ENGAGING ENERGY: SMALL BUSINESS RESOURCES AT THE DEPARTMENT OF ENERGY

HEARING

BEFORE THE

SUBCOMMITTEE ON AGRICULTURE, ENERGY, AND TRADE

OF THE

COMMITTEE ON SMALL BUSINESS

UNITED STATES

HOUSE OF REPRESENTATIVES

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### WITNESS

Mr. Charles R. Smith, Director, Office of Small and Disadvantaged Business Utilization, United States Department of Energy, Washington, DC  

### APPENDIX

- Prepared Statement:  
  Mr. Charles R. Smith, Director, Office of Small and Disadvantaged Business Utilization, United States Department of Energy, Washington, DC  
  
- Questions for the Record: None.
- Answers for the Record: None.
- Additional Material for the Record: None.
ENGAGING ENERGY: SMALL BUSINESS RESOURCES AT THE DEPARTMENT OF ENERGY

THURSDAY, JANUARY 18, 2018

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON AGRICULTURE, ENERGY, AND TRADE,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:00 a.m., in Room 2360, Rayburn House Office Building, Hon. Rod Blum [chairman of the Subcommittee] presiding.
Present: Representatives Chabot, Blum, Comer, Schneider, and Lawson.

Chairman BLUM. Good morning. I call this hearing to order. Thank you for joining us at today’s Subcommittee on Agriculture, Energy, and Trade hearing.

The Department of Energy, or DOE, is tasked with ensuring America’s security and prosperity by addressing its energy, environmental, and nuclear challenges through transformative science and technology solutions. This mission extends beyond solely the work of the Department to both the energy industry and the multitude of businesses that work with the DOE to fulfill this task.

Small businesses are integral to the success of the DOE mission and the energy industry. However, the high costs and high technology required in the energy field often leave small businesses struggling to compete with large corporations.

The issue is of key importance to me since the energy industry is booming in Iowa. My home State excels in production of renewable energy such as ethanol and wind-based renewables. Iowa’s energy production accounted for roughly 54,000 jobs and added $5 billion to the State’s GDP in 2016. As a small business owner myself, I understand the challenges that small firms working in a competitive and expensive field face, and I know these small businesses can make an astounding impact on energy if given the opportunity.

Today’s hearing will address the ways in which the Department of Energy is working to minimize the barriers that often exclude small businesses from succeeding in the energy field and highlight the resources the agency offers to small businesses looking to participate in the Federal contracting process. We will hear from the Department of Energy’s Office of Small and Disadvantaged Business Utilization—that is a mouthful—or OSDBU, about the various programs and opportunities the agency offers in an effort to provide small businesses with the resources they need to compete and
succeed in the energy industry. I look forward to hearing from our witness today and having a productive conversation on this issue.

I yield to the Ranking Member of the Subcommittee on Agriculture, Energy, and Trade, Mr. Schneider, for his opening statement.

Mr. SCHNEIDER. Thank you, Mr. Chairman. And Mr. Smith, welcome to the Committee.

Since the Arab oil embargo in the 1970s, U.S. energy policy has been aimed at assuring a secure supply of energy, keeping energy costs low enough to meet the needs of a growing economy and protecting the environment while producing and consuming that energy. Technological advances, consumption changes in the modern economy, and continued interest in renewable energy have driven changes in energy investment. This investment serves as a catalyst to the Federal marketplace, giving small businesses more opportunities to compete through Department of Energy solicitations to help create a cleaner, renewable future.

Each year the Federal Government procures more than $400 billion in goods and services from businesses around the country. Through the vehicle of government contracts, in order to ensure that small businesses receive their fair share of Federal contracting opportunities, the Small Business Act sets forth a governmentwide 23 percent goal of Federal contracts that should be awarded to small businesses.

In order to help increase the participation of small businesses in the Federal procurement marketplace, Offices of Small Business and Disadvantaged Business Utilization, or OSDBUs, have been created throughout the Federal Government. It should be noted that the DOE did not meet its 10.2 percent prime small business goal for fiscal year 2016 and has struggled in the past to provide optimal contracting dollars to small businesses. Needless to say, a concerted effort is critical to DOE fully participating in the Federal policy to engage and hire small businesses. I look forward to hearing more from Director Smith on his plans to reverse this trend permanently given his optimistic written testimony.

OSDBUs promote small business inclusion within an individual agency’s mandate, and also ensure that small firms are treated fairly and equitably in the contracting process. In this capacity, OSDBUs serve as one of the primary advocates for small firms and offer them information and guidance on contracting opportunities, both prime and subcontracting. Additionally, they work with the Small Business Administration and other agency officials to determine the small business goals for their agency.

As evident by their unique positioning, OSDBUs enhance the ability of small businesses to compete more successfully for Federal Government contracts and serve a vital role in the procurement process. Within the recent growth and Federal contract spending, small firms should be receiving opportunities commensurate with this increase.

The DOE OSDBU goal is to provide maximum practicable opportunities in the Department’s acquisition to all small business concerns. It is the known policy of the DOE to provide timely information to the public regarding DOE’s forecast of future prime contracting opportunities and subcontracting opportunities which are
available via the Department’s major site and facilities manage-
ment contractors.

