- Estimated number of Service-Disabled Veterans (SDVs)
  - 2002: 2.4 million
  - 2008: 2.9 million
- Estimated number of SDVs in workforce
  - 2008: 1.1 million
  - Based on extrapolation from 37.2 percent of all disabled Americans being employed
- Estimated number of SDVOBs
  - 2008: minimum 194 thousand businesses
  - Majority ownership (VOB status) thus equivalent to about 1 of every 6 working SDVs

Size of VOB Prime Contractor Community



Source: FedSources analysis of U.S. Census 2002 Survey of Business Owners (SBO), U.S. Census Characteristics of Veteran Business Owners: 2002 (July 2007), DLA Central Contractor Registration data, and GFY2008 Federal Procurement Data System data (incomplete).

Profile of VOB Prime Contracting

VOBs earned ~ 3% of prime contracts; SDVOBs earned ~ 1.4%

NAICS Sector	VOB Prime Contracts	VOB Companies	Non-VOB Prime Contracts	Total Prime Contracts	VOB Pct of Total
Management of Companies	$0M	0	$212M	$212M	0%
Finance & Insurance	$27M	39	$9,661M	$9,689M	0%
Mining	$56M	101	$2,102M	$2,157M	3%
Arts & Entertainment	$2M	131	$51M	$52M	4%
Utilities	$317M	249	$6,567M	$6,884M	5%
Accommodation & Food Svcs	$8M	173	$576M	$583M	1%
Educational Services	$190M	311	$3,053M	$3,243M	6%
Transportation & Warehousing	$574M	470	$7,130M	$7,704M	7%
Forestry, Fishing & Hunting, & Ag Spt Svcs	$130M	432	$1,829M	$1,959M	7%
Other Services	$37M	458	$525M	$562M	7%
Information	$1,245M	526	$18,954M	$20,198M	6%
Retail Trade	$121M	505	$2,422M	$2,544M	5%
Health Care & Social Assistance	$143M	589	$2,805M	$2,947M	5%
Real Estate & Rental & Leasing	$96M	394	$3,695M	$3,791M	3%
Admin, Spt & Waste Mgt & Remediation	$648M	809	$9,450M	$10,099M	6%
Wholesale Trade	$656M	1,323	$13,856M	$14,511M	5%
Construction	$3,361M	2,773	$40,473M	$43,835M	8%
Professional, Scientific, & Technical Svcs	$2,288M	2,337	$68,218M	$70,505M	3%
Manufacturing	$3,077M	3,603	$202,407M	$205,484M	1%
Indeterminate	$13M	117	$3,638M	$3,651M	0%
TOTALS	$12,987M	15,340	$397,624M	$410,612M	3%

Source: FedSources analysis of U.S. Census 2002 Survey of Business Owners (SBO), U.S. Census Characteristics of Veteran Business Owners: 2002 (July 2007), Central Contractor Registration data, and Federal Procurement Data System data for GFY2008 (incomplete).

Potential VOB Market Players

- Unrealistic to expect that every VOB or SDVOB will do contracting business with the Federal Government, examples including:
  - Insurance brokers
  - Fast-food franchisees
  - Agricultural producers

	VOBs
Est. number	2,973.0K
Est. number likely to do Federal business	833.0K
CCR registrants	77.5K
VetBiz VIP registrants	13.5K

- Realistic to expect more VOBs should be registered to do business

	SDVOBs
Est. number	193.8K
Est. number likely to do Federal business	68.0K
CCR registrants	20.3K
VetBiz VIP registrants (as SDVOB)	7.8K

Some registration numbers have doubled in the last 18 months.

Source: FedSources analysis of 2008 VA Stats at a Glance (http://www1.va.gov/vetdata/), U.S. Census Characteristics of Veteran Business Owners: 2002 (July 2007) by NAICS sector, U.S. Census 2006 American Community Survey, DLA Central Contractor Registration (CCR) data, and VA VetBiz portal data; for this analysis, FedSources does not distinguish between SDVOB and SDVOSB.

Summary

- A continuing challenge to meet socioeconomic goals If only a handful of VOBs/SDVOBs choose to do business with the Federal Government
- The government can still do more to reach out

Analysis can help determine the path ahead.

FedSources is a leading provider of actionable government market intelligence, enabling professional services firms, technology vendors, and government organizations to make better business decisions.

For more than two decades, FedSources' market intelligence services, customized consulting and informative events have provided information and insight to industry and government decisionmakers.

Market Intelligence Services; Custom Consulting; Informative Events

Experience. Intelligence. Integrity.

Prepared Statement of Scott Denniston, Director of Programs, National Veteran-Owned Business Association, Coraopolis, PA

Madam Chairwoman Sandlin, Ranking Member Boozman, Committee Members and staff: Thank you for the opportunity to testify today on the issues facing veteran—owned small businesses in contracting with the Department of Veterans Affairs (VA). I am Scott Denniston, currently Director of Programs for the National Veteran-Owned Business Association (NaVOBA). We represent over 2000 veteran-owned small businesses in the United States. I have had the pleasure of testifying before this Committee in the past while serving as the Director of Small Business Programs and the Center for Veterans Enterprise (CVE) at VA. I have always appreciated the candor and forthright discussion that I have experienced with this Committee. I would ask that my formal testimony be entered for the record.

Your letter of invitation asked me to discuss how sole sourcing and contract bundling are affecting veteran-owned small businesses, my concerns regarding VA contracting, how the process can be improved, and whether there are enough veteran-owned small business with the capacity to meet and fulfill contracts.

I want to start off by commending VA for their efforts and accomplishments in contracting with veteran and service-disabled veteran-owned small businesses. For the past 3 years VA has not only exceeded the statutory 3% goal for service-disabled veteran-owned small business, but has lead the government in awards to both service-disabled and veteran-owned small businesses. This is a direct result of the strategic plan VA implemented in accordance with Executive Order 13360, the personal commitment of the former Deputy Secretary, and the accountability of decisionmakers to work with veteran- and service-disabled veteran-owned small businesses. Results do happen with management interest and a plan!

VA should also be commended for its efforts to negate the effects of contract bundling on veteran-owned small businesses. When the Office of Management and Budget (OMB) issued its anti-bundling instructions to Federal agencies, OMB required agencies to review all acquisitions over $2 million to insure certain savings criteria were met. VA, to its credit, established a $1million threshold for reviews. The VA Office of Small Business Programs has been very aggressive in fighting bundling and helping contracting officers do good market research to identify capable veteran and service-disabled veteran-owned small businesses to work with.

There are however, several areas of concern that I would like to bring to your attention that NaVOBA believes are impacting VA's ability to work with veteran and service-disabled veteran-owned small businesses. The first deals with VA's use of other agencies to contract work for VA. This issue appeared about a year ago when VA entered into an agreement with the Army Corps of Engineers to provide contract support to VA. NaVOBA learned that many of the VA opportunities contracted by the Corps were being awarded to 8a and other socio-economic groups rather than service-disabled veteran-owned small businesses. The veteran business community believes VA was sending work to the Corps to circumvent the requirements of Public Law 109–461, requiring VA to give preference to service-disabled and veteran-owned small businesses in the awarding of contracts. VA also, we understand, has entered into an agreement with the Navy for IT contract support. These agreements, in our opinion, take legitimate contract opportunities away for the veteran business community as other agencies do not follow VA priorities for award. Last year, Congress passed Public Law 110–389, requiring agencies contracting for VA to follow VA's contracting priorities. The problem is no one knows about the law.

Just last week I was in Reno, NV, at the Corps of Engineers, South Pacific Division, 8th Annual Veterans and Small Business Training and Outreach Conference. There were several hundred veteran-owned small businesses in attendance. The very first panel consisted of the Deputy Commanders from the Sacramento, Los Angeles, San Francisco, and Albuquerque Corps Districts. Each talked about the work their district would do for VA this year. When I asked each of the Deputy Commanders if they were familiar with the requirements of PL 110–389, they all said they had never heard of such a law. The question becomes: who has the responsibility for informing agencies that contract for VA that there are special requirements to work with service-disabled and veteran—owned small businesses? It appears that no one is doing this now.

The next issue we would like to address is the VA's implementation of Public Law 109–461. PL 109–461 was enacted on December 22, 2006, with a 180 day implementation period. To date the final rules have not been published, nearly two and half years later. We know firsthand there is a lot of confusion in the VA field offices regarding the implementation of the law, specifically the use of the sole source authorities for contracting with service-disabled and veteran-owned small businesses. The only guidance provided to the VA contracting officers that we know of was an Information Letter published on June 19, 2007. Information letters do not, in our opinion, have the same impact as regulations.

Another issue regards the interpretation of PL109–461. section 503/8128(a) states: Contracting Priority: In procuring goods and services pursuant to a contracting preference under this title or any other provision of law, the Secretary shall give priority to a small business concern owned and controlled by veterans, if such business concern also meets the requirements of that contracting preference. We take this to mean VA is to provide a priority to veteran—owned small businesses in the purchase of everything VA buys. The draft rules published by VA to date, only address "open market's procurements. The draft rule eliminates the millions of dollars VA spends using the Federal Supply Schedules, Ability One, prime vendor and other contract mechanisms from consideration for veteran-owned small businesses. We do not believe this is the intent of Congress.

In the latest issue of "Vetrepreneur" magazine, NaVOBA goes on record as firmly supporting VA's verification of veteran and service-disabled veteran—owned small businesses as envisioned by PL 109–461. We believe the VA's Center for Veterans Enterprise has developed a comprehensive plan to provide the verification of veteran status, as well as address the ownership and control issues identified in the law. The CVE plan requires the hiring of some minimal additional staff as well as the use of contractor support to assist in developing the verification review process, risk analysis, and procedures for on-site reviews when required. The initial requests for contractor support were submitted to VA's Acquisition Office in May 2008 and to date no contractor support has been provided. The CVE verification plan will fail without contractor support.

The last issue we would like to address is training of VA acquisition professionals on the requirements and responsibilities of supporting the veteran- and service-disabled veteran-owned small business programs. VA is to be commended for taking the initiative to establish an acquisition training academy in Frederick, MD. NaVOBA wants to encourage VA to insure ALL acquisition professionals are trained on the requirements of PL 109–461. This is the only way to insure consistent application of the law.

As to the Committee's question regarding whether there are enough veteran-owned small businesses with the capacity to meet and fulfill VA's contracting needs, it is NaVOBA's position that there are more than enough businesses. We believe this is evident given VA's track record to date. Our Members tell us the biggest impediments to doing business with VA are access to decision—makers to present capabilities, access to timely information on upcoming contract opportunities, inconsistent implementation of the provisions of PL 109–461, VA's administration of the Federal Supply Schedules regarding distributors, and VA's use of contract vehicles such as prime vendor and standardization which limit opportunities.

I would thank the Committee once again for holding this important hearing and I'm happy to answer any questions.

Prepared Statement of Joe Wynn, Chairman, President/Chief Executive Officer, Veterans Enterprise Training and Services Group, Inc. (VETS Group), Member, Veterans Entrepreneurship Task Force (VET–Force), and National Association for Black Veterans

EXECUTIVE SUMMARY

Congress passed Public Law (PL) 109–461, the Veterans Benefits, Health Care, and Information Technology Act of 2006. While this legislation provided a number of benefits for veterans; what's of particular importance for the purposes of this hearing today, is that Title V, sections 502 and 503 of this legislation, authorized a unique "Veterans First" approach to VA contracting. This approach would change the priorities for contracting preferences within the Department of Veterans Affairs (VA), by placing Service-Disabled Veteran Owned Small Businesses (SDVOSBs) and Veteran Owned Small Businesses (VOSBs) first and second, respectively, in satisfying VA's acquisition requirements.

In so doing, it required that certain conditions must be met. All SDVOSBs and VOSBs, must register in the VA's Vendor Information Pages (VIP), aka **Veterans Small Business Database**, available at www.VetBiz.gov, and be 'VERIFIED' by the VA's Center for Veterans Enterprise (CVE), to be eligible for award of a contract exclusively within the Department of Veterans Affairs. Once registered in the database, the veterans' status, ownership, and control would be verified and penalties would be assessed for misrepresentation.

Unfortunately, after more than 2 years, VA's acquisition officials, their General Counsel, and/or the Office of Management and Budget still have not come to an agreement to publish the regulations to fully implement the portion of the law that pertains to VA contracting for veteran businessowners. Thus veteran and service-disabled veteran businessowners are continuing to be deprived of millions of dollars in contracting opportunities that could benefit them, their families, and their communities.

There are thousands of capable and qualified veteran and service disabled veteran owned businesses registered in the VA's Veteran Small Business Database. Yet, we often here from contracting officers and Large Primes that they cannot be found. Veteran businessowners represent America. They are all races, Black, White, Hispanic, Asian, Jewish, they are Male, Female, Old, and Young. Their preference is due to service in defense of this country and not because they are disadvantaged.

VA must fully implement this program now and implement it correctly.

INTRO:

Good Afternoon, Chairwoman Herseth-Sandlin, Ranking Member Boozman, other Members of this Subcommittee, fellow veterans, and guests.

Let me first thank you for your service and the steadfast support you have shown for veterans during your term on this Subcommittee. I also want to thank you for the opportunity to come before you to share some of my views on the Department of Veterans Affairs (VA) 'Veterans First' Contracting Policy and how this Subcommittee can help to increase contracting opportunities for Veteran and Service-Disabled Veteran Owned Businesses.

As a Veterans Advocate, I share the collective views of many veterans and service disabled veteran businessowners; veterans who served with honor, and many who received distinguished honors for displaying valor and courage during their periods of military service for this country. Though my time of service was many years ago, as a veteran of the U.S. Air Force with the 66th Strategic Missile Squadron, I still have vivid memories of the military experience.

Madam Chairwoman, you may recall that not so long ago, I came before this same Committee to express my views about the three entities created under PL 106–50 to provide veterans with business development assistance. At that time, the Center for Veterans Enterprise had been making progress with developing and maintaining a database for Veteran Business Owners, the SBA Office of Veterans Business Development was only marginally successful in providing support for veteran businessowners interested in Federal contracting, and the Veterans Corporation was showing very little progress at all. To date, not much has improved, and in many ways, things have either stalled or declined.

By managing the VETS Group and being a member of the Veterans Entrepreneurship Task Force (VET–Force), I have become familiar with the needs of veteran businessowners, the legislation that created the Veterans Federal Procurement Program and the offices and organizations directed to assist veterans with achieving the American Dream they fought so hard to protect. It is well known that one of

the best ways to get ahead is by obtaining a good job; but by starting or expanding your own small business, you may achieve financial independence.

Overcoming Barriers to Federal Contracting for Veteran Business Owners

If veterans and service-disabled veteran owned businesses are to succeed in the public sector agencies will have to stop making excuses for why they can't make the 3 percent mandatory minimum SDVOSB contracting requirement. Veterans also will have to overcome a number of impediments: (1) The pervasive ignorance of the law and resistance to change across all agencies; (2) No enforcement of Large Prime subcontracting plans; (3) Inaccurate agency data, miscoding, and double counting; (4) The perception that the procurement pie for small businesses is shrinking or limited to 23 percent; and (5) **The over use of Contract Bundling**.

Agencies and veteran small business assistance providers must assist in identifying and registering the capabilities of veteran businessowners where required, demand that all Large Prime contractors comply with their subcontracting plans, create situations that foster the development of relationships between agency procurement officers and veteran businessowners, and improve the process of identifying and matching veteran businesses with procurement opportunities.

VA's 'Veteran's First' Approach to VA Contracting

Today we are focusing on "Contracts and Contracting Policy at the VA;" created by **Public Law (PL) 109–461, the Veterans Benefits, Health Care, and Information Technology Act of 2006**. While this legislation provided a number of benefits for veterans; what's of particular importance for the purposes of this hearing today, is that Title V, sections 502 and 503 of this legislation, authorized a unique "Veterans First" approach to VA contracting. This approach would change the priorities for contracting preferences within the Department of Veterans Affairs (VA), by placing Service-Disabled Veteran Owned Small Businesses (SDVOSBs) and Veteran Owned Small Businesses (VOSBs) first and second, respectively, in satisfying VA's acquisition requirements.

In so doing, it required that certain conditions must be met. All SDVOSBs and VOSBs, must register in the VA's Vendor Information Pages (VIP), aka **Veterans Small Business Database**, available at www.VetBiz.gov, and be 'VERIFIED' by the VA's Center for Veterans Enterprise (CVE), to be eligible for award of a contract exclusively within the Department of Veterans Affairs.

It further directed the VA, for SDVOSBs and VOSBs, to: (1) Establish Contracting Goals & Review Mechanisms; (2) Allow Non-competitive, Sole Source, & Restricted Competition; (3) Permit Survivorship for 10 yrs, if the deceased veteran businessowner was 100 percent disabled; (4) Produce Annual Progress Reports; and (5) Conduct a 3–Year Study.

For more than 2 years, veteran businessowners have been anxiously awaiting the publishing of the governing regulations needed to carry out Title V of PL 109–461; but for some reason, VA's Acquisition Officials, their General Counsel, and/or the Office of Management and Budget still have not come to an agreement on a start date. But on May 19, 2008, the VA issued an interim final rule (38 CFR Part 74) to immediately implement procedures to assure that a business concern is 'VERIFIED' in their Veterans Business Database as a SDVOSB or VOSB.

Since the VA has been developing and populating its Veterans Small Business Database for several years, the interim final rule required the VA to complete the examination of all 13,380 businesses that were already registered, by June 19, 2008; then all new registrants would follow.

However, at the March 10, 2009 meeting of the Veterans Entrepreneurship Task Force (VET–Force), a representative for CVE reported that there have only been 868 businesses verified and 491 in process out of a total of approximately 17,000 registered businesses. It was also reported at the meeting that **CVE is processing only 50 applications per week**. At that rate, it could take 6 or 7 years just to verify the businesses currently registered.

Major Issues Affecting the VA's Veterans Business Verification Process

There are a number of issues that have surfaced regarding the verification process undertaken by CVE to ensure that a business concern is a SDVOSB or VOSB; here are just a few:

I. Verification of Veterans Status, Ownership & Control. CVE is either understaffed or lack a sufficient number of staff persons qualified to conduct the veteran business verification procedures as defined by 38 CFR Part 74. It's CVE's task to collect the necessary documents from veteran businessowners who have registered in the Veterans Small Business Database.

Veterans Status. The documents needed are to verify that the businessowner is a veteran who was discharged under conditions other than dishonorable or is a service disabled veteran who possesses either a disability rating letter issued by DoD or the VA.

Ownership, Control and Management. Additional documents are needed to establish if the veteran(s) or service disabled veteran(s), or in the case of a veteran with a permanent or severe disability, the spouse or permanent caregiver of such veteran, meet the majority ownership requirement, and that they have Control of the company and participate in the Day-to-Day operations.

Verifying Ownership. Verifying the status of the veteran seems to be the easiest part; particularly since the VA already maintains or has access to the records of veteran and service disabled veterans. **Verifying Ownership is somewhat more challenging** because CVE must verify if the Ownership is direct and unconditional. It must verify if the type of Ownership is that of a Partnership, Limited Liability Company, or a Corporation; and if stock is involved, it must verify the stock options' effect on the Ownership. There's also the matter of determining Ownership interests when an owner resides in any of the community property States or territories of the United States.

Verifying Control. According to 38 CFR 74.4, **Control is not the same as Ownership, even though both may reside in the same person.** Control means management of the Day-to-Day operations and long-term decisionmaking authority. CVE must verify that the service disabled veteran or veteran businessowner has both. But where this gets more involved, is when control is sometimes contingent on who has the expertise or licenses to run the operation. An owner who is a computer engineer may not be the best CEO. But according to CVE's verification requirements, the owner must hold the highest officer position in the company.

Then there is also the somewhat conflicting view that owners need not work in the company full-time but must show sustained and significant time invested in the business. But there is also the requirement that one or more veteran or service disabled veterans who manage the company must devote full-time to the business during normal working hours. And even though the veteran owner has an unexercised right to cause a change in the management quickly or easily, use of a non-veteran manager may disqualify the company as being veteran owned.

In addition, all of these control issues have to be verified in the context of the type of company—Partnership, Limited Liability Company, or Corporation. And it must be determined to what extent do non-veterans have the power to influence or control the company–either directly or indirectly via critical financial or bonding support, Board actions, etc.

II. Verification of Only One Company per Owner. A number of veterans have questioned CVE's position to verify only one company per veteran businessowner. This ruling is not clearly listed in 38 CFR Part 74. All throughout the Nation, there are people who own more than one company. When CVE representatives were asked about this issue at the March 10, 2009 meeting of the VET–Force, which CVE hosted at the VA Small Business Office; they reported that **verifying only one company per owner would prevent the VA from potential harm that could be caused by a veteran or service disabled veteran business under performing or defaulting on a contract**.

It was further reported that more stringent verification requirements were implemented by CVE following a recent GAO report that exposed flaws in the verification process previously being utilized by the SBA to verify HUBzone businessowners. Thus CVE reportedly does not want to increase the chances of error by allowing one owner to have multiple companies.

III. Misperception of CVE's 'VERIFIED' status. Many if not all Federal agency contracting personnel believe that SDVOSBs and VOSBs must or soon will have to first be registered in the VA's Veteran Small Business Database and produce a document stamped with a 'VERIFIED' seal of approval by CVE in order to be recognized as a genuine SDVOSB or VOSB. And its not hard to determine how this misperception came about.

For several years now, CVE, other organizations, including the VET–Force, have been encouraging veteran businessowners to register in the Veterans Small Business Database and for Federal agencies and Large Primes to use the Veterans Small Business Database as the 'Authoritative Place' to locate capable and qualified veteran businessowners. However, this was before the actual verification standards and procedures had begun.

According to Public Law 108–183, the Veterans Federal Procurement Program, a veteran is only required to SELF–CERTIFY as a SDVOSB, in order to do business under this small business preference group. There is no formal certification by SBA

or any other entity required. However, under Public Law 109–461, in order to do business with the VA, a veteran or service disabled veteran owned business must successfully complete VA's verification process and register in the same database that's open for use by all Federal agencies, Large Primes, and the public.

While these issues listed above may be considered to be the major ones creating controversy about the VA's Veterans Verification Process, there may be others considered to be equally as important.

Recommendations to Address the Major Issues.

1. For now, separate the verification process into two phases. **Phase One: Verify Veteran Status Only** for all registrants in the database. Continue Self-Certification of Ownership as allowed under Public Laws 106–50 and PL 108–183 while verifying 09 whether the businessowner is a veteran or service disabled veteran. CVE should complete Phase One for all veterans currently registered in the database and for all newly registered veterans. However, this will still require an expedited process so as not to cause a veteran to have to wait as long as 6 years for their status to be verified. Once the status has been verified, it does not have to be re-verified each year. The status will seldom, if ever, change.

   Phase Two: Verify Ownership and Control. Review of documents for ownership starting with SDVOBs and then VOSBs seeking to perform contracts with the VA. Later, other registrants in the database can be reviewed for Ownership, since PL 109–461 only pertains to contracting with the VA.

   It should be noted however, that verification of Control should only be to the extent necessary to support the Ownership and to ensure that the company is not being used as a 'Rent-A–Vet' or a pass through company.
2. Allow the verification of more than one company owned by the same veteran(s). Entrepreneurship should not be stifled for the sake of convenience. Each company should be evaluated and verified on its own merit. Any agency will always have the right to determine the select criteria to satisfy contract requirements.
3. Immediately direct the SBA and the VA to conduct promotional campaigns to inform all Federal agencies, including all military departments, Large Primes, and the public about the VA's Verification Process being exclusively for contracting with the VA. However, Congress should consider extending the provisions of sections PL 109–461 to all Federal agencies and the DoD military departments; and authorize sufficient resources to perform the verification process efficiently and timely.

Other Recommendations for this Subcommittee to Consider with regard to Improving the Veterans Federal Procurement and/or Increasing Contracting Opportunities for Veteran and Service Disabled Veteran Owned Businesses

I. 'May' versus 'Shall'

One of the most significant actions that this Congress can do to advance the SDVOSB Federal Procurement Program is to change, clarify or remove the word 'May' from the legislation governing the program. There has been enormous confusion created because of the use of the word "May" throughout the legislation (PL 108–183) and the implementing regulation. In reviewing the discussion points included as part of the implementing regulation published in the Federal Register on March 23, 2005, by DoD, GSA, and NASA, one can clearly discern that the word "May" is being used in a positive way to allow contracting officers the latitude to award contracts under either the SDVOSB program, the Hubzone Program, or the 8a Program.

But this use of the word "May" has to be clarified so that contracting officers will stop using it as an excuse to not award contracts to SDVOSBs. Many continue to say that the term "May" causes the SDVOSB program to be placed in an order BELOW the 8a and Hubzone programs. And recent decisions by GAO supported this view.

II. Authorization to Make Direct Awards to SDVOSBs

Contracting officers don't have the authority to issue direct awards to a SDVOSB of their choosing, under the Simplified Acquisition Threshold as is allowed under the Small Business Act for the 8a program. At present, contracting officers must always refer to the Rule of Two as introduced under PL 108–183 and contained in Part 19 FAR, and the Code of Federal Regulations (CFR) 13 CFR, Part 125. The Rule of Two states if a contracting officer knows of two or more SDVOBs that can

do the work, then the requirement must be competed. But the law also states that if the contracting officer only knows of one SDVOB that can meet the requirement, a sole source award CAN BE Made. Yet without the authority to make direct awards to SDVOSBs, contracting officers are reluctant to even use the Sole Source authority permitted under the law.

Meeting with and talking with Federal contracting officers, I have found that they are often under pressure to get certain requirements awarded quickly, and although there is a SDVOB that can do the job, they routinely go to 8(a) firms. Under the SBA's 8a program, contracting officers are allowed to make direct awards even if there are other 8a firms available to do the work. In these cases, the government does not have to take time to consider restricted competition. Thus, the SDVOB suffers and the government agency looses an opportunity to add to its 3 percent Goal under the law.

III. All Agencies Should Be Compelled to Comply with Executive Order 13–360

First let's go over the Presidential Executive Order, #13–360 that was issued to direct agencies to more effectively implement the 'mandatory' legal requirement to procure 'not less than' 3 percent of their goods and services from Service-Disabled Veteran Owned Businesses and to do so by reserving more procurements exclusively for SDVOBs.

If agencies would actually adhere to the Executive Order, as stated, they would be much more likely to achieve the minimum 3 percent. Here's why.

The Order calls for each agency to develop a 'written' Strategic Plan that will provide details and guidance as to how they will proceed to increase contracting opportunities for SDVOBs and make the plans publicly available. The Order was issued in 2004, but when some agencies made their plans public in May 2006, over half of the plans were incomplete and some were poorly developed.

Agencies are not only supposed to make their plans publicly available, but they are also required to report annually to the Administrator of the SBA on how well they did or did not do each year. But only a few agencies have even attempted to submit an annual report partly because the SBA has not followed through on their part and provided proper guidance of where, when, and how to submit the reports.

Each agency should now have designated a Senior-Level Official to be responsible for developing and implementing the agency's strategy. But most agencies never designated anyone, some designated someone but they were not a Senior-Level Official, and then some had one but after they left the agency a new one was never appointed.

Significant elements of the strategy and the agency's achievements were to be incorporated in the performance plans of the Designated Senior-Level Official, the Chief Acquisition Officer, and the agency's OSDBU Director (Office of Small and Disadvantaged Business Utilization). But to date, most agencies are still thinking about how to avoid that directive. The VA under the former Dept. Secretary, Gordon Mansfield, issued an internal memo to all department heads to follow the Executive Order. And oh by the way, the VA is one of the few agencies that have achieved the 3 percent goal for more than 1 year.

Each agency's Strategic Plan should include specific guidance on the following:

a. How they will reserve agency contracts exclusively for SDVOBs;
b. How they will encourage SDVOBs to compete for agency contracts;
c. How they will encourage the agency's large prime contractors make subcontract awards to SDVOBs and how they will monitor and evaluate their efforts to do;
d. How they will train their agency personnel about the laws and policies related to the Veterans Federal Procurement Program; and
e. How they will disseminate information that will educate SDVOBs to the agency's contracting process.

Most agencies have simply left these tasks up to their Offices of Small and Disadvantaged Business Utilization. But based on the agency's budget, some OSDBU offices have more staff and resources than others. Some send out representatives to small business conferences to distribute information, but many simply rely on their websites and hopes that veterans will contact the small business office.

Training of agency personnel does not appear to be consistent, but many agencies rely on the Defense Acquisition University's (DAU) online course to provide training on the veterans Federal procurement program. However, the DAU training merely restates the legislation and not really clarifies how to apply the laws. Nor does it address the specific agency policies or directives that also have an influence on how the laws are applied.

And seemingly, very few agencies are doing anything to encourage their Large Prime contractors to award more subcontracts to SDVOBs. When you talk to contracting officers or acquisitions personnel, they all say that they are challenged by the enormous task of monitoring the subcontracting plans of the agency's large primes while also having to meet the demands of new requirements. So very few penalties, if any, are being imposed on the Large Prime contractors for failing to comply with their subcontracting plans.

IV. Stop the Misuse of Contract Bundling

Its been noted in a number of research reports that 'when bundling occurs, small business loses'. It is expected that the number of bundled contracts will increase over the next few years. The effects of bundling are obvious. If an agency has 5 requirements—each could be done separately by a small business. But if those same 5 requirements are bundled together as one—it will probably take a much larger company to perform all 5 together. Thus one large company gains, and 5 small companies lose.

Over the past 15 years, the number of contracting personnel has declined, while the number of contract actions has increased. The Federal budget also continues to increase and now we are confronted with the additional burden of contracting out trillions of dollars to repair an economy torn apart by the unscrupulous practices of Wall Street Bankers and Investment Brokers. So its easy to see why bundling is continuing to be such a widely use practice.

But while we try to repair our economy we should also rebuild its integrity. If small business is the engine that fuels our economy then we must strengthen it rather than to continue to weaken it. If contract bundling is allowed to continue—unregulated—even the Department of Defense with its huge budget, will not be able to even achieve the 23 percent minimum small business goals.

Contract Bundling must not be allowed to continue in this unregulated manner.

Additional Recommendations to Consider

In addition to strengthening the SDVOSB program by enforcing Executive Order 13–360, discontinuing the misuse of Contract Bundling, adding authorization for direct awards non-competitively, and by clarifying the wording of 'May' in the governing regulation, here are some additional recommendations to consider:

1. Small Business Subcontracting Plans submitted by Large Primes should be monitored more closely. Liquidated damages or the elimination of future contracts should be imposed for those Large Primes that fail to use the small businesses that were included in their subcontracting plans at the time of contract award unless they have a valid reason. Contracting officers should be held accountable for their lack of participating in this process.
2. Provide a Price Evaluation Preference of 10 percent for SDVOBs in acquisitions conducted using full and open competition.
3. Direct the SBA Procurement Center Representatives (PCRs) and Commercial Marketing Representatives (CMRs) to allocate more time assisting SDVOBs and oversight of agencies failing to achieve the 3 percent.
4. Have the Office of Federal Procurement Policy issue a statement to clarify that the 23 percent government-wide small business goal is only a 'Minimum' and that agencies are allowed to surpass the 23 percent.
5. Close the loopholes in the GSA schedule (FAR Part 8) wherein large businesses are allowed to take away business intended for small businesses.

In Summary:

I look forward to the opportunity to meet with Members of the Subcommittee to discuss these issues and recommendations listed herein at your earliest convenience.

In the Report to the Nation, developed by members of the VET–Force, 'the presence of successful and prominent veterans within and across our Nation's business communities is a testimony of a grateful Nation—a Nation that honors and respects the sacrifices made by Veterans on behalf of our country, both today and tomorrow. Veterans are uniquely qualified to work as contractors to the Federal Government because of their service experience of attention to detail and leadership and their dedication to providing quality products, on time and at a reasonable cost.

Congress had the wisdom and foresight to pass effective legislation such as PL 106–50, PL 108–183, PL 109–461, and PL 110–186 to create and develop a procurement program for veterans. But unless agencies are compelled to comply, SDVOSBs and VOSBs will continue to gather only the crumbs from the procurement pie. The American Dream of Owning Your Own Business, can become a reality for Veterans!

Thank you for your attention to these matters. This concludes my statement.

Attachment 1

VET–FORCE MISSION STATEMENT

The Veterans Entrepreneurship Task Force (VET–Force), organized in 1998, to advocate for the development and passage of Public Law 106–50, the Veterans Entrepreneurship and Small Business Development Act 1999, wherein Congress realized that the United States must provide additional assistance to veterans, particularly service disabled veterans, with forming and expanding their own small businesses, and thereby enabling them to "realize the American dream that they fought so hard to protect."

The VET–Force, which is composed of over 200 organizations and affiliates representing thousands of veterans throughout the United States; a high percentage of which, are small businesses; has made it their mission to monitor the implementation of the programs, agencies, and organizations referenced under the law and to present a strong unified veterans' voice for virtually all of the major veterans groups, as well as, veteran entrepreneurs; and to advocate for opportunities for veterans, particularly disabled veterans, seeking assistance to succeed in small business and self-employment.

Though PL 106–50 did much to establish the infrastructure and goals for Federal and prime contracting for veterans and service disabled veterans, evidence shows that the agencies did little to get contracts to veterans; and with no accountability required, government agencies, and especially their prime contractors, failed to ever meet the minimum 3 percent goals for service disabled veteran businessowners.

Thus the VET–Force continues to advocate for additional legislation, as in October 2003, when Congress and members of the Administration passed legislation that was signed into law by the President. Under that Public Law, 108–183, a Veterans Procurement Program for Service Disabled Veteran Business Owners was created. Contracting officers were authorized more "tools to work with" to achieve the mandatory minimum 3 percent requirements of the law. Now procurement officials can restrict or sole source contracts exclusively for Service Disabled Veteran Owned Businesses (SDVOBs). Though the veterans' community has had a great deal of optimism surrounding this piece of legislation, there is still a lack of urgency within many of the agencies to implement the program.

Therefore, the VET–Force will continue its vigilant oversight of legislation and continue its advocacy of ideas in the areas of acquisition, planning, marketing, and outreach to ensure that veterans and service disabled veterans receive the full benefits of this program as promised to them by Congress, and that the language of the law is implemented "expeditiously and transparently," now as opposed to later!

For additional info about the Task Force and the Veterans Procurement Program and other initiatives Go to: www.VET-Force.org, www.VVA.org or www.ASDV.org.

Note: VET–Force meets monthly in the Nations Capitol to discuss the issues pertinent to the success of Veteran Business Owners. For more information contact Joe Wynn at JoeWynnVetsGroup.org.

Attachment 2

The VETS Group Inc.—The Veterans Enterprise Training & Services Group

(A non-profit Community Based Organization serving military veterans, members of the Guard, Reserves, their families, disabled veterans and those veterans of limited means)

The VETS Group offers a Holistic Program for Veterans to Achieve Economic Empowerment through Education, Employment, Entrepreneurship

Services: Federal & Small Business Training—Classes, Seminars & Forums, Employment Assistance—Job Fairs, Resume Workshops, Procurement Opportunities—Conferences, Databases, Technical Assistance—Financial Literacy, Education

Other Services: Disability Claims Assistance, Counseling, Advocacy, Managed Employment, and Community Outreach

Coordination of Resources for: Transition Assistance, Affordable Housing, Family Strengthening, Health Rehabilitation, Business Development

Resource Network: Patriot Resource Partners, Advisors, Mentors

Planned Facility: State-of-the-Art Enterprise Training & Services Center, Incubators

All to Lessen the Burdens of government, Improve Quality of Life, Alleviate Discrimination, Remove Barriers, especially in the Federal Marketplace for Veterans, their Families, and their Community!

Attachment 3

The Veterans Enterprise Training & Services Group, Inc.
(Veterans helping Veterans to Succeed in Business)

Federal Procurement Training Series

Session Descriptions

Session I:

Detailed analysis of the legislation passed by Congress to create the Veterans Entrepreneurship and Small Business Development Act (Public Law 106–50) and the section of the Veterans Benefits Act of 2003 (Public Law 108–183) that created the Veterans Procurement Program. Also discussed is Executive Order 13–360 issued by the White House in October 2004, that reinforces the legislation by directing that each Federal agency and their prime contractors procure a minimum of 3 percent of all of their goods and services from Service Disabled Veteran Owned Businesses (SDVOSB) and further directs each agency to implement strategic plans to increase contracting opportunities for SDVOSB.

Session II:

How to Get Started; Understand the Federal Acquisition Process and Sales Cycle; How to access Federal procurement market data for effective Marketing; Strategies to market to government representatives; Decode the laws and rules, i.e. the Federal Acquisition Regulations (FAR); and identify the Federal Government Contract Vehicles i.e. GSA Schedules, Task Orders, GWACs, and Purchase Orders. Analyze and discuss Socio Economic programs and how to utilize them for marketing purposes. Introduce the purpose for and elements of the Contractor's Capability Statement.

Session III:

Analyze Federal Government Solicitation types—the Request for Quote (RFQ), the Request for Proposal (RFP), and the Invitation for Bid (IFB). Identify Contract Types; the Federal Uniform Contract Format (UCF); the Statement of Work and Evaluation Factors; the Business and Technical Proposals; What does the Federal Government say a Responsible Contractor is; Past Performance; Subcontract plans, Teaming and Joint Ventures.

Session IV:

Examine the use of simplified acquisition procedures including task and delivery order contracts, in particular multiple award contracts. Discuss the use of the purchase cards, oral solicitations, and other simplified acquisition procedures as defined by FAR Part 13—Simplified Acquisition Procedures.

Session V:

Discuss pricing strategies based on contract type (Fixed Price and Cost Reimbursement Contracts). Discuss the element of the Pre Award Accounting survey and understand the basics of establishing an Acceptable federally Approved Accounting System. Discuss Federal Government Procurement Audit or Review Categories (Indirect Rate Review, Invoice Reviews, Floor Checks, and Incurred Cost Review). Provide an overview of Contract Administration.

Session VI:

Receive information on how to effectively conduct presentations of your company capabilities to key government Contracts and Program staff. Learn to manage question and answer sessions during critical government negotiations. Define your personal and professional image and learn to present from the customers point of view. Receive a video tape in order to see how others view you during your presentation.

Prepared Statement of Christina M. Roof, National Legislative Assistant, American Veterans (AMVETS)

Madam Chairwoman, Ranking Member Boozman, and distinguished Members of the Subcommittee, on behalf of AMVETS, I would like to extend our gratitude for

being given the opportunity to discuss and share with you our views and recommendations on Veterans Affairs contracting policies. By way of background, AMVETS strongly agrees with the 1999 statements, of then Chairman Smith, that the set-aside program accords a full opportunity for veterans to participate in the American economy sustained by their service.

AMVETS feels privileged in having been a leader, since 1944, in helping to preserve the freedoms secured by the United States Armed Forces. Today our organization prides itself on the continuation of this tradition, as well as our undaunted dedication to ensuring that every past and present member of the armed forces receives all of their due entitlements. These individuals, who have devoted their entire lives to upholding our values and freedoms, deserve nothing less, if not more.

AMVETS applauds the efforts of VA in exceeding its contracting goals for Service Disabled Veteran Owned Small Businesses (SDVOSB) and Veteran Owned Small Businesses (VOSB) over the past two fiscal years. AMVETS believes it is important to recognize the leadership efforts of several VA agencies in contributing to this success: The U.S. Department of Veterans Affairs Office of Small and Disadvantaged Business Utilization (OSBDU), The Center for Veterans Enterprise (CVE), and the multiple other agencies that provided evaluations and recommendations addressing shortfalls within the program. Such efforts show that VA is capable of outstanding achievements in their pursuit of improving the lives of veterans. This achievement in itself is a great feat in light of staff shortages, lack of training resources and centralized reporting, as well as the high demand for quick and accurate application verification. Based on the information available to AMVETS in regards to the Committee's inquiry on the affects of sole sourcing and bundling, our research found insufficient data available to accurately address our concerns.

Our primary concern is on the overall verification processes. Presently under the "Veterans Benefits, Health Care, and Information Technology Act," VA possesses the authority to make noncompetitive (sole-source) awards and to restrict competition for "set-aside" awards to SDVOSBs and VOSBs. This authority is only granted to VA, and no other Federal agency or department. Specifically, the Veterans Benefit Act of 2003 authorizes agencies to set contracts aside and make sole-source awards of up to $3 million for SDVOSBs, but not VOSB. By contrast, VA's authorities under the "Veterans Benefits, Health Care, and Information Technology Act" apply to both. Also, through use of set-aside authority, it is voluntary to other agencies, whereas VA is required to set-aside contracts for both (unless a sole-source award is used) if the contracting officer expects two or more firms to submit offers. The award can be made at a fair and reasonable price that offers the best value for the government. VA may make sole-source awards of up to $5 million, with no restrictions on the number of SDVOSBs or VOSBs expected to submit offers. Given this authority, VA must protect its vital role in supplying more veteran-owned businesses with contracts by designing and enforcing stricter contract compliancy regulations and uniformed verification processes.

Currently, only initial or pre-contract verification processes are in place for most contracts. During the initial (and often only) review of a company's bid, the company will present all required documentation, including evidence that they will use SDVOSBs and VOSBs as subcontractors to fulfill terms, and then will be granted the award. After being awarded contracts on the premise of using SDVOSB and VOSBs as subcontractors, the verification that the contractor continues to stay compliant if these stipulations fails to occur. Under current policy, no proof of compliance is required, nor do random labor audits occur. AMVETS was unable to determine why this occurs when The Office of the Inspector General for the Department of Veterans Affairs (OIG) has continually identified the same deficiencies in the VA's procurement process, including the solicitation, award, and administration of its contracts. From March 2008 to March 2009 OIG has issued more than 10 reports illustrating these deficiencies. It is also important to point out that in 2008, VA hired an independent consulting firm to audit the current contract procurements, and the firm also reported the same findings as VA's OIG. While we note that VA is making an effort to identify and improve the verification processes and policies, AMVETS most respectfully asks the Committee why none of the recommendations have been put into place?

VA's difficulties in some areas of contract administration illustrates that VA's major challenge lies in monitoring performance of previously awarded contracts. AMVETS believes that this is due to VA not having a centralized and uniform contracting system in place. VA lacks reasonable assurance, at minimum, that it is receiving the services it paid for and that use of agreed subcontractors is occurring. We believe this to be a result of ineffective controls to test compliance. It is in the opinion of AMVETS that strengthening controls over performance monitoring and contract compliancy testing will result in the avoidance of contract fraud, more effi-

cient verification processes, and an estimated savings of $47.4 million*[1] over the next 5 years, according to OIG.

It is noted that VA's Office of Acquisition, Logistics, and Construction has tried implementing some and proposed other additional policies to improve and provide better oversight of the VA acquisition program. This includes, but is not limited to, the improvement of large dollar procurements prior to award, increased oversight of field procurement activities by conducting onsite reviews, and the training of Regional Counsel attorneys' to provide advice and guidance to local contracting entities. However, the overall decentralization of VA's acquisition program makes this task very difficult to accomplish. AMVETS is very concerned there is still no evidence that all the necessary resources and uniform training of contract officers are being furnished to VA's Office of Acquisition, Logistics, and Construction, or any of the other agencies involved in the VA's procurements.

AMVETS finds it unacceptable that the VA's decentralized system of acquisition function and contract procurement is resulting in inconsistent applications of the policies and initiatives, thus resulting in loss of employment opportunities for veteran owned businesses in these challenging economic times. It is AMVETS opinion that immediate action should be taken to prevent fraud and unethical practices that hurt our veterans' community of small businessowners. Once again AMVETS respectfully asks the Committee what VA currently has in place to uphold the legally binding terms set forth by these awards.

AMVETS recommends the following for the overall improvement to VA's contracting policy:

1. A centralized and uniform training program for all contract officers throughout the country.
2. Authority to such agencies to conduct unannounced on-site visits throughout the entire term of the contract, regardless of the size of the contract.
3. Require all VA awarded procurements to submit certified payrolls as evidence of complete fulfillment in their obligations to use SDVOSB and VOSBs.
4. A substantial nationwide increase of qualified contract officers and outreach staff.
5. The immediate cancelation of handwritten, mailed procurements that delay the process, and the adoption of a system-wide uniform contracting software program.
6. The implementation of a system to quickly and accurately verify the SDVOSBs and VOSBs in the current VetBiz database, so more veterans will have access to the bidding process.

AMVETS strongly believes that with the growing number of VOSBs and the changes in technology that it is vital for VA to grow and change as well.