The OSDBU creates its annual Small Business Forum and Expo
to connect small businesses with various DOE offices and programs
to enhance DOE’s overall mission of ensuring America’s security
and prosperity. As an additional resource, the Energy Department
runs a mentor-protégé program designed to encourage DOE prime
contractors to assist small disadvantaged businesses certified by
the Small Business Administration. Through mentor-protégé pro-
grams, small businesses are able to receive a broad array of busi-
ness development assistance through various methods, including
training, obtaining certificates, and in some cases receiving loans
or noncompetitive subcontract awards. These benefits not only help
protege firms contract with the government, but also assist them
in building up their capacity. Doing so enables them to successfully
compete in the marketplace at the conclusion of the mentor-protégé
agreement. It is vital that the DOE participate in the Federal mar-
ketplace to the maximum extent practicable so they have access to
those individuals who are able to combat the dangers of climate
change that are before us already.

Today’s hearing will provide the background and ideas needed to
understand the current state of our investment in small businesses
participating in the energy economy and determine whether addi-
tional investments are needed to safeguard our aging infrastruc-
ture while at the same time bolster small businesses.

I again thank Director Smith for being here and look forward to
gaining more insight as to how we can make Energy Department
offices more effective in meeting the mission to provide small busi-
nesses with acquisition opportunities.

Thank you, and I yield back.

Chairman BLUM. Thank you, Mr. Schneider.

If Committee members have an opening statement prepared, I
would ask that they be submitted for the record.

I would like to take a moment to explain the timing lights for
you. You will have 5 minutes to deliver your testimony. The light
starts out as green. When you have 1 minute remaining the light
turns to yellow, and at the end of the 5 minutes, guess what? It
turns to red. And we ask that you try to adhere to that time limit.

Our first and only witness today is Mr. Charlie Smith. Mr. Smith
serves as the director of the Office of Small and Disadvantaged
Business Utilization at the United States Department of Energy.
Before his time with the DOE, Director Smith worked in various
public and private sector roles, including as the director of New
Jersey Department of Labor and Workforce Development and the
executive director at JPMorgan Chase. Additionally, Director Smith
served 5 years as an officer in the United States Navy, and we
thank you for that service, both then and now, and for joining us
today, Director Smith. The floor is yours.

STATEMENT OF CHARLES R. SMITH, DIRECTOR, OFFICE OF
SMALL AND DISADVANTAGED BUSINESS UTILIZATION

Mr. SMITH. Chairman Blum, Ranking Member Schneider, and
members of the Subcommittee, thank you for the opportunity to
testify here today on behalf of the Department of Energy on DOE’s
small business initiatives. I am the Director of the Department of Energy’s Office of Small and Disadvantaged Business Utilization, more succinctly referred to as the DOE OSDBU. I began work in this role in September 2017, and have since been working to improve the agency’s small business goal achievement through collaboration with the Small Business Administration and DOE’s contracting activities.

The Department of Energy awards billions of dollars to small businesses annually, and has met the prime and subcontracting small business goals established by the SBA since 2015. Moving forward my focus will be to continue meeting DOE’s small business prime and subcontracting goals while improving the agency’s engagement and performance in the four established socioeconomic subcategories.

My brief testimony today will touch upon three topics. First, an overview of the DOE Management and Operating, M&O, business model. Second, current DOE OSDBU initiatives promoting small business engagement. And finally, examples of other DOE programs that aid small businesses.

The Department of Energy Organization Act of 1977 created the Department of Energy, and continued the management and operating laboratory structure created for the Manhattan Project. This business model, unique in the Federal Government, continues today, utilizing the private sector through a network of independently managed laboratories to meet the agency’s missions. DOE’s unique laboratory structure created the need for a new small business-goaling approach because the small business administration relies on the Federal Procurement Data System, FPDS, to assess prime small business activity. However, since M&O’s subcontracting accounts for 85 percent of agency spend, the FPDS calculations alone have historically underrepresented DOE’s engagement with small businesses. To address this underrepresentation, the Consolidated Appropriations Act of 2014 authorized DOE to count first-tier M&O subcontracts awarded to small businesses towards its small business prime goals. These subcontracts were reported to the Small Business Administration through a data collection process named Management and Operating Subcontract Reporting Capability, MOSRC. For fiscal year 2017, MOSRC combined with FPDS, shows that DOE contributed over $3 billion to small businesses.

The DOE OSDBU provides a broad range of resources to small businesses, such as posting an updated forecast of contracting opportunities. This posting is commonly referred to as the Headquarters Acquisition Forecast, and serves as a business development tool to help small businesses respond to agency needs. Small businesses seeking the full range of DOE needs are guided to research both the Headquarters Acquisition Forecast and the DOE M&O contractors’ additional separate acquisition forecasts, which lists upcoming requirements unique to the respective facilities.

The Department of Energy also hosts an annual Small Business Forum and Expo where small businesses can connect with DOE buyers, receive business development counseling, exchange best practices, and be introduced to various DOE small business initiatives. This year, the 3-day event will be in Houston from May 22nd
through the 24th, and is expected to draw over a thousand attendees.