Madam Chairwoman, this concludes my testimony. I thank you again for the privilege to present AMVETS' views, and I would be pleased to answer any questions you might have.

Prepared Statement of Shawne Carter McGibbon, Acting Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration

Created by Congress in 1976, the Office of Advocacy of the U.S. Small Business Administration (SBA) is an independent voice for small business within the Federal Government. The Chief Counsel for Advocacy, who is appointed by the President and confirmed by the U.S. Senate, directs the office. The Chief Counsel advances the views, concerns, and interests of small business before Congress, the White House, Federal agencies, Federal Courts, and State policy makers. Issues are identified through economic research, policy analyses, and small business outreach. The Chief Counsel's efforts are supported by offices in Washington, D.C., and by Regional Advocates. For more information about the Office of Advocacy, visit ***http://www.sba.gov/advo, or call (202) 205–6533.***

[1] Office of Inspector General, Department of Veterans Affairs Statement before the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies. Committee on Appropriations United States House of Representatives. Hearing on Department of Veteran Affairs Challenges; March 12, 2009

Executive Summary

Sources of data on veterans in business. The best source of data on veterans in business that we now have is the U.S. Census Bureau's 2002 Survey of Business Owners and Self-Employed Persons (SBO). In 2007, Census issued two important reports on veterans in business based on its SBO data, and Advocacy released its own report the same year also using this data.

How many veteran-owned firms are there? Subject to caveats explained in the testimony, Advocacy estimates that there were about 3.3 million veteran-owned firms in 2007, of which about 230,000 were owned by service-disabled veterans. Census found that 14.5 percent of all respondent businessowners were veterans, and about 7 percent of those were service-disabled. About 12.2 percent of all businesses were veteran-owned.

Veteran-owned firms were similar to all U.S. firms in most respects, except for their age. Their distribution by size was nearly identical to all firms, both in terms of revenues and employees. This correspondence also was true of their distribution by type of industry; in the percentage of those which were home-based; in their level of franchise ownership; in the sources of capital used for business start-up, acquisition and expansion; in the types of workers they used; and in the types of their major customers.

Top five industries for veteran-owned firms. Veteran-owned firms had the largest shares of firms in the same five major industry groups (two-digit NAICS codes) as all U.S. firms: professional, scientific, and technical services, 18.7 percent; construction, 13.9 percent; other services, 10.2 percent; retail trade, 9.5 percent; and real estate and rental/leasing, 9.3 percent.

Government customers are a larger share of veteran-owned firms' major customers than for other firms. Among veteran-owned firms, 2.6 percent reported that the Federal Government was a "major customer" (one accounting for 10 percent or more of a firm's sales), while the corresponding percentage for all firms was 2.0 percent. State and local governments were major customers for 6.0 percent of veteran-owned firms, and 5.3 percent of all firms.

Owner demographics. Veteran businessowners are much older than other owners; 67.8 percent were age 55 or older in 2002, compared to 30.9 percent of all owners. Veteran owners were also 97.3 percent male. Both the age and gender of veteran owners reflect the characteristics of the underlying veteran population. With respect to race and ethnicity, in 2002, 95.5 percent of veteran businessowners were White; 3.2 percent were Black; 2.3 percent Hispanic; 1.0 percent Native American; and 0.9 percent Asian. Veteran owners were better educated than other owners. Among veteran businessowners, income from their businesses was the primary source of personal income for 69 percent of employers, but only 39 percent of non-employers.

Additional findings from Advocacy research. Advocacy-sponsored research found that about 22 percent of veterans were either acquiring a business or considering starting one; that military service provided necessary business skills to at least one-third of both current veteran businessowners and those planning to become owners; and the self-employment rate of male veterans was higher than that of non-veterans through the entire 25-year period (1979–2003) of the study.

Problems affecting veteran entrepreneurs. The most current research Advocacy has on this subject was released in 2004, although new work is underway now on this subject. The older research indicated that the most important problems included access to and affordability of health insurance, knowledge about programs which could be of assistance, access to financing, understanding tax law, and disadvantages in government contracting. In today's economic environment, access to financing is probably near the top of all firms' concerns.

Chairwoman Herseth-Sandlin and Members of the Subcommittee, good afternoon and thank you for the opportunity to appear before you today. My name is Shawne Carter McGibbon, and I am the Acting Chief Counsel for Advocacy at the U.S. Small Business Administration (SBA). Congress established the Office of Advocacy in 1976 as an independent entity within SBA to represent the views of small business before Federal agencies, to provide counsel on small business issues to the President and the Congress, to perform economic research related to small business and entrepreneurship, and for other purposes specified in our statutory charter.[1]

[1] Title II, Public Law 94–305; June 4, 1976; 15 U.S.C. § 634a *et seq.*

Because Advocacy was established to provide independent counsel to policymakers, its testimony is not circulated for comment through the Office of Management and Budget (OMB) or other Federal offices, and the views expressed by Advocacy here do not necessarily reflect the position of the Administration or of SBA.

Background on Advocacy and veteran entrepreneurship research

Advocacy's mission is to be an independent voice for small business inside the government in the formulation of public policy and to encourage policies that support their startup, development and growth. Its creation was premised on the belief that small business needs representation in the legislative, regulatory, and administrative processes that profoundly affect them, and that good policy requires good information. We are perhaps best known for our regulatory advocacy and our economic research.

Advocacy works every day with Federal regulatory agencies and OMB to ensure agency compliance with the Federal Regulatory Flexibility Act.[2] We help regulators develop smarter rules that will accomplish their objectives while minimizing unnecessary adverse impacts on small entities. Our activities in this area during FY 2008 saved small entities nearly $11 billion in foregone regulatory costs, without undermining agencies' missions.[3]

Our economic research activities both support our regulatory advocacy and develop information on a wide variety of small business topics for use by government policymakers and other stakeholders. Advocacy has a small staff of eight professional economists who work with data from many sources, including some that originate at other Federal agencies and cannot be accessed by private sector researchers because of important statutory privacy protections. In addition to a variety of periodic reports and reference materials that are produced by our own staff, Advocacy also sponsors contract research on issue-specific topics that vary from year to year depending on current issues and problems, the needs of stakeholders, and the availability of resources. On average, Advocacy releases about 25 research reports and data products annually.[4]

Although Advocacy's activities on behalf of all small firms should benefit veteran-owned firms to the same extent they help small firms in general, our economic research function forms a special nexus between Advocacy and the veterans business community. Subsequent to the enactment of the Veterans Entrepreneurship and Small Business Development Act 1999 (Public Law 106–50), Advocacy began a long-term effort to develop new information on veterans in business and related topics. This proved to be more difficult than expected, especially in the early years, largely because most data sources and records of routine business transactions and processes (e.g., bank loans) do not include information on veteran or disability status, information largely irrelevant to their purposes, if not to those with research or policy interests. For example, even today, there is no easy way to tell how many veteran-owned firms, or even individual veterans, are in bankruptcy. The forms used in this process simply don't ask for veteran status.

Gradually, Advocacy, in cooperation with our friends in other agencies,[5] has been able to use specialized techniques, including surveys and the matching of administrative data from disparate sources, to develop information on veterans in business which is not available "off the shelf." All of the reports that have been completed are posted on Advocacy's veterans economic research Web site,[6] and I have included a listing in your information package. These include both studies that were dedicated to veteran-specific issues, and studies on more general topics where we were able to develop and include veteran-specific information because veteran "markers" were available in the underlying data, something that we now try to do whenever possible.

Advocacy currently has in progress two additional economic research projects on veteran-related issues, one looking at the impact of national defense reserve component activation on employers, and one on tax and regulatory problems facing veteran entrepreneurs. These will be posted on our Web site when complete.

---

[2] Public Law 96–354; September 19, 1980; 5 U.S.C. § 601 *et seq.*

[3] For full information, see Advocacy's annual report to the President and the Congress on implementation of the Regulatory Flexibility Act, which can be accessed at http://www.sba.gov/advo/research/rs291.pdf.

[4] See Advocacy's homepage at http://www.sba.gov/advo/ for additional information on economic research.

[5] Including the Census Bureau, the Bureau of Labor Statistics, the Internal Revenue Service, the Department of Defense, the Federal Reserve Board and others.

[6] http://www.sba.gov/advo/research/veterans.html

Advocacy has also used the service-disabled veteran-owned business (SDVOB) set-aside authority pioneered by this Committee to reserve competition for research projects to SDVOBs. I am pleased to report that our use of this authority in 2005 was the first at SBA, and that it resulted in a very successful competition from which an award was made and excellent original research resulted.[7] We will be using the SDVOB set-aside authority again.

Small businesses in general

Before presenting data on veterans in business, I would like to give the Committee a few important statistics on small businesses in general. These numbers help us understand how important the subset of firms owned by veterans and service-disabled veterans are. Your information package also includes two documents loaded with more data on small firms, the most recent editions of our **Frequently Asked Questions** and of our **Quarterly Indicators**.

- **Number.** Advocacy estimates that, in 2007, there were 27.2 million businesses in the United States.[8] Small firms with fewer than 500 employees represent 99.9 percent of the 27.2 million businesses (including both employers and non-employers), as the most recent data (2006) showed only about 18,000 large businesses (500 or more employees).[9]
- **Employer/Non-employer.** The most recent available Census data (2006) show that 22.5 percent of all firms had employees, while the balance were non-employers.[10]
- **Self-employment.** Advocacy estimates that there were about 15.4 million self-employed in the workforce at the end of 2008, including 5.8 million incorporated and 9.6 million non-incorporated individuals.[11]

Data for veterans in business

The most important primary source of data that we now have on veterans in business is the Census Bureau's **2002 Survey of Business Owners and Self-Employed Persons (SBO)**, part of the Economic Census the agency conducts every 5 years.[12] In July 2007, Census released two new reports on veterans in business, based on data collected in the agency's 2002 SBO. These reports, **Characteristics of Veteran-Owned Businesses** (CVOB) and **Characteristics of Veteran Business Owners** (CVBO), are the most important data from Census on veterans in business since an earlier report based on 1992 data. The scope of the new reports is also much broader than that of the 1992 report, representing the most detailed information on veterans in business ever released by Census.[13]

We at Advocacy are most appreciative that the Census Bureau has recognized the importance of veterans business data and that the agency again included questions on veteran and service-connected disability status in its pending 2007 SBO.[14] The current effort is polling 2.4 million businesses about their characteristics and the characteristics of their owners. Tabulation and analysis of their responses are underway now, and Census currently plans to release reports on veterans business data in June 2011.[15]

---

[7] Self-Employment in the Veteran and Service-Disabled Veteran Population; Open Blue Solutions, Chapel Hill, NC; 2007. For the full report, see http://www.sba.gov/advo/research/rs291tot.pdf.

[8] http://web.sba.gov/faqs/faqindex.cfm?areaID=24. This estimate uses the most common definition of "small business" which is based on all IRS tax returns reporting $1,000 or more in business income during the tax year.

[9] http://www.sba.gov/advo/research/us88_06.pdf.

[10] Ibid.

[11] See *4http://www.sba.gov/advo/research/sbqei0804.pdf*. Some reports on self-employment exclude incorporated individuals; however, Advocacy research usually includes both types together, including individuals who chose to conduct their business activities as Subchapter S corporations, a very popular type of business organization.

[12] The SBO is a quinquennial survey first conducted in its present form in 2002. The SBO incorporates many of the purposes and survey questions of three predecessor surveys: the Survey of Minority–Owned Business Enterprises (SMOBE), the Survey of Women-Owned Business Enterprises (SWOBE), and the 1992 Characteristics of Business Owners (CBO) survey. The SMOBE/SWOBE surveys continued in 1997, while the CBO was discontinued as a separate survey after 1992, although elements of it are included in the 2002 and 2007 SBOs.

[13] The 2002 SBO reports, together with accompanying summaries, press releases, and charts are all available at http://www.census.gov/econ/sbo/index.html.

[14] Information for the 2007 SBO is based on tax year 2007, and actual survey data collection is in 2008 and 2009.

[15] See http://www.census.gov/econ/sbo/releaseschedule07.html for a schedule of all planned 2007 SBO releases.

Returning to the 2002 SBO veterans business data that we now have, Advocacy prepared a synopsis of findings from the Census data for publication as a chapter in the 2007 edition of our annual report to the President and the Congress. An offprint of this chapter is included in your information package.[16] This report, which is also posted on Advocacy's Web site,[17] is an effort to interpret in a user-friendly way the massive amount of information provided in the 2002 SBO reports, which comprise nearly 200 pages of tabular data.

Advocacy and its contract researchers have also used data from a variety of other sources in its veteran entrepreneurship research program, but the demographic data we will present here today come primarily from the Census Bureau's 2002 SBO.

Veteran business demographics

Number of veteran-owned businesses. Census did not make an estimate of the total universe of veteran-owned firms. Most of the SBO data is expressed in terms of percentages of respondent businessowners, and those number estimates that Census did make are estimates of respondent firms and owners only, not the total population of all veteran-owned firms. The 2002 SBO did, however, estimate that 14.5 percent of all respondent businessowners were veterans and that 12.2 percent of all respondent firms had one or more veterans as majority interest owners (i.e., were veteran-owned).[18]

Without discussing the statistical difficulties involved, we must say at the outset that to make an estimate of the total number of veteran-owned firms, assumptions must be made that we do not know to be true without further sampling and polling. These include assumptions that:

- SBO non-respondents had the same characteristics as respondents; and
- The veteran-ownership percentages reported in the 2002 SBO remain valid in 2007, the last year for which we have data on all firms.

If these assumptions are reliable, then we can make an estimate that in 2007, there were about 3.3 million veteran-owned firms in which veterans held a majority ownership interest.[19]

Number of service-disabled veteran-owned firms. The SBO regards service-connected disability as a characteristic of an owner and not of a firm, so it did not provide direct data on SDVOBs, but only on the service-disabled veterans themselves. Accordingly, another assumption must be made to estimate the number of SDVOBs: namely, that the SBO-reported percentage of service-disabled veteran businessowners within the population of all respondent veteran businessowners, about 7 percent,[20] holds true for firms as well as owners. If this is true, an estimate of about 230,000 SDVOBs in 2007 could be made.[21]

Because of the assumptions made in these estimates, the possibility of normal sampling and non-sampling errors in the underlying datasets, and known long-term demographic trends in the veteran population in general that could operate to invalidate the assumption that 2002 findings still work in 2007,[22] these estimates should be thought of as midpoints in a range of possible estimates, with a bias toward the downside due to the aging of the veteran population. We await findings from the 2007 SBO for more current data.

Size of veteran-owned firms by receipts. Firms owned by veterans are nearly identical to all firms in their distribution by size in terms of sales/receipts. Figure 1 attached to this testimony depicts this relationship. The underlying data show this correspondence for both firms with and without employees. For example, in 2002 about 11 percent of both all firms and veteran-owned firms had receipts in the range of $100,000 to $249,999; about 6 percent had receipts from $250,000 to

---

[16] Office of Advocacy, *The Small Business Economy*, December 2007; Chapter 5, Characteristics of Veteran Business Owners and Veteran-owned Businesses, pp. 119–149, hereafter referred to as SBE.

[17] See http://www.sba.gov/advo/research/sbe_07_ch5.pdf.

[18] See http://www.census.gov/econ/sbo/02/cbosof.html.

[19] The 2002 SBO found that 12.2 percent of all respondent firms were veteran-owned. The estimate of 3.3 million veteran-owned firms is obtained by applying that percentage to the estimated 27.2 million estimated number of total firms in 2007.

[20] See http://www.census.gov/econ/sbo/02/cbosof.html.

[21] The 2002 SBO percent of service-disabled veteran businessowners, 7 percent, multiplied by the estimated 3.3 million veteran-owned firms in 2007. This further assumes that the 2002 percentage is reliable in 2007.

[22] E.g., Aging and gradual reduction in the numbers of the total veteran population, but increased numbers of service-disabled veterans in recent years.

$499,999; 4 percent had receipts from $500,000 to $999,000, while 6 percent of all firms and 5 percent of veteran-owned firms had receipts of $1 million or more.[23]

As would be expected, employer firms tended to have greater receipts than firms without employees, and larger shares of employers are found in the higher receipts size classes. More than 20 percent of both all employer firms and veteran-owned employer firms had receipts of $1 million or more. The opposite was the case for firms without employees, with smaller shares in the higher receipt categories. When employers and non-employers are taken together, as they are in Figure 1, the proportions of both all firms and veteran-owned firms in each receipt class generally decrease as the receipt class increased.[24]

Size of veteran-owned firms by number of employees. Among firms with employees, businesses owned by veterans tend to be very similar to all firms in their employment sizes, as depicted in Figure 2 attached to my testimony. More than half (51.7 percent) of all respondent veteran-owned employers in 2002 had from 1 to 4 employees, while 47.3 percent of all respondent employers were in this employment size category. More than 99 percent of all employers had fewer than 500 employees, whether owned by veterans or not.[25]

Percentage distribution of firms by kind of business, 2002. Veteran-owned firms are generally distributed among the 20 major industries (two-digit NAICS codes) similarly to the distribution of all respondent firms, as depicted in Figure 3 attached to my testimony. The five largest categories are the same for both groups:

- Professional, scientific, and technical services (veterans, 18.7 percent; all, 15.7 percent);
- Construction (veterans, 13.9 percent; all, 11.7 percent);
- Other services (veterans, 10.2 percent; all, 11.2 percent);
- Retail trade (veterans, 9.5 percent; all, 11.6 percent); and
- Real estate and rental/leasing (veterans, 9.3 percent; all, 9.6 percent).[26]

Age of veteran-owned firms. As noted on Figure 4 attached to my testimony, veteran-owned businesses are generally older than all U.S. firms. In 2002, 54.6 percent of veteran-owned firms with employees and 33.1 percent of those without employees reported that their business was started or acquired before 1990. In contrast, 35.7 percent of all respondent employers and 20.8 percent of non-employers were in business before 1990.[27]

On the other end of the scale, smaller percentages of veteran-owned firms were started or acquired after 1999, that is, were less than 3 years old relative to the survey year of 2002. About 8.6 percent of veteran-owned employers and 19.1 percent of veteran-owned non-employers reported that their firms were acquired after 1999, compared with 14.6 percent of all employers and 26.6 percent of all non-employers.[28]

Home-based veteran-owned businesses. In 2002, more than half (51.8 percent) of veteran-owned SBO respondent firms reported that they were operating from the owner's home, as noted on Figure 4, compared with 49.4 percent of all respondent firms. As expected, veteran-owned businesses without employees were more likely to be home-based than those with employees, 60.8 percent and 22.9 percent, respectively. Percentages of home-based veteran-owned firms varied by kind of business, employer/non-employer status, and size of firm in proportions similar to those of all home-based firms.[29]

The largest proportions of home-based veteran-owned firms by kind of business were in the construction industry (72.6 percent for veteran-owned firms, compared to 67.9 percent for all firms) and in the administrative/support and waste management/remediation services industries (63.1 percent for veteran-owned firms, compared to 60.0 percent for all firms).[30]

Franchised veteran-owned firms. In 2002, 1.6 percent of all SBO-respondent veteran-owned firms (employers and non-employers together) were operated as franchises. Among veteran-owned employers, franchised businesses represented 3.3 per-

---

[23] SBE, Table 5.11, p. 140.
[24] Ibid.
[25] SBE, Table 5.12, p.141. Note that these numbers refer to employers only, and not to non-employers. The seemingly anomalous category of an employer having "no employees" refers to firms that have employment some time during the survey year, but not during the specific March 12th pay period on which survey data is based.
[26] SBE, Table 5.17, pp. 147–148.
[27] SBE, Table 5.10, p. 139.
[28] Ibid.
[29] SBE, Table 5.13, p. 142.
[30] SBE, pp. 141–142.

cent of respondents, as noted on Figure 4. Among veteran-owned firms with 50–99 employees, 10.7 percent were franchises; 13.0 percent of veteran-owned firms with 100–499 employees were franchises; and 8.9 percent of veteran-owned firms with 500 or more employees were franchises.[31]

Capital requirements for veteran-owned firms. Figure 4 also notes that the sources of capital were nearly the same for veteran-owned respondent businesses and other firms. Of veteran-owned firms, 63.9 percent reported using personal or family assets for capital to start or acquire their businesses, basically the same as the 63.6 percent reported by all SBO-respondent firms.[32]

Use of a personal/business credit card as a source of capital was reported by 7.4 percent of veteran-owned firms and by 8.8 percent of all firms. Percentages of veteran-owned firms and all firms originally financed by banks were also nearly identical (11.5 percent and 11.4 percent, respectively), as were the percentages of those using government loans or government-guaranteed bank loans (1.3 percent and 1.6 percent, respectively).[33]

Of SBO-respondent veteran-owned businesses, 28.1 percent reported that they did not need capital to start or acquire their business. Outside investors provided capital to 2.1 percent of veteran-owned firms compared with 2.7 percent of all firms. Veteran-owned businesses and all businesses also reported comparable access to the capital used to finance expansion or capital improvements.[34]

Workforce used by veteran-owned firms. The types of workers used by veteran-owned firms and all firms responding to the SBO differed only slightly in 2002, as noted on Figure 4. Almost 83 percent of both all employers and veteran-owned employers reported using their own full- and part-time paid employees in their firm; 7.3 percent used temporary staff from a temporary help service; and 1.3 percent leased employees from a leasing service or professional organization.[35]

Nearly 32 percent of veteran-owned employers, compared with 34.1 percent of all respondent employers, used contractors, subcontractors, or outside consultants; and 5.4 percent of veteran-owned employers, compared with 5.8 percent of all respondent employers, used paid day laborers to supplement their workforce.[36]

Types of customers for veteran-owned firms. The 2002 SBO asked respondents to identify types of customers from which 10 percent or more of firm sales were attributable. These customer types were generally similar for both veteran-owned and all firms.

- Federal Government (veterans, 2.6 percent; all, 2.0 percent);
- State and local government (veterans, 6.0 percent; all, 5.3 percent);
- Export sales (veterans, 1.3 percent; all, 1.4 percent);
- Other businesses & organizations (veterans, 36.0 percent; all, 32.0 percent);
- Household consumers & individuals (veterans, 46.1 percent; all 49.2 percent);
- All others (veterans, 20.4 percent; all, 18.7 percent).[37]

These findings are of special interest as policymakers look at government contracting opportunities for veteran-owned firms. Based on 2002 data, the percentage of veteran-owned firms that identified the Federal Government as a major customer (10 percent or more of sales) exceeded the percentage of all firms in that respect by a factor of 30 percent (As noted in Figure 4, 2.6 percent vs. 2.0 percent). The amount of dollars going to firms owned by veterans and service-disabled veterans has increased since then, but we do not now know whether veterans are still outperforming the general population of firms in terms of this "major customer" measure. This will be an important metric to look at when the 2007 SBO data becomes available.