In 2017, in an effort to improve service-disabled veteran-owned small business subcategory performance, DOE hosted its first outreach event specifically targeted to veteran-owned small businesses and SDVOSBs. Over 200 attendees attended in a full day of training and matchmaking with DOE program elements.

In fiscal year 2018, DOE OSDBU is planning additional forums to specifically advocate for HUBZone small businesses. These events will be held in HUBZones near DOE sites, and will provide businesses with business development training and matchmaking sessions to connect new businesses with DOE buyers.

The Department’s OSDBU office also has a Mentor-Protégé Program for prime contractors to provide business development opportunities to small businesses. DOE OSDBU has a concerted effort underway to double the agency’s 28 mentor-protégé agreements by the end of fiscal year 2019.

The Department’s OSDBU office actively seeks to participate in other outreach events to grow our network of small business partners. In fiscal year 2017, the DOE OSDBU office participated in 32 outreach events for over 10,000 total attendees, spanning all small business socio economic categories.

Other agency small business initiatives include the Small Business Vouchers program, which enables small businesses to tap into national laboratory intellectual and technical assets to overcome various commercialization challenges. Since March 2016, the Department’s Small Business voucher program has awarded vouchers to 114 businesses in 31 States, worth a total of $22 million.

DOE’s Gateway for Accelerated Innovation in Nuclear is another voucher program that provides vouchers to small businesses involved in the application to advance nuclear technologies. Additionally, the agency’s small business innovation research and small business technology transfer programs spur technological innovation through DOE grants to small businesses. In fiscal year 2017, the programs awarded $242 million to small businesses.

In conclusion, I share and appreciate the Committee’s effort to ensure Federal Government engagement with small businesses. I welcome any questions and look forward to working with you, Mr. Chairman, and the Subcommittee to further any efforts towards that goal.

Chairman BLUM. Thank you, Mr. Smith.

I would now like to recognize the gentleman from Kentucky, Mr. Comer, for 5 minutes of questioning. And before you start, I would also like to recognize the Chairman of our Committee as a whole, Chairman Chabot. Thank you for being here today.

Mr. Comer, you are recognized for 5 minutes.

Mr. COMER. Thank you, Mr. Chairman. And welcome to the Committee.

My first question, you mentioned in your testimony that 85 percent of Department spending is done through the management and operating or M&O contractors to the DOE laboratories. Do the prime contractors offered to these DOE M&O contractors in any way differ from those offered directly from the agency?
Mr. SMITH. I appreciate the question. You were asking if the contracts the agency has with the M&O operators differ from our headquarters?
Mr. COMER. Yes.
Mr. SMITH. I would not feel comfortable answering that.
Mr. COMER. Okay.
Mr. SMITH. I do not know the answer is what I should tell you.
Mr. COMER. Okay. The next question. Many small businesses are hindered by excessive regulation, obviously. What does the process look like for small businesses to apply for an exemption to the Energy Conservation Standards program?
Mr. SMITH. It is my understanding, Congressman, that to apply for that exemption a small business would contact the Department’s Energy Efficiency and Renewable Energy, EERE, office, which administers those exemptions. The OSDBU office, in our mission to advocate on behalf of all small businesses that want to engage with the Department would be to refer any such inquiry to EERE.
Mr. COMER. Okay. In the event a small business reaches out to your office with concerns about undue restrictions on contracting competition, how does the Office of Small and Disadvantaged Business Utilization advocate on behalf of the small business? What does the process look like?
Mr. SMITH. I thank you for that question, Congressman. As you are likely aware, I am sure you are aware, that is section 15(k)(17) of the Small Business Act. A recent GAO audit noted that was a deficiency in an audit they conducted prior to my arrival at the agency. We have worked hard over the past few months to correct that deficiency, and now there is a process in place. And if I could briefly describe that for you, it involves, we have placed on our site a mailbox that allows a direct inquiry. That mailbox is monitored daily. Upon receiving such a notification, it is our office’s job to communicate to the contracting officer, let them be aware of the situation and ask them for a response to the notice, and to also notify the competition advocate. We then communicate that to the small business, and also communicate that there are other avenues for them to pursue that. It is a written policy that is now in place. We have the mailbox available and these are things that we did not have before. And, I would just like to add, it was convenient that at the time we instituted this at the end of last year, we received such a complaint and I was pleased to say that the contracting officer and the competition advocate amended a request for proposal to the satisfaction of the contracting officer and the small business concern.
Mr. COMER. I have a major DOE site in my district in Paducah, Kentucky, the Gaseous Diffusion Plant, and I get asked this question a lot, what is DOE’s definition of a small business? What classifies as a small business versus a big business?
Mr. SMITH. Well, it depends. It is the Small Business Administration and various NAICS codes will determine which is a small business. But I would certainly encourage any business that has that question to reach out to the office.
Mr. COMER. And I believe, Mr. Chairman, it is somewhere around $30 million. Does that sound right, $30 million in sales?
Would that be? But regardless, one of the complaints that I get from my small business vendors and contractors is once you get a dollar past the minimum definition, then you are competing against multibillion dollar publicly traded companies. So a lot of small businesses that contract with not just the DOE but the entire Federal Government suggest that maybe we should look at having different, you know, a second level. Because once you get past that first level, you are suddenly competing against multinational global companies that are hard to compete with if you are still between a small and a midsize business.

So that is just one of the things that I think maybe we should look at in the Committee, Mr. Chairman in the future. But thank you for your testimony and I yield back, Mr. Chairman.

Chairman BLUM. Thank you, Mr. Comer.

Ranking Member Schneider is now recognized for as long as he would like.

Mr. SCHNEIDER. Thank you. And again, Mr. Smith, thank you for your testimony this morning.

I will start my questions. The mission statement for the Department of Energy talks about protecting our security and prosperity around energy, environment, and nuclear challenges, but concludes through transformative science and technology solutions. And small businesses at the cutting edge of innovation and entrepreneurship are often critical to that.

So my first question is you are relatively new to this position. Have you found at all, could you describe the culture within DOE and how it values or emphasizes entrepreneurship and innovation?

Mr. SMITH. Thank you, Congressman. And yes, I am new. I have been in the position 5-1/2 months. And your question was my question upon arriving there, and I will say that the Department is very aware that its small businesses are on the cutting edge of technology and innovation. And I would point to the SBIR/STTR programs that are prominent premier programs in the Department, as an example of the agency’s efforts to seek out and assist small businesses on the cutting edge of research and development.

Mr. SCHNEIDER. So one of the things I looked at, to promote opportunities the agency is required to assign small business technical advisers. My understanding is that has been a challenge. Two questions around that. The second question actually is how are you trying to expand that and address the challenge? But given that constraint, how have the Expos provided an opportunity to reach out and attract small businesses?

Mr. SMITH. Thank you, Congressman. And yes, I am new. I have been in the position 5-1/2 months. And your question was my question upon arriving there, and I will say that the Department is very aware that its small businesses are on the cutting edge of technology and innovation. And I would point to the SBIR/STTR programs that are prominent premier programs in the Department, as an example of the agency’s efforts to seek out and assist small businesses on the cutting edge of research and development.

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Mr. SMITH. Thank you, Congressman. I will address the SBTA issue. It has been a challenge, but it has been a challenge primarily because we have taken it seriously. There are a number of requirements for an SBTA, namely that I, as the OSDBU director, would have supervisory authority, that the SBTA would be located in the contracting office, and that their primary responsibility would be to assist the Small Business Administration’s Procurement Center representative. And general counsel, the OSDBU office, our Office of Acquisition Management, and Human Capital have worked in concert to finally put this together. It was in December that I signed the letters of assignment to our two non-NNSA SBTAs. The two NNSA SBTA, small business technical advisers, they had
been assigned in, I believe, November, and the position descriptions for those SBTAs are being finalized this week, actually. So, it has been a challenge, but I believe it has been worked out in a most thorough fashion, and I look forward to getting a review from either the SBA or GAO to confirm that for me and for the agency.

Mr. SCHNEIDER. Okay, I do not want to give up on the Expos, but, again, I think the two pieces. In a culture that promotes and celebrates entrepreneurship, the SBTAs should be a champion of that and hopefully a desirable position that people are seeking. But absent that, you do the annual Expo. How many companies will typically come? You said over a thousand?

Mr. SMITH. A thousand attendees. At last year’s Expo we had, I believe, 741 business representatives, I should say, maybe less businesses than that. There might have been multiple members from a business. The others are internal stakeholders, our program managers from the various sites. So last year the total attendance was in the neighborhood of the high 800s.

Mr. SCHNEIDER. Okay. And typically, this year is Houston. Where has it been in past years?

Mr. SMITH. Last year it was in Kansas City. It has been in Atlanta. I believe it was in Phoenix one of these recent——

Mr. SCHNEIDER. So it moves around the country quite a bit. How do you measure the success, the outcome, the ability of these Expos to generate—what we want is more contracts for small businesses, more small businesses saying this is an area I want to come into, more innovation that will give us the solutions we need for our future.

Mr. SMITH. We measure that to a degree. I am not confident we measure it maybe as well as we can. We do have post-Expo Forum and Expo surveys to those who participated. We do ask if they have been introduced to acquisition opportunities. But as you can imagine, a survey that comes out 6 months after a Forum and Expo may be too short a time period; that maybe there needs to be a later reconnect. But there has been an effort to some degree to determine the efficacy of the event and the utility of the event.

Mr. SCHNEIDER. Well, obviously, on this Committee, the Small Business Committee, we all have an interest in promoting small business growth and development. As Americans, we have a profound interest in our energy future, energy security, and having that entrepreneurship, having those small companies, startup companies find a way to develop new ideas and take those new ideas from concept to commercialization is crucial. Having access to these markets obviously is important to them.

And I think if I can emphasize the point about a $30 million company, a startup is different than a $10 million company; $10 million is different than $30; $30 is different than $100. The more we can do to help these companies grow, create American jobs, the better it is, I think, for our economy and our future.

With that, I yield back.

Chairman BLUM. Thank you, Mr. Schneider.

Mr. Smith, you are new to this position. I think you said 5-1/2 months, is that correct?

Mr. SMITH. Yes, Mr. Chairman.