It is also interesting to note that more than twice as many firms identified state and local government as major customers than those who so identified the Federal Government. This was true for both all firms and veteran-owned firms. Regardless of what this means for Federal contracting policy, it does tell us that opportunities at the state and local level should play an important part in the strategy of firms wishing to do business with government. This is another important metric to watch in the 2007 SBO.

---

[31] SBE, p. 143.
[32] SBE, Table 5.14, p. 144.
[33] Ibid.
[34] Ibid.
[35] SBE, Table 5.16, p.146.
[36] Ibid.
[37] SBE, Table 5.15, p. 145.

Veteran owner demographics

One of the two veterans reports that Census compiled from its 2002 SBO data gave us information on firms; the other dealt with businessowners themselves. The Census report on veteran businessowners included information on owners with service-connected disabilities, and this report is the primary source of the data presented in this section, as it was summarized in Advocacy's special veterans report from 2007. Key points on veteran businessowners are also noted on Figure 5 attached to my testimony.

Race, ethnicity and gender of veteran businessowners. The 2002 SBO found that veteran owners of respondent firms were overwhelmingly male (97.3 percent) and White (95.5 percent). Black veteran firm owners represented 3.2 percent of veteran firm owners; Hispanic veteran owners, 2.3 percent;[38] American Indian and Alaska Native veteran owners, 1.0 percent; and Asian veteran firm owners, 0.9 percent.[39]

Age of veteran businessowners. The single most striking demographic difference between veteran businessowners and all owners, veteran and non-veteran alike, is that veteran owners were markedly older, as noted on Figure 5. In 2002, 67.8 percent of veteran businessowners were age 55 and over, with 35.7 percent between 55 and 64, and 32.1 percent age 65 and older.[40]

Among service-disabled veteran businessowners, 57.2 percent were age 55 and over in 2002, with 30.7 percent ages 55 through 64, and 26.5 percent age 65 and older.[41]

In contrast, only 30.9 percent of all businessowners were age 55 and over in 2002, with 20 percent ages 55 through 64, and 10.9 percent age 65 and older.[42]

As with all SBO data, these estimates are now somewhat dated, and Advocacy will be watching closely the owner age variable, and other correlated variables such as firm age, when the 2007 SBO data becomes available.

Education of veteran businessowners. Veteran businessowners tend to be better educated than other businessowners, as noted on Figure 5. In 2002, veteran firm owners were about as likely as all owners of respondent firms to have either bachelor or postgraduate degrees (veterans, 40.7 percent; all, 40.1 percent). But veteran businessowners were more likely to have post-graduate degrees (veterans, 19.2 percent; all, 17.3 percent) and less likely not to have graduated from high school (veterans, 4.3 percent; all, 6.0 percent).[43]

The 2002 SBO found that among respondent service-disabled veteran businessowners, 69.7 percent had at least some college education at the time they started or acquired their business. Over 25 percent had some college, but not a degree; 8.5 percent had an associate's degree; 17.9 percent had earned a bachelor's degree; and 18.2 percent had a master's, doctorate, or professional degree.[44]

In contrast, 63.9 percent of all owners of respondent businesses (veterans and non-veterans together) had at least some college education. Over 18 percent had some college, but no degree; 22.8 percent had earned a bachelor's degree; and 17.3 percent had a master's, doctorate, or professional degree.[45]

Hours worked in business by owners. More than half (50.8 percent) of the veteran owners of employer respondent firms reported working an average of 41 hours or more per week in 2002. Similar percentages were reported for service-disabled veteran owners of employer firms (53.9 percent) and all owners of employer firms (50.5 percent).[46]

Primary source of income for owners. Respondents to the 2002 SBO reported that the business was the owner's primary source of personal income for 50.9 percent of all owners, 47.5 percent of all veteran owners, and 44.1 percent of all service-disabled veteran owners.[47] However, Figure 5 notes differences in this metric between employers and non-employers.

Among owners of employer firms, these percentages were somewhat higher, with 69.5 percent of all owners, 69.1 percent of veteran owners, and 66.0 percent of serv-

[38] In Census tabulations, Hispanic or Latino origin can be of any race.
[39] SBE, Table 5.4, p. 128.
[40] SBE, Table 5.5, p. 130.
[41] Ibid.
[42] Ibid.
[43] SBE, Table 5.6, p.131.
[44] Ibid.
[45] Ibid.
[46] SBE, Table 5.7, p. 133.
[47] SBE, Table 5.9, p. 135.

ice-disabled veteran owners reporting their business income was their primary source of personal income.[48]

Owners of non-employer businesses reported somewhat lower reliance on their business income, with 43.9 percent of all owners, 39.4 percent of veteran owners, and 38.9 percent of service-disabled veteran owners indicating that it was their primary source of personal income.[49]

Advocacy-sponsored research on veteran entrepreneurship issues

As I noted earlier, Advocacy has a continuing program of economic research relating to veteran entrepreneurship issues. Your information package includes a listing of all published research, and we have two additional projects underway now. I also anticipate that we will commission additional studies in the future, subject to the availability of resources. Figure 6 lists a few key findings from past Advocacy-sponsored research in this area. These include:

- About 22 percent of veterans in the U.S. household population were either purchasing or starting a new business, or considering doing so.[50]
- Almost 72 percent of these new veteran entrepreneurs planned to employ at least one person at the outset of their venture.[51]
- About 23 percent of current veteran businessowners, and 32 percent of those planning or in the process of starting a new business, indicated that their venture would be 50 percent or more Internet-dependent.[52]
- Military service appeared to have provided necessary business skills to a significant proportion (one-third or more) of both current veteran businessowners and those planning to become owners.[53]
- The self-employment rate of male veterans was higher than that of non-veterans from 1979 through 2003 (the last year covered in the study), at which time it was 13.7 percent (including both non-incorporated and incorporated individuals).[54] See Figure 7.
- Veterans with service-connected disabilities are self-employed at lower rates than veterans without such disabilities, when all veterans, including those not in the active labor force, are included in the calculation. Most of this rate differential is attributable to service-disabled veterans not working due to their disabilities.[55]
- Computer use is correlated with higher self-employment rates among all veterans.[56]

Other Advocacy-sponsored research found that both the number and dollar amount of Federal contracts to small businesses owned by service-disabled veterans were being understated in the official government reporting system during the study period,[57] and that better efforts were needed to improve the quality of data on veteran-owned firms, both to capture unidentified veteran-ownership status and to ensure the accuracy of the veteran status markers in existing data sources.[58] This research also recommended that surveys conducted by both government agencies and private sector organizations should include identifiers for veteran status and service-disabled veteran status in their survey instruments.[59]

Because the main focus of this hearing is on government contracting issues, I should note that Advocacy did commission a study on the characteristics of Federal procurement from veteran-owned firms which was released in 2004. This study was part of a group of studies that examined problems in miscoding procurement information in the official government reporting system, and it used data from FY 2000 through FY 2003(3Q). Our findings that there was (at that time) serious under-

---

[48] Ibid.

[49] Ibid.

[50] Waldman Associates, 2004; Entrepreneurship and Business Ownership in the Veteran Population; research summary at http://www.sba.gov/advo/research/rs242.pdf.

[51] Ibid.

[52] Ibid.

[53] Ibid.

[54] Fairlie, Robert W., 2004; Self-Employed Business Ownership Rates in the United States: 1979–2003; research summary at http://www.sba.gov/advo/research/rs243.pdf.

[55] Open Blue Solutions, 2007; Self-Employment in the Veteran and Service-Disabled Veteran Population; research summary at http://www.sba.gov/advo/research/rs291.pdf.

[56] Ibid.

[57] Eagle Eye Publishers Inc., 2004; Characteristics of Federal Government Procurement Spending With Veteran-Owned Businesses: FY 2000–FY 2003 (3Q); research summary at http://www.sba.gov/advo/research/rs239.pdf.

[58] Office of Advocacy, 2004; Evaluating Veteran Business Owner Data; research summary at http://www.sba.gov/advo/research/rs244.pdf.

[59] Ibid.

measurement of Federal contract numbers and dollars going to veteran-owned firms were presented to the appropriate officials responsible for Federal procurement policy and management of the Federal data system. Since then, improvements have been made in the government's redesigned data tracking system, now called the Federal Procurement Data System—Next Generation. Hopefully, our research findings proved useful in this process.

The 2004 Advocacy veterans procurement study was a snapshot analysis at that time, as are any of our research endeavors that reference program implementation as part of looking at broader policy issues. Advocacy does not have the resources or expertise to conduct ongoing program oversight, and we generally defer on such programmatic issues to the offices with the responsibility for such oversight.

Problems faced by veteran businessowners

You have asked that we provide testimony on the problems that veteran businessowners face. The data that we have just presented shows over and over that in most respects veteran-owned businesses mirror the business community at large. The major exceptions to this are in the age and gender of veteran businessowners, who are overwhelmingly male and much older than all businessowners at large. This reflects these demographic differences in the veteran population itself.

Last September, Advocacy commissioned a study to look at tax and regulatory barriers faced by veteran entrepreneurs, and we hope to have results from this project by the end of this year. We will, of course, be pleased to share the study with the Committee as soon as it becomes available. For now, the last study we have which attempted to identify the problems of veteran businessowners was released in 2004.[60] It is very likely that the rankings of some problems identified in the study will have changed in today's economic environment. For example, access to business credit is clearly more difficult today for most businesses, but finding quality employees is probably easier. Below are two tables from the 2004 study which identify and rank the top problems reported by veteran and service-disabled veteran businessowners who responded to the study's survey.

[60] Waldman, op. cit.

Measures of Veteran Business Owner Problem Importance: Non Service-Disabled Veteran Business Owners[61]

Problem	Rank	Mean	% "Critical"
Affordability of health insurance	1	3.443	46.9%
Knowledge or programs for small business-owners in general	2	3.171	26.0%
Obtaining resources from the government	3	3.137	30.3%
Knowledge of programs for veteran small businessowners	4	3.018	30.5%
Finding qualified employees	5	2.975	22.2%
Access to health insurance	6	2.895	34.7%
Understanding tax law	7	2.488	17.5%
Access to financing	8	2.423	15.8%
Disadvantages in government contracting	9	2.353	18.5%
Managing time	10	2.326	10.4%
Understanding regulations	11	2.239	10.4%
Retaining qualified employees	12	2.175	8.8%

[61] Ibid., Table 48, p. 59.

Measures of Veteran Business Owner Problem Importance: Service-Disabled Veteran Business Owners[62]

Problem	Rank	Mean	% "Critical"
Obtaining resources from the government	1	3.391	37.1%
Knowledge or programs for veteran small businessowners	2	3.237	31.7%
Knowledge of programs for small business-owners in general	3	3.192	28.3%
Disadvantages in government contracting	4	2.875	35.4%
Affordability of health insurance	5	2.803	31.6%
Finding qualified employees	6	2.800	26.0%
Access to financing	7	2.790	26.3%
Understanding tax law	8	2.693	18.1%
Access to health insurance	9	2.539	24.9%
Retaining qualified employees	10	2.338	14.0%
My disability	11	2.304	16.6%
Understanding regulations	12	2.292	10.2%

[62] Ibid., Table 49, p. 60.

This study also found that investment in entrepreneurship programs for veterans and service disabled veterans is economically justifiable, that special attention should be paid to initiatives focused on home-based business and Internet usage, and that special attention should be given to developing business skills among service-disabled veterans.

Conclusion

This concludes my prepared testimony. I have tried to summarize some of the main findings from the most recent available data from the Census Bureau's 2002 Survey of Business Owners, currently our best source of data on veterans in business. I have also shared with you a few findings from Advocacy's own veteran entrepreneurship research. In both cases, there is much more information in the underlying source materials, and these materials are available online from both Census and Advocacy.

I appreciate the Committee's interest in veteran entrepreneurship issues and Advocacy's work in this area. Both your majority and minority staff have been regular attendees at our roundtables on veteran business research. We look forward to continuing to work with the Committee in any way we can to advance our knowledge about veterans in business, an extremely important part of the small business community.

Characteristics of Veteran Business Owners and Veteran-Owned Businesses

SBA Office of Advocacy

Figure 1. Percentage distribution of Respondent Firms by Receipts Size for All Firms and Firms with One or More Veterans as Majority Interest Owners: 2002

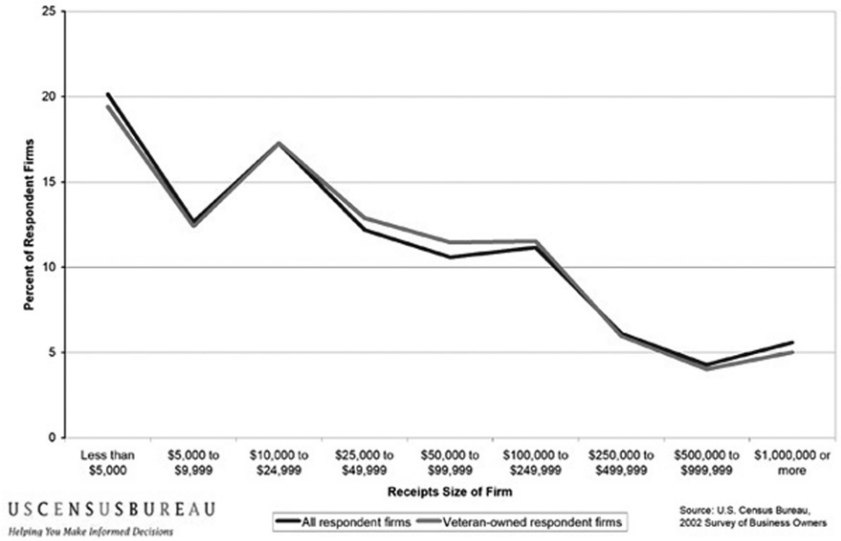


Figure 2. Percentage Distribution of Respondent Firms by Employment Size for All Employer Firms and Employer Firms With One or More Veterans as Majority Interest Owners: 2002

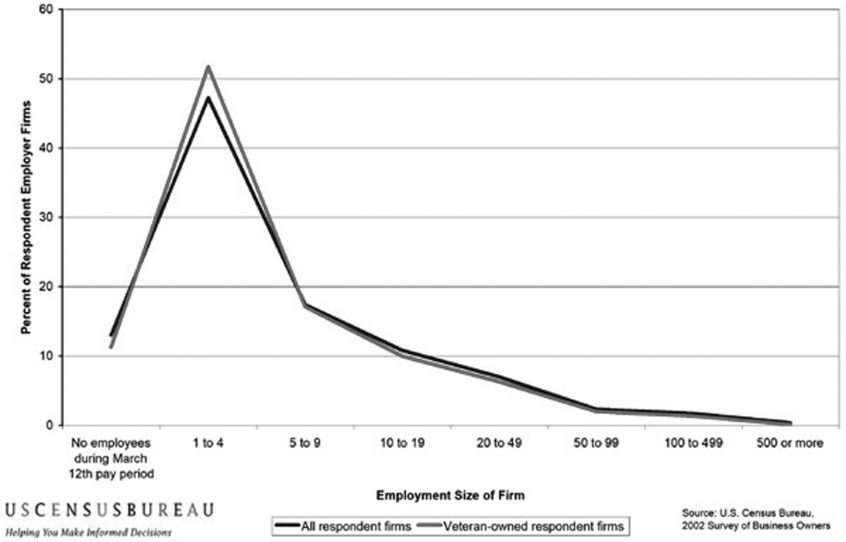


Figure 3. Percentage Distribution of Respondent Firms by Kind of Business for All Firms and Firms With One or More Veterans as Majority Interest Owners: 2002

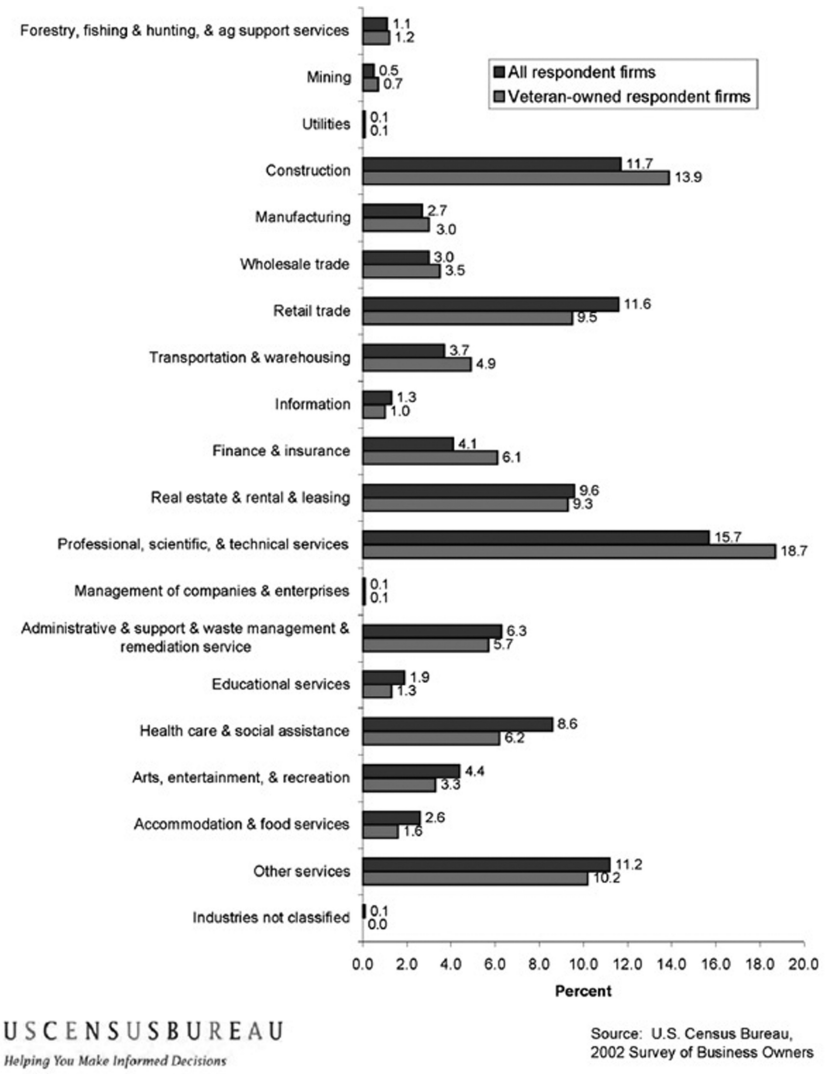


Figure 4. Veteran-owned firms in 2002

- Older than all firms
- More than half (51.8 percent) were home-based
- 3.3 percent of employers were franchises
- Capital obtained from same sources as others
- Workforce similar to that of other firms
- Major customers are similar to other firms, but higher percent of major customers are government, 2.6 percent Federal and 6.0 percent state and local govt.

Figure 5. Veteran owners in 2002

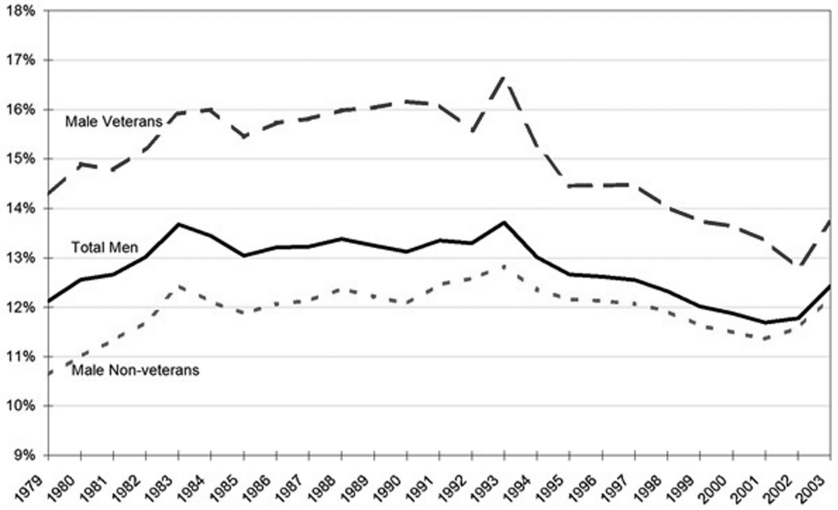
- Older than other owners (67.8 percent age 55 or older, compared to 30.9 percent for all owners)
- 97.3 percent male; 95.5 percent white; 3.2 percent Black; 2.3 percent Hispanic; 1.0 percent Native American; 0.9 percent Asian
- Better educated than other businessowners
- Business is primary source of income for 69 percent of employer owners, 39 percent of non-employer owners

Figure 6. Advocacy research found that:

- About 22 percent of veterans were either starting a new business or considering doing so
- Military service appeared to have provided necessary business skills to one-third or more of current veteran businessowners
- Veterans with service-connected disabilities are self-employed at lower rates than those veterans without such disabilities
- The self-employment rate of male veterans was consistently higher than that of non-veterans

Figure 7. Self-Employment Rates for Working Men

Current Population Survey, Outgoing Rotation Group Files (1979–2003)



United States Small Business Administration
Office of Advocacy

The voice for small business in the Federal Government and the source for small business statistics

http://www.sba.gov/advo/research/veterans.html

Veterans Economic Research

August 2008—Do Business Definition Decisions Distort Small Business Research Results? [PDF file] an Office of Advocacy Working Paper by Brian Headd and Radwan Saade, Office of Advocacy, Research Summary [PDF File]

December 2007—Educational Attainment and Other Characteristics of the Self-Employed: An Examination using Data from the Panel Study of Income Dynamics [PDF File] a working paper by Chad Moutray, U.S. Small Business Administration, Office of Advocacy, Research Summary. [PDF File]

December 2007—Characteristics of Veteran Business Owners and Veteran-owned Businesses [PDF File] Chapter 5 of The Small Business Economy for Data Year 2006, A Report to the President

October 2007—Income and Wealth of Veteran Business Owners, 1989–2004 [PDF File] submitted by George W. Haynes, Research Summary. [PDF File]

January 2007—Self-Employment in the Veteran and Service-Disabled Veteran Population [PDF File] submitted by Open Blue Solutions, Research Summary. [PDF File] December 2004—Research Study [PDF file], Evaluating Veteran Business Owner Data, an Advocacy report prepared in collaboration with Jack Faucett Associates, Inc., Eagle Eye Publishers, Inc., Waldman Associates, and REDA International, Inc., Research Summary.