Chairman BLUM. Can you give me just briefly your background?
Mr. SMITH. Sure. When I left the Navy after college—I spent 5 years in the Navy—from there I went and served in New Jersey government and political positions. I was a deputy commissioner of banking and insurance. I was a director of intergovernmental affairs for Governor Christie Whitman. I most recently served in Governor Christie’s administration as a director at the Department of Labor. In between that last position I served 13 years in the investment banking business. Small business is where it started out. For a couple years we formed a joint venture with Bear Stearns. Bear Stearns, as we all know, was subsequently——

Chairman BLUM. You were working focused on small businesses then?

Mr. SMITH. At that time I was focused on actually securing business from city and county governments, most specifically in the purchase of delinquent property taxes for the investment bank. There was a lot of headline risk associated with that type of business. And consequently, JPMorgan shut the business down. So that was——

Chairman BLUM. How big is your department right now? How many people?

Mr. SMITH. Eleven full-time employees including myself.

Chairman BLUM. And you report to who?

Mr. SMITH. I report to the deputy secretary.

Chairman BLUM. Okay. And do you know how many employees are in DOE total?

Mr. SMITH. We have about 105,000. I believe there are 12,000 government employees and 90,000 contracted employees.

Chairman BLUM. Wow. It takes my breath away. You have 11 employees. Do you feel you have an effective voice? I know 5-1/2 months is not a long time. I mean, are you being heard or have they got you in an office down next to the furnace in the basement, so to speak?

Mr. SMITH. No. No, Mr. Chairman. We are being heard, certainly. There is a strong commitment to small business, because I think DOE has recognized, through its M&O business model, the great innovation in energy, no pun intended, that small businesses bring to our endeavors. Our budget, our office budget is $3 million, but for 11 full-time employees, we have 90 small business program managers that, while they do not answer to me directly, we work closely with. They are all committed to expanding the engagement with small businesses. They are all extraordinarily knowledgeable in their respective areas of expertise at these labs and at these sites.

Chairman BLUM. How many deputy secretaries are there in DOE?

Mr. SMITH. There is one deputy secretary, sir.

Chairman BLUM. And you report to that person, correct?

Mr. SMITH. Yes.

Chairman BLUM. Okay. Thanks for giving me your background. I still have a small company and I have owned small companies my entire business career. There are companies out there that charge six figures to small companies to help them navigate the maze that is the Federal Government and the bidding process, and the approval process is beyond belief, at least it was. And our com-
pany, a software development company, was trying to get involved in international trade. We wanted to sell more outside the United States. Now, I, as a small business owner, should spend $100,000 or more to become approved by the Federal Government to be an approved vendor to maybe get involved in a bid or letting? To me that is a barrier to entry. And very few small businesses, and I mean small businesses, less than $30 million, $50 million, they are going to shell out 100 grand for a maybe. Why should it be that way? Why should this be so difficult?

And I get it. DOE and other agencies are like, well, you do not want to deal with a company that is here today, gone tomorrow. You have to do some checking. I understand that. But really, I should have to spend $100,000 where I could be hiring more employees, investing in my company, to navigate this? I mean, would you agree with that statement? Or just comment on that, would you please? And then what are you going to do to try to make that go away for the DOE?

Mr. SMITH. Well, I appreciate that concern, Chairman. And I would agree that it is not right that a company would need to spend such an extraordinary amount of money in order to do business with the Federal Government. I will say this, that our office, our Small and Disadvantaged Business Utilization Office, and the other 24 Federal offices of Small and Disadvantaged Business Utilization, we offer a lot of the counseling, the direction, the instruction in how to interact or best interact with the Small Business Administration. I think between the OSDBU offices and the Small Business Administration, and maybe we need to make small businesses more aware of the services we provide, but——

Chairman BLUM. The small businesses that do business with DOE or are trying to do business, do they have to be approved? An approved vendor? Is there an approval process? I am not talking about submitting a bid or trying to get a piece of the business. I am talking about I know on the trade side back when we did this 10 years ago, it was like you had to be approved first, which I understand part of that. Do you have to be approved to do business with the DOE? And if you do, how lengthy is that process? How complicated is that process? How many inches of pages is that process?

Mr. SMITH. Mr. Chairman, approved, per se, I do not believe there is an approval process. I believe there may be requirements.

Chairman BLUM. Could you check that if you are not sure, and you are new so I will give you a pass on that, but could——

Mr. SMITH. I would be happy to check that, Mr. Chairman.

Chairman BLUM.—you check that and get that back to me personally?

Mr. SMITH. Yes, sir.

Chairman BLUM. If you have to be approved and what that process is?

Mr. SMITH. Yes, sir. Will do.

Chairman BLUM. You are not aware of it, though?

Mr. SMITH. I am not aware of that. I am willing to gather that specific projects will have specific requirements necessary for businesses to compete in them, but as far as an agency-wide approval, I am not aware.
Chairman BLUM. I will reserve the balance of my time. And I will now yield to—I call him coach, but will yield to Mr. Lawson for 5 minutes.

Mr. LAWSON. Thank you, Mr. Chairman. And Mr. Smith, sometimes when you come in a little tardy you might have asked the question. So I had a question for you and you can just tell me, you know, whereas if you have said something about it.

One provision under the Small Business Act includes a requirement to respond to notifications and solicitations unduly restrict the ability of small businesses to compete for contracts. And so what I was concerned about, the initiatives that you have begun to help mitigate, any restricted contract practices in agents. And I think you referred to some of it a few minutes ago, but it would give you another chance to respond to it so I would have a little bit better knowledge.

Mr. SMITH. Thank you, Congressman. I said earlier that the GAO report had noted as a deficiency the agency’s 15(k)(17) undue restriction facilitating those for small business concerns. I believe we have adequately addressed that. It is what I consider an accomplishment in my short tenure, so far, at the agency. But, as of a couple months ago, we now have on our website a dedicated mailbox for small businesses to communicate directly with us regarding any concerns they have that a contracting opportunity may be unduly restrictive. We monitor that mailbox daily.

We did receive an undue restriction notice that was submitted to us by a small business concern. We forwarded that small business concern to the contracting officer and to the competition advocate, and within 48 hours they had amended the request for proposal both to their satisfaction, because it became a better request for proposal, and to the small business concerns satisfaction that they had been heard and responded to in a manner that they deemed helpful.

Mr. LAWSON. Okay. And this is always the $10 million question. What can Congress do to support small business and DOE in helping DOE carry out the small business contracting goal?

Mr. SMITH. In DOE, where we have been successful has been at the top line. We have been successful at hitting the overall small business prime and subcontracting goals. Where we have struggled, and many agencies have struggled, has been in the socioeconomic subcategories, specifically HUBZones and service-disabled veteran-owned small businesses. The HUBZone frustration amongst my colleagues, as I have come to realize in other agencies, has been kind of the movement of the zones; the fact that when a business becomes successful in a HUBZone and people begin to receive greater compensation and move out of the HUBZone, and some of the difficulties in maintaining kind of an accurate business community that we can identify with and engage with that satisfies Congress’ desire to assist these underutilized businesses and our desire to engage them. I think if we could find some stability in finding a way to make that, one, serve the purpose of the legislation, and two, maintain some stability, that would be extraordinarily helpful.

Mr. LAWSON. Okay. And before my time runs out here, how does DOE define small disadvantaged businesses?
Mr. SMITH. Thank you, Congressman. DOE, these businesses are defined for us by the Small Business Administration, and the four socioeconomic categories of women-owned small businesses; service-disabled veteran-owned small businesses; historically underutilized businesses, HUBZones; and the 8(a), the disadvantaged businesses. And those are the definitions that we use in the Department of Energy.

Mr. LAWSON. Mr. Chairman, if I may for one second, are those businesses given preferential treatment?

Mr. SMITH. Could you elaborate, Congressman?

Mr. LAWSON. What I mean by that, once you have them in the system, do your staff take those businesses and say we kind of need to work with these businesses because they are now in the system that we have? Should we try to make sure that we do some contracting work with them because of the category that they are in?

Mr. SMITH. The short answer to that is yes, we do. We work to advocate set-asides for those categories. In fact, there is an initiative that I intend to undertake here in the short term, in the form of a sample letter to our 90 or so small business program managers to ask that their program elements pledge to do two set-asides for HUBZones and service-disabled veterans and women-owned small businesses in order to retain their focus, if you will, on providing that preference.

Mr. LAWSON. Okay. Thank you, Mr. Chairman. I yield back.

Chairman BLUM. Thank you, Mr. Lawson. That is a good line of questioning. And toward that end, the subcategories, you know, service-disabled and women-owned businesses and minority-owned businesses, is there a plan in place? You said we are missing the numbers. We are hitting at the top line for small business, but we are missing the numbers in the subcategories. Is there a plan in place or not today?

Mr. SMITH. Thank you, Mr. Chairman. I have established three priorities for fiscal year 2017, and they are in order, one, improve socioeconomic subcategory performance; two, make it easier for small businesses to do business with our agency; and three, to improve our office's relationship, working relationship with our internal stakeholders, our small business program offices, and our contracting offices.

And directly to the plan of socioeconomic improvement, the initiatives underneath that would be the set-aside, the request for two set-asides in the socioeconomic subcategories to each of our program elements, an initiative where I mentioned in the testimony, last year we had our first annual Service-Disabled Veteran-Owned Small Business Day. It was specifically dedicated to service-disabled veteran-owned small businesses, so that we could give them a day to interact with our program elements who were there to offer them opportunities and matchmaking sessions.

What we are going to do with the HUBZones, our intention is to visit three HUBZones this year. At the moment we are looking at one near—we are seeking one near—I am going to say it wrong, excuse me—we are seeking one between Morgantown and Pittsburgh, where we have a lab and we have a facility.