December 2005—Entrepreneurship and Business Ownership in the Veteran and Service-Disabled Veteran Community [PDF file], submitted by Waldman Associates

December 2004—Research Study [PDF file], Self-Employed Business Ownership Rates in the United States: 1979–2003, submitted by Robert W. Fairlie Research Summary.

November 2004—Research Study [PDF file], Entrepreneurship and Business Ownership In the Veteran Population, Waldman Associates Research Summary.

June 2004 Research Study [PDF file], Characteristics of Federal Government Procurement Spending With Veteran-Owned Businesses: FY 2000–FY 2003 (3Q), submitted by Eagle Eye Publishers, Inc., Research Summary.

December 1986—Research Study [PDF file], Differences Between Veteran-Owned and Non-Veteran-Owned Businesses, submitted by David Rothenberg Research Summary.

November 1986—Research Study [PDF file], Financial Success and Business Ownership Among Vietnam and Other Veterans, submitted by Steven Lustgarten Associates, Inc., Research Summary.

1984–1986—[PDF file] Profiling Entrepreneurial Veterans (Vol.III) (Vol.II) (Vol.I), submitted by Mid-Atlantic Research Inc., Research Summary.

May 1985—Research Study [PDF file], A Study of Department of Defense Procurement from Veterans, submitted by KCA Research, Inc Research Summary.

May 1985—Research Study [PDF file], Viable Loan Categories for Veterans, submitted by Joel Popkin & Company, Research Summary.

May 1985—Research Study [PDF file], Entrepreneurial Choice and Success, submitted by David S. Evans.

March 1985—Research Study [PDF file], Vietnam-Era Veterans and Entrepreneurship, submitted by Jerry F. Booren, Research Summary.

[The following attachments are being retained in the Committee files: *SBA Office of Advocacy, Frequently Asked Questions*, Updated September 2008; *SBA Office of Advocacy, Quarterly Indicators, Fourth Quarter 2008: The Economy and Small Business*, Released February 9, 2009; *The Small Business Economy, for Data Year 2006, a Report to the President, Chapter 5, Characteristics of Veteran Business Owners and Veteran-owned Businesses*, December 2007; and Brochure for The Office of Advocacy, The Voice for Small Business in government, U.S. Small Business Administration.]

Prepared Statement of Joseph Jordan, Associate Administrator for Government Contracting and Business Development, U.S. Small Business Administration

Chairwoman Sandlin and other distinguished Members of this Subcommittee, thank you for inviting me to testify about Federal procurement and veteran and service disabled veteran owned small businesses.

I am Joseph Jordan, Associate Administrator for the Office of government Contracting and Business Development. I appreciate the opportunity to discuss with you SBA's efforts to ensure that small businesses receive a fair opportunity to participate in the Federal procurement arena, including veteran and service disabled veteran owned small businesses whose owners have given so much to their country.

Section 2 (a) of the Small Business Act states that the "... Security and well-being of our Nation cannot be realized unless the actual and potential capacity of small business is encouraged and developed." Included in SBA's mission is the mandate to increase Federal prime and subcontracting opportunities for small businesses in general, as well as specifically women-owned small businesses, service-disabled veteran-owned small businesses, small businesses owned by socially and economically disadvantaged individuals, and small businesses located in Historically Underutilized Business Zones (HUBZone).

Through SBA's various government prime contracting and subcontracting programs, the SBA provides policy direction and guidance to Federal procuring agencies and works with them to develop acquisition strategies that will help to increase opportunities for small businesses in Federal procurement. The SBA facilitates this working relationship with the Federal procuring agencies by serving as an active member of the Chief Acquisition Officers Council and chairing the Small Business Working Group. The SBA also chairs the Committee of the Directors of Small and Disadvantage Programs.

During the period of Fiscal Year (FY) 2000 through FY 2007, total Federal procurement increased from approximately $200 billion to more than $378 billion. The small business share almost doubled, increasing from $44.7 billion to $83.3 billion.

For that same period, contract awards to small disadvantaged business increased from $7.3 billion to $24.9 billion, women-owned small business from $4.6 billion to $12.9 billion, HUBZone certified business from $663 million to $8.5 billion, and service-disabled veteran-owned small business from $554 million (FY 2001) to $3.8 billion.

Although these are significant increases in contract awards for small business, Federal procuring agencies have met only one goal consistently over the same period. Clearly, more work is still needed. SBA recognizes the need to improve small business government procurement programs, both within the Agency and externally by working with Federal procuring agencies.

Chairwoman Sandlin, you asked specifically that I discuss strategies the SBA is using to assist veterans and service-disabled veteran-owned small businesses to obtain government contracts.

The SBA, through its government contracting function, is responsible for assisting small businesses in obtaining a fair share of government procurement through a variety of programs and services. A key tool in this effort is SBA's statutory mandate to establish small business procurement goals with each agency prior to the beginning of the fiscal year in line with meeting the government-wide goals. The goals for prime contracting include 23 percent for small business, 5 percent for small disadvantaged business, 5 percent for women-owned small business, 3 percent for service-disabled veteran-owned small business, and 3 percent for HUBZone certified small business. SBA is also required to report on agency's achievements in meeting their goals and plans to achieve goals not met. SBA has established a Small Business Procurement Scorecard to this end and it is publicly available on SBA's website. Although there is no government-wide goal for veteran owned small businesses, Federal agencies in Fiscal Year 2007 awarded more than $10.8 billion in contracts, or 2.9 percent, to veteran owned small businesses.

As you are aware, Public Law 106–50, enacted in 1999, established a 3 percent service-disabled veteran-owned small business goal for Federal prime contracting and subcontracting respectively. Public Law 108–183 established a procurement program for service-disabled veteran-owned small businesses, which allowed for:

- Competitive set-asides where two or more service-disabled veteran-owned small businesses can meet the requirements of the procurement.
- Sole source awards where only one service-disabled veteran-owned small business can meet the requirements of the procurement.

Our field staff, which is another key tool in our delivery of small business procurement assistance, is organized into six Area Offices located at: Area One–Boston, Area Two–Philadelphia, Area Three–Atlanta, Area Four–Chicago, Area Five–Dallas, and Area Six–San Francisco. These offices are responsible for overseeing and directing the activities of our Procurement Center Representatives, Commercial Marketing Representatives, Small Business Size Specialists, Industrial Specialists and Natural Resources Sales Specialists.

Procurement Center Representatives (PCR) are stationed at major Federal procuring activities and are responsible for increasing small business opportunities in the Federal procuring process. It is important to note that PCRs review all proposed major unrestricted procurements and bundled requirements, and recommend procurement strategies that will maximize opportunity for small business to participate as prime contractors. PCRs also review contract bundling requirements to determine if they are necessary and justified. The SBA encourages small business to team together and to establish strategic alliances and joint venture, to better position themselves for increased procurement opportunities.

Commercial Marketing Representatives ensure that small businesses receive a fair share of subcontracting opportunities from the Federal Government's large prime contractors. When awarded a contract valued at $550,000 or higher, these large prime contractors are required to establish a subcontract plan for small busi-

ness participation. The SBA, along with the procuring agency, evaluates the large prime contractor's effort against their subcontracting plan.

Small Business Size Specialists determine individual firms' small business size status when such firms' size is questioned vis-à-vis a specific procurement. The size status reviews are the result of protest filed by another small business, the contracting office, or other interested party.

Industrial Specialists assist small businesses by issuing certificates of competency, if appropriate, for small businesses that are the apparent successful low-bidder on government procurement, but whose ability to perform is questioned by the contracting officer.

Natural Resources Sales Specialists ensure that small businesses obtain a fair share of Federal real and personal property authorized for sale or other competitive disposal actions. The program includes: sale of timber and related forest products; royalty oil sales, mineral, coal, oil and gas leasing; strategic and critical stockpile materials disposal; and real and personal property sales.

In response to your specific request regarding use of liquidated damages:

The Small Business Act and the implementing regulations (FAR 19.705) allow the contracting officer to impose liquidated damages on a prime contractor that fails to comply with its subcontracting plan, but only if the contracting officer, after considering the totality of the circumstances, determines that the prime contractor did not make a good faith effort to comply with the subcontracting plan. The contracting officer's decision to impose liquidated damages is subject to appeal under the Contract Disputes Act. Thus, the process can be time-consuming and costly for the government, and turns on a very subjective standard, i.e., whether the prime contractor made a good faith effort to comply with the plan. There are other incentives available to encourage prime contractors to comply with subcontracting plans, such as considering compliance as part of an evaluation of past performance (FAR 15.304) or monetary awards (FAR 52.219–10).

I would also like to inform you of some of the actions SBA has undertaken to help small businesses obtain contracts resulting from the Recovery Act. I would like to report that the SBA has appointed a Stimulus Bill Coordinator to ensure that all of the Agency's programs (lending, procurement, and business development) are moving aggressively to assist small businesses. As it relates to contracting, we have begun a campaign to reach out to small businesses informing them of procurement opportunities available at the Federal level and advising them how to get involved in the state and local government procurement actions that are likely to result from the Recovery Act. We are also posting and updating procurement information on our Web site to make it easier for small businesses to locate agencies procuring products and services to support the stimulus efforts. In addition, we are working with the Office of Federal Procurement Policy and General Services Administration in their role as project manager for the Federal Procurement Data System-Next Generation to ensure timely and accurate reporting of small business participation, including service-disabled veteran-owned small businesses.

Chairwoman Sandlin and other distinguished Members of this Subcommittee; thank you again for the opportunity to testify before you regarding our work to promote government contracting programs for America's small business, and I am happy to answer any questions you may have.

Prepared Statement of Jan R. Frye, Deputy Assistant Secretary for Acquisition and Logistics, U.S. Department of Veterans Affairs

Madam Chair, Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss VA's acquisition operations and Veteran entrepreneurship. It is a privilege for me to represent the many dedicated and hard-working acquisition and logistics professionals throughout the department that provide mission-critical support everyday to ensure quality care and benefit delivery for some of our Nation's most valuable citizens: our Veterans.

As a service-disabled Veteran and long-time acquisition professional myself, I certainly understand and appreciate that contracting with Veteran-Owned Small Businesses is a logical extension of VA's mission. Veteran entrepreneurship should be a viable career path for America's heroes to support themselves, their families, and to be productive members of their communities.

VA fully embraces the letter and spirit of the entrepreneurial provisions of Public Law 109–461, the "Veterans Benefits, Healthcare and Information Technology Act of 2006." As required, sections 502 and 503 of the Act were implemented in VA on June 20, 2007, as the "Veterans First Contracting Program." As VA's senior procure-

ment executive, I am both pleased and proud to report VA is using the unprecedented and extraordinary authorities granted by the Act to contract with Veteran-Owned Small Businesses at never-before-seen levels. In fact, VA has been and remains the Federal leader in contracting with Veteran-Owned Small Businesses and Veterans have the right to expect nothing less from us.

In fiscal year 2006, VA was one of only three of the 24 CFO Federal agencies to exceed the Service-Disabled Veteran-Owned Small Business goal of 3 percent. Contracts awarded to Service-Disabled Veteran-Owned Small Businesses accounted for 3.39 percent of the total dollars reported by VA. VA has exceeded this goal each year since with continued improvement.

In fiscal year 2007, VA broke obligation records on several fronts. For the first time, VA expenditures with all Veteran-Owned Small Businesses exceeded $1 billion. VA is becoming increasingly focused on contracting with Veteran-Owned Small Businesses. Consider that, for the first time, spending with Veteran-Owned Small Businesses surpassed spending with all other subcategories of small businesses. Spending with Veteran-Owned Small Businesses increased 79 percent from fiscal year 2006. Total dollars reported for Service-Disabled Veteran-Owned Small Businesses and Veteran-Owned Small Businesses were 6.95 percent and 10.13 percent, respectively.

For fiscal years 2008 and 2009, VA established the first-ever socioeconomic goals required by Public Law 109–461 in contracting with Veteran-Owned companies. These goals consist of a 7 percent goal for Service-Disabled Veteran-Owned Small Businesses and a 10 percent goal for Veteran-Owned Small Businesses. These ambitious goals, coupled with the authorities of Public Law 109–461, have been very beneficial for Veteran entrepreneurs.

We strive for continuous improvement each year by expanding upon the previous year's accomplishments. In each case, we have exceeded our goals. For example, in fiscal year 2008, spending in the Service-Disabled Veteran-Owned Small Business category increased by 99 percent. We also increased our spending by 73 percent in the Veteran-Owned Small Business category. For the first time in VA history, spending with Service-Disabled Veteran-Owned Small Businesses surpassed the $1 billion mark. For all Veteran-Owned Small Businesses VA's total obligations exceeded $2 billion, which is by far the highest amount obligated across all civilian Federal agencies. Total dollars reported for Service-Disabled Veteran-Owned Small Businesses and Veteran-Owned Small Businesses were 12.09 percent and 15.27 percent, respectively. I would note that fiscal year 2008 numbers are preliminary pending the Small Business Administration's review.

For fiscal year 2009, we project another successful and perhaps record year. As of March 31, 2009, with over $3.6 billion in total acquisitions reported, VA's Office of Small and Disadvantaged Business Utilization reports remarkable accomplishments in contracting with Service-Disabled Veteran-Owned and Veteran-Owned Small Businesses. VA's accomplishments have been aided by the authorities granted to VA by Public Law 109–461 as shown by our increased ability to exceed contracting goals with Service-Disabled and Veteran-Owned Small Businesses.

As VA's senior procurement executive, I have taken affirmative steps to develop and implement policies that benefit small businesses and Veteran entrepreneurs. For example, in implementing VA's contract bundling review process, VA set a threshold for contract bundling reviews at $1 million—which is one-half of the $2 million threshold established for civilian agencies by the Federal Acquisition Regulation. This lower threshold increases the number of acquisitions that receive contract bundling reviews by VA's Office of Small and Disadvantaged Business Utilization, thereby providing even more opportunities to unbundle acquisitions and make them more suitable for award to small businesses.

In 2007, VA instituted a requirement that all acquisitions valued at $5 million or greater be conducted using an "Integrated Product Team"—commonly referred to as an IPT. IPTs consist of a cross-section of personnel from various disciplines that develop a comprehensive acquisition strategy. A representative from VA's Office of Small and Disadvantaged Business Utilization is included as a voting member on each IPT. In other words, not only do small businesses have a seat at the table during this critical phase of acquisition planning, they also have a voice in the form of a vote by their advocate representatives. I am not aware of any Federal department or agency that has instituted such progressive measures to address contract bundling.

Madam Chair, the Veteran business community has expressed concern that VA has not fully implemented the entrepreneurial provisions contained in sections 502 and 503 of Public Law 109–461. I want to assure you and the Subcommittee's Members that this is not the case. On June 20, 2007, VA implemented the "Veterans First Contracting Program" through an agency policy letter consistent with the re-

quirements of the Act. VA will soon publish a final rule in the *Federal Register* to formally record these requirements in the Veterans Affairs Acquisition Regulation.

Veteran entrepreneurs will see no significant change in the use of these authorities. VA will still maintain the small business hierarchy set forth in the Act. In addition, to promote a higher standard of transparency, once the final rule is published, sole source acquisitions must be synopsized in the Federal Business Opportunities System. At the present time, VA does not require synopsis of sole source awards under the Public Law. The added transparency will help ensure that all Veteran-Owned Businesses are aware of the procurement strategies employed by VA contracting officials.

When the "Veterans First Contracting Program" final rule is published, VA will embark on a robust and aggressive training effort to educate VA's acquisition workforce, purchase cardholders and program managers and officials. The training will reinforce VA's commitment to Veteran entrepreneurs as well as cover the authorities granted and hierarchy specified by Public Law 109–461, as implemented in the Veterans Affairs Acquisition Regulation.

It is important to note that the unprecedented and extraordinary contracting authorities granted to VA under Public Law 109–461 are preferences in open market contracting for Veteran entrepreneurs. Unlike the section 8(a) Business Development Program administered by the Small Business Administration, VA's "Veterans First Contracting Program" is not a business development program. The "Veterans First Contracting Program" is not an entitlement program, nor is it a substitute for vendors taking other competitive steps to be viable in the Federal marketplace, such as securing a Federal Supply Schedule contract. The "Veterans First Contracting Program" is an important tool at the disposal of our acquisition professionals to create opportunities for Veteran entrepreneurs, consistent with the best value continuum for our Veteran clients and the American taxpayer.

Madam Chair, I would like to close by thanking you for the opportunity to discuss the implementation of Public Law 109–461 at VA and to reaffirm our commitment to increasing opportunities for Veteran entrepreneurs. VA is grateful for the authorities and opportunities presented by our "Veterans First Contracting Program." As proud as we are of VA's accomplishments, we will continue to work diligently to improve upon them and set a standard worthy of emulation throughout the Federal acquisition community.

I would be pleased to respond to any questions you or the Subcommittee's Members may have.

Greentree Environmental Services
Indianapolis, IN
April 21, 2009

Stephanie Herseth Sandlin
House Committee on Veterans Affairs
335 Cannon House Office Building
Washington, D.C. 20515

RE: 8(a) Status for Veterans

Honorable Chairwoman, U.S. Representative Herseth Sandlin and Members of the Committee,

My name is John Casey and I am a Vietnam era veteran, with veteran-owned status. I would like to thank you for your attention to the matters of your Committee and express my thanks for your consideration in listening to the concerns of veterans like myself.

I own and operate a veteran-owned small business. We are a 12-year old company that is prohibited from bidding on a HUD contract in our field because we do not hold 8(a) status. Other than 8(a) status, alone we can and do meet all the requirements of the contract, to include a 51 percent labor capacity requirement that has never been met by any contract awardee. Unfortunately, this makes us a sub-contractor, which gives us no guarantee of payment for any work performed. This fact cost us over $40,000 the last time the contract was let out. As we approach this contract term, we have in excess of $350,000 in receivables from two 8(a) companies at risk.

As a veteran-owned company who has watched from the sidelines, I see 8(a) companies cropping up to meet set-aside contract requirements, to include partnership agreements for management services and to meet experience requirements, which to me questions the whole intent of the set-aside. When I am faced as a veteran-

owned company being denied bidding opportunities over a company owned and operated by someone who is not even a U.S. citizen, but is an 8(a), I have to legitimately question if the intent of these set-asides are being met.

As a veteran looking at only a 7 percent award of all government contracts to veterans, I become less concerned for my own company's welfare as I do for my nephew who just finished marine boot camp, or for his brother who still receives counseling after an IED hit his vehicle in Iraq.

I believe that denying a veteran the right to bid on a contract offered by his country after honorable service is simply, by any reasonable definition, wrong, particularly in his or her field, when he or she can perform cheaper and better. The men and women who take the oath to protect this country show their courage by signature alone. Given a fair chance and contract opportunity from our government, these are the entrepreneurs of tomorrow who will repeatedly show some of the same courage needed to fight for our country as to start a business and make it through the tough times where failure is not an option. With the veterans' efforts, once again, we can see our economy stabilize and more jobs created, while at the same time using set-asides for the purpose they were created.

I pray this Committee will hear our calls and move to give the veteran minority its due; that no veteran should be denied the ability to bid on government work in their field when qualified. If government agencies are directed to increase the percentage of veteran contracts, this action would work to meet these goals, as well as to level a playingfield long ignored.

To further discuss this matter, please feel free to contact me at (219) 406–8031 or at jrcaseyone@aol.com. Thank you in advance for your consideration.

Regards,

JOHN R. CASEY
President

Statement of Brian W. Cavolt, USN (Ret.), Chief Executive Officer, JBC Corp, Virginia Beach, VA

My name is Brian Cavolt, I am the owner of a Service Disabled Veteran Owned Small Business that manufacturers products that are used by the Federal Government. I appreciate the opportunity to provide this statement to the Committee and request it be entered into the record.

I retired as a Master Chief after serving 29 years of active duty in the U.S. Navy. I am a 100 percent rated Service Disabled Veteran. Since 2006, I have owned and operated JBC Corp, a Service Disabled Veteran Owned Small Business with my wife Janice Cavolt.

JBC Corp is a provider of medical trauma kits for the military. Our kits are custom designed and packed as specified by the government for use by the warfighter. My military service and experience as a Navy SEAL and hospital corpsman inspired and enabled me to continue to serve the active duty warfighter by providing medical kits designed specifically for administering Combat Casualty Care.

As my business has grown, the medical kits I make have become specialized and very much in demand. However, in order to sell in the quantity that is being requested, I must go through a Medical Prime Vendor. My experience in working with Prime Vendors leads me to believe that being a Prime Vendor means having "Prime Advantage". The Prime Vendor makes the rules, goes around agreements when convenient and uses their power to benefit only themselves at the expense of the government and the subcontractors who fulfill their obligations. The Prime Vendor gets the past performance credit (rather than the subcontractor) and then uses it to solicit business for trauma medical bags; products that they have no experience with or qualification to serve the customer. Ultimately, the Prime Vendor holds the power; power given to them by the current Contracting System. Further, the power that is granted to **the Prime Vendor System creates *waste, abuse* and *compromises expediency*. They control the money, often making bigger profits than the manufacturer, just for being the middle man.**

Expediency

Our medical kits are made for a specific use. They are carried by our troops so that lives can be saved when injury prevails. My company makes these bags to specification as determined through testing and evaluation. Because these are custom kits that contain costly products, we do not start production until we receive a purchase order. Many times the purchase order is not received from the Prime Vendor until weeks after they received it.

Waste

My company does all the work to manufacture our products. We design the bags, we make the bag, we deliver the bag and take care of the end user. So why then should the Prime Vendor, who never even has to touch the product or talk to the customer make a profit just because they hold an exclusive position as a middle man. There is an order that we are currently working on that is costing the government nearly $2 million dollars more than what they would have paid if they could have come directly to us.

Abusive Practices

The Prime Vendor exercises great power over the small business who is trying to get their product to market. A small business may take years to develop a product, show it to an interested party, and then find that their only recourse to sell in any large volume requires a Prime Vendor be involved. Negotiating with a Prime Vendor is rarely a negotiation. Refusal to accept the terms of business from a Prime Vendor is a no win option, as to do so puts your product at risk as it is not uncommon for the Prime Vendor to take your product and actively pursue manufacturers that will produce it for them.