Chairman BLUM. So there is——
Mr. SMITH. There is a plan.
Chairman BLUM. There is a plan for the subcategories——
Mr. SMITH. Yes.
Chairman BLUM.—Mr. Lawson was asking about? Can you pro-
vide that plan to this Committee?
Mr. SMITH. Yes, sir.
Chairman BLUM. And it already exists you are saying?
Mr. SMITH. Yes, sir.
Chairman BLUM. Okay. So in the next 60 days you can provide
us that plan and I will distribute it to the Ranking Member and
Mr. Lawson and the other members, as well as you are going to
provide us do companies have to be approved to even bid on busi-
ness, and what is that approval process. And I am a little bit dis-
appointed you do not know that after 5-1/2 months, if they have
to be approved and what the process is, because I think that is a
real barrier to entry, having to go through that process. At least
what our small company had to do, it was onerous. It was unbeliev-
able. And expensive. And most companies say, no, I cannot afford
it. You have to get lawyers involved. Come on. They should not be,
especially when we are talking about small business. I think you
would agree.
Mr. SMITH. Mr. Chairman, I appreciate and agree with that,
and I apologize to the Committee for not having an answer for you
on that.
Chairman BLUM. Another question is small business, I know
there are games that can be played out there and I have heard
them throughout the years with small businesses and getting cat-
egorized certain ways by doing certain funny things. I assume a
small business cannot be a subsidiary of a big business. You know,
they set up this new small business and they go, hey, we are now
a small business and we are going to go out and get a chunk of
dough in addition to the other chunk of dough we are getting from
the Department of Energy because now we are a small business,
but they are not really because the ownership mirrors the owner-
ship of the big corporation. I know you are new in the job. Are you
aware of that game and, hopefully, that cannot be played at DOE?
Do you know?
Mr. SMITH. Yes, Mr. Chairman, I am new at the job and, yes,
I am aware of that game. And I am not aware specifically, but I
do know this concern is investigated to address specifically that
type of situation you described. I would be happy to get back to you
with the particulars on how that is done.
Chairman BLUM. Women-owned business, minority-owned busi-
ness, service-disabled businesses, these are great goals. And I hope
your plan does not say we are going to do these things. I hope it
says here is a number we want to hit. Here is how we measure
this. I am a business guy, so far too often in government we do not
measure things. And we just say, well, we are going to do X, Y, and
Z. And as Einstein said, if X, Y, and Z is what we did today and
we are going to do X, Y, and Z tomorrow and expect different re-
results, that is insane. So I like to measure. You know, what is it
today? Mr. Lawson’s questions were good on that point. What are
we at today? And I hope your plan says, and here is the goal. Now,
granted, you may not hit it. We get that. Nobody is perfect, but it
is nice to say here is where we are at today; here is how we are measuring this, especially on these subcategories. Any thoughts there?

Mr. SMITH. Yeah, thank you, Mr. Chairman. And having spent many years in the investment banking world, I understand the need for measurement of performance. And in this initial period of my time at DOE, I am looking for baseline numbers. So the short answer to your question is yes, but there is some research that needs to be involved to see if we are indeed moving more businesses, the numbers as far as how much does the Forum and Expo contribute ultimately to the number of small businesses that are being engaged by the Department, et cetera. But we do have initiatives in place. There are some metrics, but I will be candid with you. There has not been a well-enough established baseline to give definitive metrics.

Chairman BLUM. Well, I am happy to hear, and thank you for your candid answer. Candid is good. I am happy you are from the private sector, and I think the incentives in government, and you probably would agree with this, to me as a private sector guy, sometimes seem upside down totally. And so I think if you can bring some private sector thinking into your job that would be a good thing overall.

And please let this Committee know if you feel like you are not being paid attention to sufficiently in the Department. I think it was Mr. Lawson asked about, what can we do as a government to help you out? It is our job to make sure they listen to you. So I am serious. If you get some great ideas and you feel like they are not being listened to, let us know, let me know, and we will go to bat for you.

Do any of the members have any further questions?

Mr. LAWSON. Mr. Chairman, I do not have a question, but I just want to say there is a big push I know since I have been here, and I am new, to really do something about getting veterans not only into the agricultural business, but into business in general that are coming out of the military. And so that is going to be a significant push by all members, you know, especially in our areas. And so I know that even though they are very disciplined, but there are some areas where they might fall down a little bit when you talk to the staff because they have never been into this before. They spent 4 years in the military or something of this nature, but I just wanted to bring it out that there is going to probably be a lot more concern about are we really working with our vets simply because, I mean, all over America they are saying we have got to do some more for our veterans.

Chairman SMITH. Would you like to comment on that?

Mr. SMITH. Well, I would like to say, Congressman, I could not agree with you more. I have been heartened in my short time to notice the Small Business Administration’s focus, or at least attention, to this very issue. And I am confident with your eye on this, I think we will address what I agree is an appropriate concern. As a former Service member myself, I full well knew the feeling when I left, how do I do this? What do I do now? And there is extraordinary talent in that group of people. So I appreciate your concern on it.
Chairman BLUM. Seeing no further questions, I would like to thank our witness, Director Smith, for being here today. I appreciate and acknowledge, I think we all do, 5 months on the job you are not going to have every answer. It is not easy. We appreciate your testimony and we also appreciate the Office of Small and Disadvantaged Business Utilization’s continued efforts to provide small businesses in the energy sector the resources they need to compete. Hopefully, through continued efforts on behalf of the Department and the OSDBU, the processes and programs in place to assist small businesses will continue to become more effective and truly allow small businesses the opportunity to grow and scale in such a very important sector of the United States economy. As chairman of the Subcommittee on Agriculture, Energy, and Trade, I look forward to continuing to work with you and the Department of Energy to achieve this goal.