Capability

There is an argument that attempts to justify the use of Prime Vendors for many purchases by saying that Small Business lacks the capability to execute larger contracts. It is a flawed argument because with consideration from the government, **Small Businesses are quite capable of managing larger orders**. In the public sector, for orders greater than $250,000 we require a deposit. The deposit is more than earnest money; it is the capital we use to help fund the first phase of work. Once the first phase is completed, and we are paid in accordance with the terms of an agreement, we are able to self fund the next purchase of materials. Once the process is set in motion, there is a steady flow of goods coming in and of orders shipping out until the order is complete. Everyone can win using this process; the end user receives a custom built product expediently, our suppliers can rely on steady payment, the government Saves money by not paying a middle man a fee that may range from 25% to 55%, and the independent Small Business is doing business in a productive environment. Successful Small Businesses are masters at making a small amount of money (deposit) work for them by strategizing and orchestrating the flow of work. It is a process we have used successfully in the past for large orders.

Government policies of payment on delivery do not favor small companies with little capital to expend; particularly with larger orders. Allowing deposits and progress payments would do much to help the Small Business compete for larger orders.

Currently, my company has been forced into a precarious position that will cause the failure of my business if not resolved. We are engaged with a Medical Prime Vendor who is not honoring their agreement. Specifically, they owe us a significant amount of money for orders we have shipped. This Medical Prime Vendor will give different reasons for why they can't pay us now; but none of them are valid because their claims either lack truth or are based on terms completely outside of any agreement or understanding we ever had. Do I feel the government has some responsibility here? Absolutely, the government empowers the Prime Vendor but does not have a method to manage a situation like ours when it arises. There has been correspondence and conversations with different individuals within DoD, SBA and our local Congressman, Glen Nye (Virginia-2nd) has been assisting by monitoring the situation. Still, no one seems to know who should address this situation to seek resolution. It is incomprehensible that a system that is responsible for administering government contracts and awarding billions of dollars does not have a protocol to remedy this type of situation. Meanwhile, my business is failing and others that depend on me are doing the same. Additionally, we recently learned that their Medical Prime Vendor contract was renewed. Whose watch was that on?

It seems that the Prime Vendor benefits far more than the government or the end user. I think the government would receive much more value for their money if they held the Prime Vendor to a higher standard of service. That higher standard should include accountability for the reasonable treatment of subcontractors; that is, working with the subcontractor in a manner that serves to promote expedience in order fulfillment, ensure timely payment to subcontractors, and generally commit to upholding ethical business practices. In other words, they would have to work for their money. Currently subcontractors are not asked to give a review of their experience with a given Prime Vendor; nor are there protocol for subcontractors to ask for relief or be heard when they are treated unfairly by the Prime Vendor.

There are procurement methods in place and available that with modification could significantly elevate the opportunity for small businesses to compete. It is the incumbent duty of our Legislators to demand a review of *Contracts and Contracting Policy* and effect change that serves all of us.

Respectfully submitted.

MATERIAL SUBMITTED FOR THE RECORD

Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Washington, DC.
April 28, 2009

Mr. Mark Gross
President and Chief Executive Officer
Oak Grove Technologies, LLC
7200 Stonehenge Road
Suite 301
Raleigh, NC 27613

Dear Mr. Gross:

I would like to request your response to the enclosed deliverables and questions for the record I am submitting in reference to a hearing from our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity hearing on *Contracting and Contracting Policy at the Department of Veterans Affairs* on April 23, 2009. Please answer the enclosed hearing questions by no later than Tuesday, June 9, 2009.

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.

Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225–2034. If you have any questions, please call (202) 226–4150.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

Oak Grove Technologies
Raleigh, NC.
June 5, 2009

The Honorable Stephanie Herseth Sandlin
Congress of the United States
Committee on Veteran Affairs
335 Cannon House Office Building
Washington, DC 20515

SUBJECT: Contracting and Contracting Policy at the Department of Veterans Affairs

Dear Chairwoman Sandlin:

I am pleased to respond to the questions for the record provided in your letter dated April 28th, 2009. For ease of review, the question for the record is restated followed by my reply.

Question 1: Does the rule of two apply to other purchases or is it only applicable to veteran enterprises?

Response: The language relating to HUBZone procurements is similar to the language relating SDVO procurements. The significant advantage is to 8(a). Simply changing the language to match that on 8(a) procurements, to include "shall" instead of "may" would alleviate the unequal playingfield.

Question 2: What is the best way to close the loop holes in the GSA Schedule (FAR Part 8)?

Response: Contracting Officers have agency requirements to report procurements by contract and business size. These reports also include and identify special socioeconomic contract awards. In the case of Federal Supply Schedule, the procurement dollars are disclosed but the small business data is not (GSA awards falls under this category). Not disclosing this information was not an oversight. Initially it was to insure procurement dollars were not counted twice. Since GSA "owns" the contract,

and Contracting Officers are only issuing delivery orders, GSA would track the dollars. This practice unwittingly created a loophole for the Contracting Officers. The statistical data reported no longer reflects directly on the Contracting Officer, thus removing since of responsibility and accountability.

Question 3: In your testimony you mentioned that we should mandate that contracting offices impose liquidated damages. Agency officials assert that imposing liquidated damages is a time consuming endeavor using a very subjective standard, (good faith) and essentially not a good use of government time. Do you agree with the assertion?

Response: Yes, imposing liquidated damages is a time consuming endeavor, and agency officials resist using resources this way. However, 15 U.S.C. 637(d)(4)(f) (a) directs otherwise. It is recognized that this is a matter of national interest with both social and economic benefits. The Federal Acquisition Regulation, Part 19.705–7 provides the following:

"Maximum practical utilization of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors in government contracts is a matter of national interest with both social and economic benefits. When a contractor fails to make a good faith effort to comply with a subcontracting plan, these objectives are not achieved, and 15 U.S.C. 637(d)(4)(f) directs that liquidated damages shall be paid by the contractor."

Three other suggestions may help insure small business plans are achieved: Require Large Business procurements to provide their small business plan as part of their proposal. Direct contracting officers evaluate small business achievements before allowing the exercise of contract option periods. Provide large business with incentives for achieving small business goals similar to awards using a cost-plus-incentive-fee format.

Question 4: In your testimony you mentioned that the Central Contracting Register has listed 7,000 active 8(a) companies and 12,000 veterans/disabled veteran companies, yet most agencies are meeting the percentage requirement for 8(a) companies. Why are agencies able to meet the 8(a) percentage requirement and not the service disabled veteran owned small businesses?

Response: I personally feel that program emphasis and education of the procurement community has not been optimized. The HUBZone, SDB and 8(a) programs are all mature in that they have been in existence longer and are better understood. Contracting Officers must attain 80 hours of continuous learning credits every 24 months. Insuring that one of the available training topics available included SDVO procurement may help level the playingfield with the more mature socioeconomic programs.

Question 4(a): Is it company readiness or is it the path of least resistance?

Response: It can be a path of least resistance. Once a contract is ever awarded 8(a), it is difficult for a contracting officer to ever offer that effort to another socioeconomic sector. But, from my perspective that is fine. We do not seek to take opportunities away from other small business sectors, only to provide equality in opportunity.

Question 4(b): Are there more benefits for meeting the 8(a) percentage, in that many are double or triple counted?

Response: By virtue of a company having 8(a) status they automatically have SDB status in that 8(a) is a subset of the SDB program. Both programs together create an advantage.

Again, thank you for the opportunity to testify before your Committee. We sincerely value your commitment to the needs of the small businessowners within the Veteran Affairs community. Please feel free to contact me at the address and phone listed above or via email at mgross@oakgrovetech.com.

Sincerely,

Mark Gross
President and Chief Executive Officer

Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Washington, DC.
April 28, 2009

Mr. Anthony R. Jimenez
President and Chief Executive Officer
MicroTech, LLC
8330 Boone Blvd.
Suite 310
Vienna, VA 22182

Dear Mr. Jimenez:

I would like to request your response to the enclosed questions for the record I am submitting in reference to a hearing from our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity hearing on *Contracting and Contracting Policy at the Department of Veterans Affairs* on April 23, 2009. Please answer the enclosed hearing questions by no later than Tuesday, June 9, 2009.

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.

Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225–2034. If you have any questions, please call (202) 226–4150.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

Deliverable from the House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, Hearing on Contracting and Contracting Policy at the Department of Veterans Affairs

April 23, 2009

Question 1: In your testimony you say that clearer rules and education efforts on the VA Federal contracting would be beneficial for veteran businesses, are there currently no education efforts underway?

Response: The Department of Veterans Affairs does what it can to educate their procurement officials with their limited recourses. But more can always be done to provide continuous education to their procurement officials to ensure that they remain current and informed of the new laws and regulations effecting veteran business.

Question 2: According to your testimony, there are currently no penalties for failing to meet Executive Order 13360. What penalties do you recommend the Obama Administration put in place that would not have an adverse affect on the agency?

Response: For agencies and departments that do not meet the their goal congress can make appropriations within the agency's budget which would be restricted to expenditures on veteran businesses.

Question 3: Do you think Federal agencies are overwhelmed with the number of laws in place to help veteran small businesses?

Response: No, there are very few laws in place to help veteran owned small businesses.

Question 3(a): Is there a need for more legislation or is there a need for clarity?

Response: The additional legislation I would suggest, is that Congress make these set asides requirements as opposed to goals. Once that has been done, enforcement is the key.

Question 3(b): Should Congress focus more on enforcement or passing more legislation?

Response: At this point enforcement would be the most efficient use of the Congress' time. As it stands, there are no penalties for not meeting the goals and no one is designated as the party responsible for enforcement with a means to enforce the goals

Question 4: On average do large businesses get more sole source awards than small businesses?

Response: I don't have enough information to answer that.

Question 5: Can you give us an example of how bundled contracts are often made so complex that small businesses are precluded from competing for them?

Response: There are requirements that have been bundled that are so large in scope that and required past performance that a small business simply is not able to meet the entire depth and breadth of the requirements. One such program is the A76 program which small businesses simply don't have the depth to compete for. Other requirements that have been bundled that are so large that small businesses cannot realistically compete include contracts such as NAVY MARINE CORPS INTRANET AND NEXT GENERATION ENTERPRISE NETWORK PROGRAM OFFICE SUPPORT SERVICES (NMCI NGEN).

Question 6: How should the Federal Acquisition Regulation (FAR) Part 7 be re-written to address contract bundling?

Response: FAR Part 7 adequately addresses contract bundling and does not need to be re-written. Enforcement and training on the effects of contract bundling on small businesses would be a better use of time and money than new rules.

Question 7: You state that Federal agencies should make a fair portion of bundled contracts small business opportunities. How can small businesses compete, regardless of the targeting, when they are having difficulty competing for them today?

Response: Established quality small businesses can compete on bundled contracts where the subject matter of the contract is sufficiently confined. Additionally the current size standards for what determines what it means to be a small business should be revised to reflect a 21st century understanding of small business in today's global environment.

Question 8: In your opinion what is the most commonly used contracting vehicle by Federal agencies?

Response: The GSA schedules and government wide acquisition contracts (GWAC) are clearly the most used contracting vehicle by the Federal Government.

Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Washington, DC.
April 28, 2009

Mr. Charles Baker
Chief Executive Officer
MCB Lighting and Electrical
3540 Chaneyville Rd.
Owings, MD 20736

Dear Mr. Baker:

I would like to request your response to the enclosed questions for the record I am submitting in reference to a hearing from our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity hearing on *Contracting and Contracting Policy at the Department of Veterans Affairs* on April 23, 2009. Please answer the enclosed hearing questions by no later than Tuesday, June 9, 2009.

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.

Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225–2034. If you have any questions, please call (202) 226–4150.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

Deliverable from the House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, Hearing on Contracting and Contracting Policy at the Department of Veterans Affairs

April 23, 2009

Question 1: Is the VA not providing the proper tools to the procurement personnel to help them understand the procurement process?

Response: I really think the VA is doing their best with the assets they have currently in place. If the VA were to deploy Goal Attainment Solutions (GAS) and a procurement process checklist until they can get their staff trained on Small Business, they would get better results. The dollars in the VA represent a great effort. The dollars are skewed by large contracts on the GSA schedule without any limitation on subcontracting or requirement of having to be a regular dealer. If you look at the number of transactions awarded and compare of times or percentage of times SDVOSB or veterans contracts were awarded even on small orders, is not the same picture of a good system. GAS will shorten the procurement cycle, shorten the market research timeframe, and assist with strategic sourcing and provide immediate feedback within each industry sector at the time of award. This will increase the participation of all social economic groups in that industry because the data is available in seconds. GAS was created for the SDVSOB community to help obtain the 3 percent goal Federal Government wide. There is no agency or department goal, so 7–10 percent is not good enough until 3 percent is achieved Federal Government wide, and the VA is funded an additional $2M to do this at CVE without any demonstrative impact on the other agencies. The VA does not provide maximum practical utilization while performing market research, nor do they provide open access to the program office to highly qualified small businesses like myself who has marketed the department for 7 years. As a known lighting expert who spearheaded energy efficient lighting into the Federal sector in the nineties, and now with nationwide installations capabilities, I have yet to sell the VA one lightbulb to date and I am 20–30 percent below GSA and DLA prices.

Question 2: In your testimony you mentioned that part of the problem is the intent of the existing procurement laws associated with the implementation of the rules of procurement not being followed. If part of the problem is that laws are not being interpreted properly how do we resolve the issue?

Response: Training is the obvious way to fix this problem but the spirit of the community is not supportive of doing anything other than what they want to do. The statue gives the contracting officer the discretion and latitude to do whatever they desire, most of the time. This is not a bad thing if the CO is applying a business case analysis to these procurements and their decisionmaking IAW is in the best interest of the government in creating a larger industrial base to support our national defense domestically in a time of need. Once again, the GAS tool will provide the transparency and oversight along with providing the contacting officer the information needed to make a decision based on real data which will reduce fraud, waste and abuse of vital funds.

Question 3: How often do large enterprises get sole source awards or contracts where they do not have to truly compete?

Response: In DoD alone the 10 largest firms get 40 percent of the total money spent and over 35 percent is sole sourced. All but only 1 of the 10 firms has less than 50 percent sole sourced to them.

Question 4: Do you have any concerns with regards to large businesses that we should be aware of?

Response: The lack of a limitation of subcontracting is causing small companies to be put at risk for other large companies as a pass-through. Hence, small business dollars are not going to small businesses. This practice of not performing large contracts and subbing 100 percent to another large business legally is preventing small businesses from getting bonding if needed because they are at risk for projects they are not performing any real business on. This is a twisted approach to helping small business develop because it prevents growth and creates an illusion small business participation is really happening.

Question 5: In your testimony you write that large businesses get business development and small businesses are told to compete. Can you explain your statement?

Response: Of the top ten businesses in DoD, most are awarded sole source contracts which allow them a constant flow of work, which in turn allows them to expand and purchase the small business competition. They also reduce their expenses associated with bidding work and having to market for work. They have significant cost over runs and record profits and we can not do anything but continue to let it happen or it will affect our National defense. The model is upside down . . . sole source contracts are needed for business development at the lower more manageable levels to mitigate the number of sole source contracts at the upper level. This is also more importantly about how we increase our domestic industrial base because small business rules require domestic manufactured products which is vital to us protecting our Nation. There is very little true business development in the small business community. We are told to compete so we can become competitive with the larger companies yet we never get to medium or large companies because we are put out of business. The reason we are put out of business is because of almost no margin or very small margins (1–2 percent) to become a viable, competitive, sustainable business and then they will not pay in a timely manner. If the desired result of competition is to yield the best value to the government, then this is often not achieved with the current acquisition strategies. Here is a classic example: as a government employee in the nineties I was forced to purchase from DLA because it was a mandatory source. Strategic sourcing was used along with the total buying power of the Department of Defense to leverage this competition. DLA made the requirement full and open to get the best price and more than 7 manufacturers submitted a price direct to the government. This was perceived as maximum competition and the best deal available. As a government employee I challenged this model and lowered the price on over 700 energy efficient products no less than 20 percent and up to 70 percent. This had such a demonstrative impact on the industry it allowed the energy efficient lighting systems to become viable contracts with great savings to investment ratios saving billions of dollars. I purchased better equipment from the same manufacturers using a cost analysis and market research approach as a lighting expert using negotiated procurements instead of a competitive open market process. This is the same approach I would use as a participant in the business development program. In an open market competitive environment the price would be higher; resulting in a very different outcome and the cost of energy efficient lighting would most likely still be higher. Small business would only be a cost adder with no real value in the competitive scenario which currently is used. The real problem is multiplied because most of the procurements, over 3 million are small purchases under $100K. Most contracting officers don't know how to do cost analysis of these broad industries because they don't know the industries and the program office just shops the bids before the procurement to create the independent government estimate which is not done properly. Business development would work if it was performed properly. All the while, the large business has no competition and is charging record profits because the government has not developed any competition for the larger firm who is getting the sole source contracts because they are the only companies who can accomplish the work. This system is upside down and we need competition at the upper levels where the large dollars are being spent and noncompetitive contracts at the lower level so smaller companies can develop in order to compete for the real profit at the high dollar contract which is restricted to a few. This is a threat to our National defense, in my humble opinion.

Question 6: You stated in your testimony that we have a two sentence loophole which allows big business to circumvent and take business utilizing FAR Part 8.404. Can you explain this statement?

Response: In the FAR, we have two small business sections Part 13 and Part 19. Part 19 says all procurements under $100K are exclusively reserved for small business. This is a great concept since almost 85–90 percent of almost all transactions; over 3.5M are under $100K. The loophole is if a big business gets on GSA

schedule, Parts 13 & 19 don't apply. So if you are a big business GSA tells you get on the schedule and you can go after all contracts including those reserved for small business. All of the rules that protect small business don't apply once you have a GSA schedule ether i.e. the limitations on subcontracting doesn't apply which requires small business to perform a percentage of the work or the Non Manufacturer Rule which requires all products of a small business must be made in the United States and made by a small business. The rules are manipulated to favor large business and hamper small business growth. We have to change our mindset from compliance which cost money to growth strategies which make or save money. If you can get GSA schedule you can do almost anything you want if you know the rules and the government is not getting the best price either. Most of the time they are being overcharged for the items or services on GSA. The CO takes the least path of resistance, not because they are short staffed, but because this was happening before 1994 when the workforce was huge. This is human nature. COs are just like electricity... they take the least path of resistance in order to get on to the next crisis.

Question 7: What exactly is a business development program and how would it benefit small veteran enterprises?

Response: Business development means the government cultivates small business through the use of noncompetitive and restricted competition contracts which often times can produce a lower cost and will no doubt pay large dividends in the future. Contract financing is another key. The government can provide credit lines, up front payments of 20 percent, immediate payment upon approved receipt of product or services, this is how we develop companies. The rules for small business are different than the rules for large business for payment. The problem is, we are made to play the large business rules and they get our rules so we go out of business and they prosper. They get contracts, financing, and sole source contracts. We don't (when you don't count Alaskan firms and white women). Dollars to minority groups is inversely proportional to the increase in Federal spending, since a base line of 2000. Business development has been coined a social program instead of a critical need to support our National defense by increasing our industrial base. Of course, this has to be fair and reasonably priced and not fraud, waste, and abuse.

Committee on Veterans' Affairs,
Subcommittee on Economic Opportunity
Washington, DC.
April 28, 2009

Ms. Lisa Wolford
President and Chief Executive Officer
CSSS.NET
729 15th Street NW
Suite 600
Washington, DC 20005

Dear Ms. Wolford:

I would like to request your response to the enclosed questions for the record I am submitting in reference to a hearing from our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity hearing on *Contracting and Contracting Policy at the Department of Veterans Affairs* on April 23, 2009. Please answer the enclosed hearing questions by no later than Tuesday, June 9, 2009.

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.

Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225–2034. If you have any questions, please call (202) 226–4150.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

Deliverable from the House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, Hearing on Contracting and Contracting Policy at the Department of Veterans Affairs

April 23, 2009

Question 1: In your testimony you mentioned that even after 12 years of being in business with an excellent record, you still struggle to gain new business with the VA due to the issue of how the VA awards contracts. Can you explain how the way VA awards contracts makes it difficult for you and potentially to other veteran small businesses?

Response: There are many things that VA does and doesn't do that impact how difficult it is to work with the VA. I will list some of the most egregious:

a. The use of other contracting entities that aren't required to use the Veterans First Procurement ruling, ie: Corps of Engineers, SPAWAR, GSA, etc. The solution is that if the VA must use an outside entity to do their contracting then they should be required to follow VA procurement regulations, especially and including Veterans First.
b. The VA does not allow contracting officers to do direct awards with SDVOSB. This is in direct opposition to executive orders and VA's own procurement policy that specifically allows for this ty4pe of procurement. VA has only been able to meet and surpass its SDVOSB goal through its extensive use of GSA schedules. Only SDVOSBs with GSA schedules have been benefactors of VA's SDVOSB major procurements. Unless a SDVOSB has a GSA schedule, his/her business will not receive anything like the sole source and set aside flexibility clearly mentioned and authorized under public law 109–461.
c. The VA does not set up SDVOSBs to meet with Program personnel to allow the SB to present their capabilities. Other agencies do this all the time. HUD for instance does this regularly and they achieve greater than 50 percent of their prime work with SB.
d. Large businesses have a VA contractor access to the buildings and therefore can schedule meetings quite easily with the VA personnel whereas many SDVOSBs do not have contractor access badges for the building. This allows the business development professional to meet directly with decisionmakers. *Solution, give SDVOSBs the same access.*

Question 2: In your testimony you recommend implementing a policy impacting positively or negatively all performance plans for all senior executive and acquisition personnel at the VA. What incentives or penalties would you recommend?

Response:

a. I would recommend that their promotion ability and bonuses be positively or negatively impacted by their achievement of awarding contracts to SDVOSBs as primes.
b. Contracting Officers should also be held responsible for ensuring that all major large Prime contractors meet their 3 percent subcontract goals.

Question 3: In you testimony you state that 88 percent of total prime contract obligations solicited by the Federal Government was secured by large businesses. Why is this number so high and why is that we are focused on small business where there is only 22 percent of the contracts?

Response:

a. Small businesses do not get their fair share of the government economic pie. That is what those numbers illustrate. Contract bundling is rampant in DoD and the Intelligence agencies.
b. Since small businesses create 75 percent of new jobs in our country we should be ensuring that small businesses get a commensurate share of the Federal contracting pie in order to grow our economy and jobs.

Question 4: Does the rule of two apply to veteran owned enterprises only or where else does it apply?

Response:

a. It also applies to the HUB Zone Program
b. It doesn't apply to 8(a) firms and SDVOSBs should be at least on par with 8(a) firms.

119.1306 HUBZone sole source awards.

(a) A participating agency contracting officer may award contracts to HUBZone small business concerns on a sole source basis without considering small business set-asides (see Subpart 19.5), provided——

(1) ***Only one HUBZone small business concern can satisfy the requirement;***

(2) Except as provided in paragraph (c) of this section, the anticipated price of the contract, including options, will not exceed——

(i) $5.5 million for a requirement within the North American Industry Classification System (NAICS) codes for manufacturing; or

(ii) $3.5 million for a requirement within any other NAICS code;

(3) The requirement is not currently being performed by a non-HUBZone small business concern;

(4) The acquisition is greater than the simplified acquisition threshold (see Part 13);

(5) The HUBZone small business concern has been determined to be a responsible contractor with respect to performance; and

(6) Award can be made at a fair and reasonable price.

(b) The SBA has the right to appeal the contracting officer's decision not to make a HUBZone sole source award.

Question 5: In your testimony you write that a small business can be used as a pass through and do as little as zero percent of the work, yet the agency will get a 100 percent credit for small business work.

Question 5(a): How can correct the GSA schedule and the FAR to prevent this from happening?

Response: This occurs when it is not a set aside contract but is primed by a small business. Therefore, if the contract is not a set aside the FAR and GSA acquisition regulations should require that a SB prime of a non set aside contract must do 51 percent of the work. This is a loophole that must be closed.

Question 5(b): Is it your assertion that all Federal agencies are aware of problem?

Response: Yes, they are all aware that if a full and open requirement is awarded to a small business that small business prime contracting rules do not apply.

Question 6: If SPAWAR contracts for VA, but does not have to adhere to procurement regulations and Veterans First rule, how has this affected veteran small business?

Response: SDVOSB firms are not being given an opportunity to even bid on these opportunities.

Question 6(a): How much contracting for VA do they do?

Response: I am not sure how widespread it is, I do know that my firm bid on an opportunity from the VA in Chicago for the Medical facility and after the opportunity was in source selection it was canceled and reacquired through SPAWAR and we were not notified or given an opportunity to even bid on an opportunity that we had spent substantial B&P dollars on. Anecdotally, I have heard of other opportunities of VA procurements going through SPAWAR. I have heard that all of the work that was to go to the VistA VCS BPA is going through SPAWAR and even though we won a prime award on the VistA VCS BPA we have not been given an opportunity to bid on any of these opportunities.

Question 6(b): Does that mean that most of the contracts awarded through SPAWAR are not going to veterans small businesses?

Response: Yes, it does in regard to VA contracts.

Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Washington, DC.
April 28, 2009

Mr. Scott F. Denniston
President
Scott Group of VA, LLC
14408 Chantilly Crossing Lane, #704
Chantilly, VA 20151

Dear Mr. Denniston:

I would like to request your response to the enclosed questions for the record I am submitting in reference to a hearing from our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity hearing on *Contracting and Contracting Policy at the Department of Veterans Affairs* on April 23, 2009. Please answer the enclosed hearing questions by no later than Tuesday, June 9, 2009.

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.

Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225–2034. If you have any questions, please call (202) 226–4150.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

Hearing Questions on Contracting and Contracting Policy at the Department of Veterans Affairs

National Veteran-Owned Business Association (NaVOBA)

Scott Denniston, Director of Programs

Question 1: How can we help the VA make agencies, doing contract work for the VA, aware of Public Law 110–389, which require agencies contracting for VA to follow VA's contracting policies?

Response: I believe the best position for Congress at this point is to require that each agreement VA enters into specifically spell out the requirements of Public Law 110–389. If this suggestion is implemented no agency can say they were not aware of the requirements and if there were questions, VA would be able to address the questions prior to implementation of the agreement. If Congress later finds that veteran and service-disabled veteran-owned small businesses are still losing opportunities, Congress should hold hearings to learn why.

Question 2: You state that VA has only published draft rules to address "open market" procurements. What other procurements does VA need to address and why is this costing VA firms millions of dollars annually?

Response: VA spends millions of dollars annually through various acquisition methods such as GSA Federal Supply Schedules, Prime Vendor, Standardization, Ability One Program, and government Wide Acquisition Contracts (GWACs). When using these acquisition methods service-disabled and veteran-owned small businesses are not given a "priority" as required by section 503/8128(a) of Public Law 109–461. Until such time as VA's regulations address all methods of acquisition employed by VA, we do not believe, VA is complying with section 503.

Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Washington, DC.
April 28, 2009

Mr. Joe Wynn
Chairman, President, and Chief Executive Officer
The Veterans Enterprise Training and Services Group
5055 5th St., NW, Suite #301
Washington, DC 20011

Dear Mr. Wynn:

I would like to request your response to the enclosed questions for the record I am submitting in reference to a hearing from our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity hearing on *Contracting and Contracting Policy at the Department of Veterans Affairs* on April 23, 2009. Please answer the enclosed hearing questions by no later than Tuesday, June 9. 2009.

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.

Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225–2034. If you have any questions, please call (202) 226–4150.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

Followup to Hearing on Contracting and Contracting Policy at the Dept. of Veterans Affairs—April 23, 2009

Question 1: Since our Committee has jurisdiction over the VA, how do you recommend that we affect change over all the Federal agencies?

Response: At present the VA's Center for Veterans Enterprise is conducting the verification process for all veteran and service disabled veteran businessowners that do business with the VA. Once the regulations under PL 109–461 are finalized, contracting at the VA will be prioritized to service disabled veteran, then veteran owned businesses. If the verification and contracting process for veteran businessowners can be implemented correctly, all Federal agencies will be more inclined to replicate them.

The HVAC needs to provide close oversight of this process because of its huge importance to contracting throughout the Federal marketplace. At present, the verification process is off track and the full implementation of the regulations has been delayed for nearly 2 years. Veteran businessowners are being penalized for owning more than one business and for not being at the worksite each day.

Question 2: Can you elaborate on a statement in your testimony, "Inaccurate agency data, miscoding, and double counting?"

Response: According to the SBA, the Washington Post, and other information sources, millions of dollars allocated for small businesses have been awarded to large businesses. The Federal Procurement Data System used for tracking Federal procurements within each agency, shows that in the past few years, a number of large businesses were coded as small businesses.

In addition, Federal agencies are allowed to count one small business toward multiple small business goals. Agencies are allowed to count a small business that is SDVOB, 8a, and Women Owned toward 3 goals even though the contract was only issued for one type of small business. This practice gives a false picture of small business contracting practices.

Question 3: How should large prime subcontracting plans be enforced?

Response: Small business subcontracting plans submitted by large prime contractors should be monitored more closely. Small business subcontracting plans, including all details of the plans, required by large prime contractors, shall be made public and fully accessible either electronically or on forms 294 and 295, immediately upon request. Large companies not meeting the mandatory 3 percent subcon-

tracting goals should not be allowed to repeat the same poor performance on re-competes and new competes.

When an incumbent has NOT met the 3 percent goal and is re-competing for a renewal, their proposed price should be levied a 10-percent increase. When a large business does not have a combined 3 percent SDVOSB average recorded on a Fiscal Year's submission of all 294 and 295 forms; all proposed prices submitted for any contract should be levied an increase. The price increase for not meeting the SDVOSB goal the first year should be 5 percent and should increase 5 percent each subsequent year the goal is not met.

Question 4: In your opinion, are any veteran businesses unable to secure contracts because they have difficulty securing bonds or insurance?

Response: Some veteran owned small businesses may lack the capacity and credit to secure the needed bonding or insurance for certain contracts. And unfortunately, even though some veteran owned small businesses may be able to obtain a teaming partner, the government will not recognize the capability of the partner with regard to bonding for the entire job.

Question 5: In your testimony you state that the Center for Veterans Enterprise is understaffed. Should the Center for Veterans Enterprise use a contractor to fulfill the requirements of Title V of Public Law 109–461?

Response: At present only a few CVE staff members have been assigned to conduct verifications of veteran businessowners and not all of them are allocating full time to the process. As a result, the process is moving very slowly. After 6 months only 868 businesses had been verified and 491 were in process out of a total of approximately 17,000 registered businesses. CVE reported that it was only processing 50 applications per week. At that rate, it could take 6 or 7 years just to verify the businesses currently registered.

CVE should consider hiring more staff or devoting more staff fulltime to the process. It may also be more efficient to use a contractor with experience to conduct the verification process. However, CVE may also consider separating the verification process into two phases to expedite the process. Phase One would be to verify the status of the owner as a veteran or service disabled veteran and the percentage of ownership. Phase Two would be implemented to verify more details such as joint ventures, site visits, management and control of day-to-day operations.

It should be noted however, that verification of Control should only be to the extent necessary to support the Ownership and to ensure that the company is not being used as a 'Rent-A–Vet' or a pass through company

Question 6: Are the current verification requirements being used by CVE adequate?

Response: The verification requirements being used by CVE are adequate, however, their interpretation of the requirements are flawed. CVE has been reluctant to publish a procedures guide for verifying veteran businessowners. But the guidelines stated in the statue are adequate to determine veteran ownership. It's CVE's decision to not verify veterans who own more than one company and owners who do not operate out of the principal office every day that is in question. Also, CVE admittedly does not have the personnel to conduct site visits of each veteran businessowners principal place of business. Site visits often could clear up questions of ownership.

Question 7: In your testimony you state that verification of control should be to the extent necessary to support ownership and ensure the company is not a pass through company. What is the extent necessary to verify ownership?

Response: As I stated in previous responses, verification should confirm that the businessowner is a veteran or service disabled veteran and that the owner or owners have the majority ownership of the company. To ensure that the company is not a pass through company, verification of the owner's participation in the operations of the company is necessary.

However, participation by the owner should not be limited to whether or not the owner is physically working out of the principal office each day. In this day of advanced telecommunications, management and participation in the day-to-day operations can be demonstrated via video conferencing, use of Black Berry's, e-mail and Internet communications, and phone conferencing. Control can be verified in other ways also.

Question 8: In your testimony you state that "may" versus "shall" is an obstacle but DoD, GSA, and NASA are still able to award contracts. Why is it that those agencies seem to make it work and not VA?

Response: In the contrary, VA is statistically doing better under existing laws than DoD, GSA and NASA. VA has exceeded the 3 percent mandatory contracting requirement for SDVOBs for the past 2 years, while DoD, GSA, and NASA have not. But the issue with "may" versus "shall" is that contracting officers have been using it as a loophole or reason not to set contracts aside for SDVOBs.

Last year, SBA issued public notices intending to clarify the meaning and application of the word "may" in the statutes. But now, DoD has issued a memorandum to all of its military departments to prioritize contracts to Hubzone companies because "shall" is stated in the Hubzone statutes and not in the SDVOB statutes. The effect of this action is causing enormous harm to not only SDVOBs but also to 8a and Women Owned companies as well.

Question 9: In your testimony you state that VA gives work routinely to 8(a) firms. How much more business are 8(a) firms getting than veteran owned enterprises?

Response: It's a known fact that contracting officers routinely award contracts to 8a firms more frequently and in greater volume than to SDVOBs. The actual number of 8a contract awards can be obtained from the Federal Procurement Data System and the SBA. Since 8a statutes allow a contracting officer to make direct awards to an 8a company without regard to other 8a firms who may be equally qualified, this contracting authority is used quite often near the end of the fiscal year for procurements under the simplified acquisition threshold of $3.5 million for services and $5.5 million for construction.

Question 10: In your testimony you talk about sole source awards. How often are sole source awards made to large businesses?

Response: The Federal Procurement Data System is the source to obtain the number of sole source awards made to large businesses. A review of the large Prime sole source contracts will help to better understand the effects of bundling of contracts into very large procurements. Small businesses cannot compete when the contract is so large that only a large business could possibly qualify.

Question 11: While much of our focus has been on veteran small business what should we be looking at in regards to large business?

Response: The issues with regard to large business is the danger of the U.S. government becoming overly reliant on just a few companies. This over reliance on just a few large companies poses enormous risks to our financial system like with the issue with AIG, Fannie Mae, Freddie Mac, etc. being too big to fail. Also when a few large DoD primes continue to control most of the contracts for the defense of our Nation, our security can be easily compromised. Often, many of these large DoD primes are hiring foreign labor and contracting services out to foreign countries. This ultimately creates gaps and vulnerabilities in the supply chain.

Question 12: Some advocate for limiting sole source awards because it will limit competition and increase costs to the Federal Government. Do you think this will be the case?

Response: For years, contracting officers have had the authority to make direct awards to 8a firms with in a certain dollar limit. This practice has not increased costs to the Federal Government because contracting officers are still required to do market research to ensure that services and products are offered to the government at a fair and reasonable price. Contracting officers should be allowed the same authority to increase contracting opportunities with SDVOBs.

This concludes my responses. However, I welcome the opportunity to have further discussions with the HVAC members and staff regarding these matters. I would also recommend that the HVAC consider convening a Task Force to oversee the implementation of the regulations governing the CVE Veterans Small Business Verification Process and VA Small Business Contracting to prevent the situation from having an adverse effect on the veterans it was intended to help.

Thank you.

Joe Wynn, President
VETS Group
Member, VET–Force

Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Washington, DC.
April 28, 2009

Mr. James King
Executive Director AMVETS
4647 Forbes Boulevard
Lanham, MD 20706

Dear Mr. King:

I would like to request that AMVETS respond to the enclosed deliverable and questions for the record I am submitting in reference to a hearing from our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity hearing on *Contracting and Contracting Policy at the Department of Veterans Affairs* on April 23, 2009. Please answer the enclosed hearing questions by no later than Tuesday, June 9, 2009.

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.

Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225–2034. If you have any questions, please call (202) 226–4150.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

Statement of Christina M. Roof,
AMVETS National Legislative Deputy Director,
In Response to Questions Asked by
Subcommittee on Economic Opportunity of the
House Committee on Veterans' Affairs

Concerning

Federal Contracting Policy at the Department of Veterans Affairs Hearing Held on April 23, 2009

Deliverable:

Deliverable 1: In your testimony you mentioned that one of the biggest problems is that during initial or pre-contract verification a company will present all required documentation, including evidence that they will use veteran-owned small businesses as subcontractors. You state that no proof of compliance is required, nor do random labor audits occur. Who should be doing this compliance and random labor audits and how extensive should it be?

Response: It is in the opinion of AMVETS that the primary contract issuer, in this case VA, should be responsible for ensuring the integrity of the contracts they award. To AMVETS knowledge VA currently lacks a sufficient number of employees with the applicable knowledge on compliance law to conduct said audits. AMVETS recommends that since gross lack of oversight by VA has been allowed to continue to occur, that the Office of Federal Contract Compliance Program and/or a private audit firm immediately start conducting enforcement audits of VA's contracts. VA shall provide any additional funding needed from their funds, as to not penalize OFFCP. In non-government construction contract audits, 8–12 percent of the total contract cost is recovered during a simple standard audit. In fact many contract grantors find that the cost of performing an audit is usually covered by the first 2 percent of the money recovered during that audit, this fact should help ease concerns of the costs of performing audits. Also as part of this audit process, AMVETS insists VA be required to report all findings, gathered up to said time, to VA's Office of Acquisitions, Madam Chairwoman and the Subcommittee no later than thirty business days following initial findings or thirty business days after initial contact with the party being audited occurs. This will hold true regardless of what stage of the audit VA is conducting at said time. AMVETS recommends that this process begin with the examination of inchoate contracts, in order to detect any problems before these contracts are closed. Executed contracts are equally important to make sure that VA funds were properly handled and not used to perpetuate the discrimi-

nation against veterans or any wrong doings. AMVETS also asks that the Committee hold VA accountable to meeting this timeline, by whatever means the Committee deems necessary. Although this type of reporting seems harsh, AMVETS believes that due to lack of accountability by VA, that is method of reporting findings is more than reasonable. VA is on record multiple times stating that they are unaware of any non-compliance issues on any of their procurements over the last 4 years. If this statement is true, then the audit process will prove to be very straightforward task to complete in a timely manner. Madam Chairwoman I must be forthright with you and the Subcommittee when I say that AMVETS is more than disappointed that the most basic of contracting procedures have not been occurring within the VA procurement system, and that the Subcommittee has not held VA accountable. AMVETS has been made aware of these gross negligence's for quite some time and has brought their concerns to the Committee in the past. So it is not a lack of knowledge on anyone's behalf, yet a lack of action from all. AMVETS also believes that VA should start hiring contract officers or start outsourcing to veteran owned auditing firms whose primary functions include compliance audits of all VA contracts. DoD is able to ensure integrity of the contracts they issue in the Middle East, so VA should have no problems doing the same for the contracts they issue stateside. Concerning the extensiveness of audits, AMVETS believes normal DOL or OFCCP protocol is sufficient and will meet and exceed all criteria for a thorough audit in regards to compliance.

Questions for the Record:

Question 1: According to some of our witnesses, the VA does not use their authority to make noncompetitive sole source award. Why do you think the VA does not use this authority?

Response: AMVETS can only speculate on why VA does not always use their authority to make noncompetitive sole source awards. The primary cause of concern of AMVETS is that that lack of knowledge or lack of training on the part of VA's contract officers. AMVETS does not feel that VA's contract officers are purposefully making errors in the sole source contract process, but that they have not been provided sufficient training on the contracting process. VA has failed to provide their contracting officers with the required skill set to successfully carryout VA's contracting award process. Although AMVETS notes that VA has attempted to improve training by providing a new school to educate their staff, however after researching the curriculum AMVETS finds that the system does not provide all the applicable skills needed to successfully fill contracting officer positions, and it does not currently address the skill set of current contracting officers. We also feel that job dependent testing should also be used for candidates in all 21 VISNs applying to these positions to ensure all contracting competencies are in place.

Question 2: In your testimony you state that the VA lacks at a minimum reasonable assurance that they are receiving the services it paid for. Then what is the VA receiving and how confident are you that the VA is doing any contract properly?

Response: Unfortunately AMVETS is not able to provide the Subcommittee with reliable or accurate data on whether or not VA is receiving the services it is paying for, due to the lack of centralized databases or trackers maintained by VA. This is according to previous VA acknowledgements and testimonies that such reliable systems are not currently in place. Due to this lack of oversight and documentation by VA regarding their contracts and awards AMVETS is unable to provide the Committee with any type of response, other than recommendations based on speculations. AMVETS is very concerned by the fact that VA is not currently auditing their contracts. AMVETS recommends that VA immediately put in to place a functional verification system that allows traceability of every system and process VA currently uses non-uniformly. Even a very simple system will allow VA, as well as the Subcommittee if need be, to have a single centralized source. A functional system will allow VA to accurately process all of their interdependent and linked procedures, which at every stage, consume one or more VA resource (contracts, employees, funds) to convert the inputs into outputs. These outputs then serve as inputs for the next stage of the functional verification process until a known goal or end result is reached. AMVETS would also like to stress the often overlooked process of internally auditing current procedures and employees. These types of audits are used by every successful organization, as a means of measuring quality and shortfalls within an organizational system. An organization will only be successful and run at its full potential if it is able to recognize its weaknesses. Finally, when discussing the current state of the VA's acquisition systems, AMVETS believes it is necessary to discuss traceability. As stated in our testimony VA has little assurance that it is receiving the services it paid for. AMVETS believes this is due to VA not

having a solid system of traceability. From an accounting standpoint it is absolutely essential for an organization to have the ability to track a specific piece of financial information by means of recorded data. Equally important is traceability in cost accounting. VA should already have a system of cost accounting in place to assign a cost directly to an activity or cost object on the basis of cause-and-effect contractual relationships. The last part of traceability vital to the stability of any acquisitions program is in that of quality control traceability. This ability to track system requirements from a system function to all those elements that individually or collectively perform that function. Simply stated, VA should have the trained staff and accounting systems in place to accurately assess cost and quality of their awards. And more importantly VA should be held accountable for not implementing directives given to them and not meeting deadlines. Respectfully, if there continues to be lack of accountability on the part of VA and lack of a system to hold them accountable, we feel that the VA system of acquisitions will be stuck in this vicious cycle of hearings and recommendations with no real actions taking place.

Question 3: Do you thing that the VA would benefit from an electronic contract software system to monitor and track all contracts?

Response: AMVETS believes implementing the use of contract management software will greatly benefit VA's current acquisitions system. Having a centralized electronic monitoring and data recording system in place will help eliminate many problems for VA in their acquisitions procurement processes. VA's use of contract management software/systems will streamline processes through their entire lifecycles—covering the stages of planning, negotiation, analysis, storage, and maintenance.

A contract management system will benefit VA by lessening the time it takes to create and administer contracts, workloads related to manual processes, and the contracting officers' administration/transaction processing time from procurement to payment. An electronic system will also enhance process efficiency throughout the contract lifecycle, reporting, contract visibility and access, and financial tracking of transactions based on contracts. This will provide VA with the necessary tools to automate workflow, standard processes and contract request processing, and merge and secure contract repositories or databases.

AMVETS believes that an electronic contracting system will also provide a reliable and accurate source that will provide an effective system of traceability. From a contractual accounting standpoint it will allow VA to better track and assign cost directly to an activity or cost object on the basis of cause-and-affect relationship. VA will also have the ability to accurately monitor quality control, thus giving them the ability to trace the application, locations, and/or history of contractual activities by means of a recorded data system. Finally, the use of an electronic contracting system will provide VA with a functional verification process that will ensure products, services, and activities conform and meet all performance and material requirements set fourth by contractual agreements.

VA will be able to manage and exchange information internally and externally with greater ease, and eliminate the lack of communication within the acquisitions system, which seems to be the root of many of their problems. AMVETS also find it extremely important to store all documents and data are so that they are protected by multiple levels of security, allowing VA to share and exchange proprietary materials for collaboration and development, but still protecting the integrity of all VA documents.

Question 4: In your testimony you state that a substantial nationwide increase of qualified contract officers and outreach staff is needed. How many do we need of each?

Response: Regrettably, due to the lack of accessible data of current VA staff and training procedures AMVETS finds themselves unable to provide the subcommittee with a solid plan of action or unwavering answer. However, we can make a comparison to the closet government agencies we found to have the same contracting concerns as VA. By comparing the overall contracting requirements of VA to several different agencies, on the basis of number of contracts, multiple locations, and tools available for use or development, AMVETS found that The Department of Defense most closely matched VA in their contracting requisites. This being said AMVETS believes that DoD's current contracting process has many functional processes that VA could implement with equal, if not more, success than DoD. For example, DoD and their contract officers are able to monitor all stages of their awards for compliance and timeliness, regardless of location. This is due to DoD having a larger number of contracting officers as well as a stricter training process. AMVETS recommends VA immediately start to hire more contracting officers and begin training

or re-training all contracting officers in accordance with FAR System, as well as the specific internal agency guideline within VA. Incorporating a clear accountability matrix into the VA's procurement processes will help to ensure that every project/contract element is properly assigned. This will eliminate any question on the expectations and/or tasks that is required by each individual involved in VA's procurement processes. Accountability matrixes ensure every duty within the procurement process is satisfactorily preformed according to law and standards, and which has consequent penalty for failure.

Question 5: In your opinion do we need to reorganize the procurement/acquisition hierarchy at VA?

Response: AMVETS believes that implementing a centralized and uniform training program for all persons involved in VA procurement processes, regardless of location or position, will provide a foundation of clarity and standardized education to every individual involved in VA's procurements process. This will also aide VA in establishing an unambiguous hierarchy and establish a system of unquestionable accountability in regards to procurement. VA's organizational alignment should be examined to ensure appropriate placement of the acquisition functions are occurring within the agency, and that employees clearly understand their individual defined roles and responsibilities. We are not questioning the ethical standards of VA or its employees, rather the structural framework currently in place regarding procurements. VA must protect the integrity of their procurement process and the authorities granted to them by closely examining their current acquisition hierarchy on every level. AMVETS also believes VA should re-examine their current oversight methods and develop a plan granting authorities to field contract officers, so that they may conduct random inspections of VA's awards to ensure that the integrity of all VA contracts are protected and enforced.

AMVETS applauds the Committees' commitment to solving these problems, and offers are services in any way possible to ensure our veterans are receiving their due entitlements. Committed leadership enables officials to make strategic decisions that achieve agency wide acquisition outcomes more effectively and efficiently.

Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Washington, DC.
April 28, 2009

Mr. Jan Frye
Deputy Assistant Secretary for Acquisition and Logistics
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Mr. Frye:

I would like to request that the U.S. Department of Veterans Affairs respond to the enclosed deliverables and questions for the record I am submitting in reference to a hearing from our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity hearing on *Contracting and Contracting Policy at the Department of Veterans Affairs* on April 23, 2009. Please answer the enclosed hearing questions by no later than Tuesday, June 9, 2009.

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.

Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225–2034. If you have any questions, please call (202) 226–4150.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

Questions for the Record
The Honorable Stephanie Herseth Sandlin, Chairwoman,
Subcommittee on Economic Opportunity,
House Committee on Veterans' Affairs

April 23, 2009

Contracting and Contracting Policy at the Department of Veterans Affairs

Question 1: Public Law 109–461 required VA to review prime contracts to ensure compliance with subcontracting plans submitted in proposals. How many contracts has VA reviewed and what are the results of those reviews?

Response: Implementation of 38 United States Code (U.S.C.) § 8127(a)(4) is dependent upon finalizing the change to the Department of Veterans Affairs (VA) Acquisition Regulation (VAAR) which will require prime contractors to comply with this new reporting requirement. That VAAR change is expected to be published as a final rule later this year. At this time, VA has not completed any reviews. VA's Office of Small and Disadvantage Business Utilization (OSDBU) has established a mechanism to review subcontracting plans and to follow-up with service-disabled Veteran-owned small businesses (SDVOSB) and Veteran-owned small businesses (VOSB) to ensure the accuracy of the prime contractor's reported information. OSDBU has designed a form to gather this data and is seeking approval for its use from the Office of Management and Budget (OMB), in accordance with the Paper Work Reduction Act. In addition, public comments will be sought through a notice in the Federal Register. OSDBU adjusted its current subcontracting plan model to address the issue of having the prime contractors include details concerning the SDVOSBs and VOSBs they intend to use.

Question 2: When VA awards a contract to a small business under an 8(a) or other set aside and the business also qualifies as Veteran-Owned, how does VA account for the dollars toward more than one small business goal and how is that award counted toward VA's small business total?

Response: In accordance with subparagraph 6(f) of the Office of Federal Procurement Policy's (OFPP) October 8, 1999 letter number 99–1, *Small Business Procurement Goals*, agencies may count prime contract awards to small businesses toward more than one goal. Prime contract awards to subset small business goals all count toward the government-wide small business goal. For example, an award to a Veteran-owned, woman-owned small business will be credited to three goals: (1) small business; (2) VOSB; and (3) woman-owned small business.

Question 3: Witnesses have expressed concern about the effect on small businesses by increasing the use of contract bundling. VA testified that it reviews all potential bundles worth $1 million. How many proposed bundles were rejected during FY 08?

Response: In fiscal year (FY) 2008, 222 contract bundling reviews were completed with 3 determined to be unjustified.

Question 4: Does the total value of a contract awarded to a veteran-owned small business prime who has subcontractors count toward the 3 percent goal or just the amount earned by the veteran-owned business?

Response: The entire value of the contract awarded to a Veteran-owned small business prime counts toward VA's VOSB goal and SDVOSB goal, if applicable. Small businesses are not required to have subcontracting plans.

Question 5: Who is the final decision on accepting or rejecting a company's application for verification as a veteran-owned small business enrolled in the CVE VIP database and what is the source of that authority?

Response: As identified in 38 U.S.C. § 74.11(e), the Director, Center for Veterans Enterprise, is responsible for decisions to accept or deny an application.

Question 6: How many prime contractors have been penalized in the past two fiscal years for failure to comply with proposed subcontracting plans?

Response: Contractors are not directly penalized for non-compliance with its subcontracting plans. The impact on the vendor would come in the form of poor past performance evaluations, which may affect future awards. VA evaluates the plan submitted by the contractor as part of the solicitation and determines if it complies with VA requirements prior to award. After award, if a contractor is found to be deficient in compliance with their proposed plan, the contracting officer, as part of the contract administration process, could document the deficiency. Since there are

many contract award evaluation criteria it would be difficult to determine if poor past performance resulted from them not adhering to their subcontracting plan, subsequently affecting future awards.

Question 7: There seems to be very diverse opinions on the use of veteran-owned small businesses—sometimes called rent-a-vet—as prime contractors where the veteran business subcontracts all or nearly all work to a large subcontractor. Anecdotally, this is becoming a more frequent occurrence. How would the Department propose to regulate this practice?

Response: Education, oversight and enforcement are the key to minimizing the opportunity for this type of performance problem. Contracts awarded using Federal Supply Schedule or full and open competition do not contain limitations on subcontracting; however, contracts awarded using set-aside requirements do impose restrictions on subcontracting. Education will ensure that all parties understand the nature of the acquisition and the limitations on subcontracting imposed.

Oversight will ensure compliance with subcontracting limitations. Oversight is easy in construction contracts since contracting officers receive certified payrolls by the general contractor and all subcontractors. Oversight is more challenging in other contracts because contracting officers must rely upon the technical representative who is responsible for interacting with the contractor on a day to day basis. Additional education for these technical representatives would go a long way in overcoming this performance problem. Once contracting officers receive information about possible non-compliance with subcontracting limitation, they have several enforcement tools available. The keys to changing this trend rely heavily upon vigilant oversight.

Question 8: Would the Department be in favor of establishing a mentor-protégé program and would such a program need legislative authority?

Response: On August 20, 2008, VA published in the Federal Register a proposed rule adding a new section to the VAAR (819.71) which introduces VA's Mentor-Protégé Program. The program is designed to help SDVOSBs and VOSBs enhance its capabilities to compete for and perform under contracts and subcontracts for VA. VA's authority for this program arises from its Executive Order 13360, 38 U.S.C. § 8128, and 15 U.S.C. § 637(d)(4)(E).

Question 9: Please review Fiscal Year 2008, and send us a report showing the contracting mechanisms used for all SDVOSB and VOSB awards.

Response: The following contracting mechanisms were used in FY 2008 to makeSDVOSB and VOSB awards.

- VOSB set-aside
- VOSB sole source
- SDVOSB set-aside
- SDVOSB sole source
- HUBZones set-aside
- Small business set-aside (full and partial)
- 8(a) program
- Emerging small business set-aside
- Federal Supply Schedule
- Full and open competition

Question 10: How many of the awardees were verified by CVE at time of award for 2007 and 2008?

Response: The data to answer this question is not available. Currently, to be awarded a contract VA requires that Veteran-owned or service-disabled Veteran-owned small businesses be registered in the VetBiz VIP database, in accordance with Information Letter 049–07–08. VAAR changes implementing the procurement provisions of Public Law (P.L.) 109–461 will change this process. All business will be required to be verified prior to award. VA is currently working on verifying the vendors in the VetBiz VIP database.

Question 11: Do you believe that veteran owned businesses and service disabled veteran owned business have the capacity to compete and deliver goods and services?

Response: VA's record of performance with SDVOSBs and VOSBs indicates these firms have both the capability and capacity to support prime contract requirements awarded by VA. OSDBU is aware of some industries in which SDVOSBs and VOSBs are under-represented, making it challenging for some Federal buying activities to

achieve their procurement goals. In addition, some large prime contractors report that the population of SDVOSBs and VOSBs who have the necessary certifications to be qualified suppliers in its manufacturing concerns is also limited.

Question 12: How many sole source contracts have been done for non-veteran small businesses, veteran businesses, and large businesses?

Response: VA reported 2,038 contract actions reports (CAR) to non-Veteran-owned small businesses; 1,179 actions to VOSBs; and 4,429 to other than small business in FY 2008.

Question 13: Do you support sole source or should contracts be competed?

Response: The intent of P.L. 109–461 was to provide contracting officers flexibility in determining when competitive or noncompetitive sourcing with SDVOSBs or VOSBs is in the best interests of VA. In general, competition is the best way to ensure the government achieves the best value for the American taxpayer. While the solicitation phase may be slightly shorter for a sole source versus a competitively solicited proposal, the evaluation and negotiation phases for a sole source proposal may be significantly longer. Under a sole source, it may take more time and effort to negotiate price and determine price reasonableness. One situation comes to mind in which noncompetitive sourcing may be beneficial to the Veterans' business community and VA. For businesses new to the Federal marketplace, obtaining a first contract is a huge step forward. Federal buying teams want to see past performance with a Federal agency. In this case, noncompetitive sourcing for smaller requirements would be beneficial to both VA and the company.

Question 14: In your testimony you state that sole source acquisitions must be synopsized in the Federal Business Opportunities System. Do all other acquisition authorities have the same requirement that they be synopsized as well?

Response: As required by the Small Business Act (15 U.S.C. § 637(e) and the OFPP Act (41 U.S.C. 416), contracting officers must synopsize proposed contract actions expected to exceed $25,000 in the government-wide point of entry at www.fedbizopps.gov. The Federal Acquisition Regulation (FAR) provides that contracting officers need not synopsize proposed contract actions that are expressly authorized from a specified source (FAR 5.202(a)(4)). These include sole source awards under the section 8(a) Program (15 U.S.C. § 637); the HUBZone Act 1997 (15 U.S.C. § 657a); the Veterans Benefits Act of 2003 (15 U.S.C. § 657f); and, by VA's interpretation, the Veterans Benefits, Health, and Information Technology Act of 2006 (38 U.S.C. § 8127(b), (c)). See generally, FAR 6.302–5. However, VA has determined, as a policy matter, that synopsis of proposed sole source awards pursuant to 38 U.S.C. § 8127 for information purposes affords the American taxpayer full transparency into the Federal acquisition process. Further, it allows other contractors to provide feedback on the acquisition strategy. This policy will be adopted in VA's proposed VAAR change to implement 38 U.S.C. §§ 8127–8128 currently reviewable at 73 *Federal Register* 49141–01 (August 20, 2008).

Question 15: Some VSOs have the concern that requiring sole source acquisitions to be synopsized effectively eliminates sole source from use due to the work and time involved. Do you agree or disagree with this assertion?

Response: VA disagrees with this assertion. In general terms, the affect on the total acquisition cycle should be negligible since the notices will serve as "information" as opposed to a "solicitation for proposals." VA believes synopsizing sole source requirements affords the American taxpayer full transparency into the acquisition process. Further, it allows other contractors to provide feedback on the acquisition strategy so similar acquisitions in the future can be conducted competitively.

Question 16: In a joint venture why are the Veteran-owned small businesses required to meet the small business definition together while others like the 8(a) do not? Is this a situation that can be fixed by amending the rules instead of by statute?

Response: VA believes any changes must be done by statute. In the joint venture programs defined under the authorities of P.L. 109–461 and the Small Business Administration, all parties in the venture must be classified as a small business. By statute, if an affiliation exists between the partners, the revenue/employees must be combined.

Question 17: In the contracting process how do VA regulations differ from General Services Administration regulations? Essentially are VA regulations more stringent than GSA's when it comes to contracting?

Response: This question is general in nature and is difficult to respond to with specifics regarding the stringency of each agency's regulations. If this question is referring to the General Service Administration (GSA) Federal Supply Schedules, VA operates under the authority delegated to it by GSA. As per GSA's rules, no agency is allowed to modify the terms and conditions in the schedules without authorization from GSA. Therefore, in general terms, VA's regulations are neither more nor less stringent than GSA's.

Question 18: Can you explain the difference in having: a fair and reasonable price, best value and a competitive price? Which view does VA currently have in place and does GSA view differ from the VA?

Response: VA cannot speak to GSA's views on these issues. However, VA follows the guidance in FAR Part 15, *Contracting by Negotiation*, which states obtaining adequate price competition is the best way to ensure the government receives the most reasonable price. Best value is a technique used by the contracting officer to determine which proposal provides the best overall solution to the government based on a combination of pricing and technical (non-price related) evaluation factors.

Question 19: What kind of contract does VA have with SPAWAR regarding the G.I. Bill and are you satisfied that the contract was properly awarded?

Response: VA does not have a contract with SPAWAR, but rather an interagency agreement (IAA), consistent with FAR Subpart 17.5, *Interagency Acquisitions under the Economy Act*, for information technology (IT) program management and acquisition support. The purpose for the SPAWAR IAA is to obtain support for VA program IT enhancements in addition to the requirements of the Post 9/11 G.I. Bill. The IAA has been issued pursuant to the Economy Act 31 U.S.C. § 1535 and VA regulations, including an economy act determination and a review of the requirements. A follow on IAA is being issued pursuant to the OFPP guidance entitled *Improving the Management and Use of Interagency Acquisition*, dated June 6, 2008. Both IAAs were properly awarded consistent with applicable regulation.

Question 20: We commend the VA for exceeding the three percent set aside. Are there any divisions in VA that have not awarded any contracts to a Veteran enterprise?

Response: A search of FY 2008 data shows every VA contracting activity supported contracting with VOSBs.

Question 21: How many sole source awards were given to large businesses versus small businesses in the past 2 years?

Response: In FY 2007, VA reported 4,243 non-competitive CARs to other than small businesses and 3,460 non competitive awards to small businesses. In FY 2008, VA reported 5,339 non-competitive awards to other than small businesses and 3,215 noncompetitive CARs to small businesses. VA obtained this data from the Federal procurement data system on July 2, 2009.

Question 22: Many VOSBs assert that "may" versus "shall" is a problem. Do you agree with their assertion?

Response: VA does not interpret the P.L. 109–461 as requiring that all contracts below $5 million be sole sourced. In the language in the proposed rule which implements P.L. 109–461, contracting officers may use other than competitive procedures to enter into a contract with a SDVOSB or VOSB when the amount does not exceed $5 million. By using the word "may," contracting officers are afforded maximum flexibility.

Question 23: What is the status of the electronic contract management system?

Response: VA's electronic contract management system (eCMS) is fully operational and changes are in process to improve the data mining capability. VA contracting officers are mandated to use this system.

Question 24: How much does VA use Indefinite Delivery/Indefinite Quantity (ID/IQ) as a contract vehicle?

Response: In FY 2008, VA awarded a total of 1,119,972 contract actions valued at $8,779,888,482 against all IDIQ contracts. VA awarded 981,997 delivery/task orders against VA IDIQ contracts for a total of $6,671,831,510.

Question 25: Can the contracting process be streamlined?

Response: VA implemented processes to streamline the acquisition process to the extent that the FAR dictates. However, based on laws governing the acquisition process, contracting officers are required to follow certain processes and procedures. VA encourages contracting officers to be innovative and creative within the bounds of the FAR.

Question 26: Has Congress made contracting more cumbersome?

Response: The enactment of P.L. 109–461 has not made contracting more cumbersome. P.L. 109–461 provides VA extraordinary contracting authorities with SDVOSB and VOSB.

Question 27: If we were to create an oversight team funded from a small percentage of all awarded contracts do you think the VA and private contractors would oppose the idea?

Response: VA does not believe the creation of an oversight team regardless of funding source would significantly improve the acquisition process. It is also unlikely that business entities would welcome additional oversight of their operations. VA currently funds 25 contract auditors for the purpose of conducting pre and post-award audits of VA contracts. Additional oversight is provided by VA's Office of Inspector General (OIG) and the government Accountability Office.

While oversight is certainly a necessary element of government acquisition, a larger, better trained workforce is the key to long-term improvements. Since 2002, VA's procurement spend has increased by approximately 500 percent. However, during the same time span the procurement workforce has only increased by approximately 65 percent, thus reflecting a distinct imbalance with regard to numbers of contracting professionals employed at VA in relation to the ever burgeoning procurement workload.

Question 28: Is SPAWAR a formal contractor for VA or is it an agent of VA, spending VA dollars funneled via task orders? (Is SPAWAR a true contractor that bid on a contract or is SPAWAR providing contracting/spending assistance like the Army Corps of Engineers.)

Response: SPAWAR is not a contractor as it receives work authorizations through the IAA process. SPAWAR has not prepared proposals or competed for VA IAA work. In this regard, SPAWAR provides assistance in support of Office of Information and Technology programs. SPAWAR is another Federal agency who performs services on behalf of VA. Dollars are not "funneled" via task order to SPAWAR, but funding is transferred to SPAWAR under the IAA to perform specific tasks.

Question 29: The Office of the Inspector General for the VA has continually identified the same deficiencies in the VA's procurement process, including solicitation, award and contract administration. From March 2008 to March 2009 OIG has issued 10 reports. How is VA dealing with these deficiencies that keep cropping up?

Response: Secretary Shinseki is transforming the VA into a 21st Century organization which includes significant improvements in VA procurement. Through this transformation effort and the establishment of the Office of Acquisition Logistics and Construction, VA's goal is to correct the deficiencies in the procurement process. The establishment of the Office of Acquisition, Logistics and Construction as an individual office allows for the Chief Acquisition Officer to devote full-time oversight of more than $14 billion spent each year on products, services, and construction. Additionally, the transformation focuses on five strategic areas: 1) personnel, 2) training, 3) technology, 4) structure and 5) processes. In the area of personnel, VA is increasing its acquisition and engineering workforce to meet the increased contracting and construction workload. VA has opened a new Technology Acquisition Center (TAC) located in Ft. Monmouth, NJ. The TAC is comprised of experienced information technology acquisition professionals. Many issues associated with contract award and administration often center on poor requirements definition. The Office of Acquisition and Logistics has realigned its functions to better serve its internal customers in executing contracting requirements and will be instituting a program advocacy group which will assist program offices with requirements definition and planning. The TAC also contains an Acquisition Rapid Response Office, available to assist customers the requirements development. VA anticipates regionalizing construction facilities and management execution to place the expertise where the workload is located. In the area of training, in August 2008, VA opened the first acquisition academy outside of the Department of Defense (DoD) to train VA acquisition professionals in three areas. The training programs include: (1) contracting intern program; (2) acquisition certification in contracting, and program/project

management; and (3) contracting officer's technical representatives training. In the area of technology, VA recently implemented eCMS that is fully operational and mandated for use by all contracting officers for solicitation, award, and contract administration. VA is also deploying data mining and business intelligence capabilities to: improve transparency, measure on-time completion, support decision-making and promote acquisition initiatives such as strategic sourcing. In addition, VA has already undertaken initiatives to implement within eCMS many of the recommendations of the OIG reports. These changes enhance accountability and ensure that key processes are standardized across the VA. VA has made changes to its organization and acquisition models. These changes include streamlining the contracting functions, implementation of contract review boards, integrated product teams, and OMB Circular A–123 business reviews. While VA faces many challenges, the Office of Acquisition, Logistics, and Construction is working diligently with its customers to streamline the procurement processes, identify gaps and resolve those in a collaborative manner. Concurrently the process to refine acquisition policy and oversight processes is ongoing.

Question 30: The VA OIG and an independent consulting firm (2008) have found the same problems. Why have none of the recommendations regarding: solicitation, award and contract administration been enacted?

Response: VA conducted a review of its OIG reports with procurement related recommendations. In 2009, OIG issued 8 reports with 22 recommendations relating to procurements, of which 14 are still open. In 2008, OIG issued 12 reports with 54 recommendations relating to procurements, of which 15 are still open. In 2007, 7 reports were issued with 19 reports of which 2 are still open. The summary of these results indicate that VA is implementing and monitoring recommendations and will do so until they are resolved. VA has also implemented within eCMS many features to enforce procurement recommendations contained within the OIG reports, and will continue to pursue implementation of more systematic policy enforcement methods allowing for centralized oversight of all contract actions.

Due in part to these findings, we are currently making significant changes to procurement processes across the VA. For instance, for the first time beginning this year, VA is conducting OMB Circular A–123 reviews of all procurement organizations across the enterprise. These bi-annual reviews will provide a strategic view of training, personnel and organizational shortfalls that must be addressed to improve the total VA procurement mission. Concurrently, procurement management reviews will be conducted for the purpose of enforcing compliance with applicable procurement laws and regulations. VA is also improving procurement training, with the standup of the acquisition academy in Frederick, MD. This academy will train contracting officers, program managers and contracting officer technical representatives. The academy is the first of its kind outside of DoD. Last, we have restructured procurement authority across the VA, reducing the numbers of heads of contracting activity from 33 to 6, which we believe will significantly improve command and control of the procurement workforce across the VA.

○