Now, I ask the unanimous consent that members have 5 legislative days to submit statements and supporting materials for the record.
Without objection, so ordered.
We are now adjourned.
[Whereupon, at 10:34 a.m., the Subcommittee was adjourned.]
APPENDIX

Prepared Testimony and Statement for the Record of

Charles R. Smith, Director, Department of Energy,
Office of Small and Disadvantaged Business Utilization

Before the

United States House of Representatives
Small Business Committee Subcommittee on Agriculture, Energy
and Trade

January 18, 2018
Chairman Blum, my name is Charlie Smith and I am the Director of the Department of Energy (DOE), Office of Small and Disadvantaged Business Utilization (OSDBU) appointed in September 2017. I also serve as a council member to the Office of Small and Disadvantaged Business Utilization Council and committee member with the Small Business Procurement Advisory Committee. I have been working in this capacity with a focus on small businesses to move the needle on this Department's goal achievement through collaboration with the Small Business Administration (SBA) and DOE’s contracting activities.

DOE awards billions of dollars to small businesses every year and has successfully met the prime small business goals established by SBA since 2015. My focus during my time with this Department is to not only continue to meet our prime contracting and subcontracting goals, but also the subcategory goals like Woman-owned, HUBZone, Service Disabled Veteran and 8(a) disadvantaged owned businesses.

In my testimony, I will provide DOE resources available to small businesses as well as outline our business model and discuss the multi-lab focus on small businesses engagement. I will cover these topics in the following order:

- First, an understanding of our business model
- Second, how that business model plays into the labs that are foundational to the function of this Department
- Finally, what resources those labs and the Department as a whole provide to small businesses to help them contract with our Department

Department of Energy Business Model

The Department of Energy Organization Act of 1977 created the cabinet-level US Department of Energy, combining defense responsibilities that included the design, construction, and testing of nuclear weapons dating from the Manhattan Project effort to build the atomic bomb; and a loosely-knit amalgamation of energy-related programs previously scattered throughout the Federal government. Neither the scientific expertise responsible for the physics underlying the development of the weapons nor the manufacturing and engineering expertise that produced the weapons had existed within the Federal government. The government thus acted as federal project manager, relying on scientists from academia and the engineering and construction skills of industry.

This approach, unique in the federal government, has continued at the Department, effectively tapping into private sector expertise through the network of independent government-owned, contractor-operated (GOCO) laboratories that meet the Department’s evolving missions through the benefit of America’s innovative and responsive business sector.

These laboratories are run by management and operating contracts (M&O), a term used to describe the contracts that are central to the DOE’s business model.
DOE relies upon the M&O contractors for the performance of the substantial part of the Department’s mission—approximately 85 percent of DOE’s obligations flow to the M&O contractors. That reliance on the private sector’s expertise allows DOE’s federal staffing to be a fraction of what would otherwise be necessary to conduct its diverse missions. M&O contracts have received special regulatory treatment in the Government. Federal Acquisition Regulation (FAR), at Subpart 17.6, recognizes and codifies the special identity that M&O contracts have with an authorizing Department. The FAR coverage recognizes and authorizes Department acquisition regulations that deal with the special nature of M&O contracts.

As of December 30, 2017 DOE has achieved 8.64% of the 10.2% prime small business goal target. In the subcategories, we have achieved 3.08% of the 5.0% goal for Small Disadvantaged; 2.07% of the 5.0% goal for Woman Owned Small Businesses; 0.38% of the 3.0% goal for Service Disabled Veteran Owned Small Businesses; and .34% of the 3.0% goal for HUBZone. DOE is projected to meet the 10.2% goaling achievement but unclear of the grade we will achieve due to the new scoring process being implemented by the Small Business Administration.

The DOE Labs and Small Business

Most of the Department labs are operated by M&O contractors. These contracts are reported through a data collection process called Management and Operating Subcontract Reporting Capability (MOSRC). The awards the M&Os make are considered subcontracting, however, because they are treated as an extension of DOE, their awards are counted as primes. The data collection of these subcontract awards being counted as prime awards is tracked through MOSRC.

The core objective of having established MOSRC is to collect and provide the data in a manner acceptable to SBA that would enable DOE to receive full credit toward achievement of DOE small business prime contracting goals for its 1st-Tier M&O subcontracts.

In measuring the engagement of federal agencies with small businesses, SBA relies on the Federal Procurement Data System-Next Generation (FPDS-NG) to record all federal obligations flowing into prime contracts. As DOE’s procurement model is that of a subcontracting Department, DOE believes the FPDS-NG calculations alone under-represents the Department’s engagement with small businesses through their M&O’s subcontractors, which account for approximately 85 percent of Department spending.

This data-gathering approach enables DOE to more accurately portray the Department’s ongoing commitment to working with small businesses. This capability is essential in achieving recognition for DOE’s unique business model that leverages the resources of our M&O contractors to accomplish DOE’s mission, creating the largest flow, upwards of $2 billion annually, of appropriated funds to small businesses of all the civilian agencies.
To this end, the Consolidated Appropriations Act of 2014, Title III, Section 318 authorized DOE to count 1st-Tier subcontracts awarded by its M&O contractors to small businesses toward accomplishment of its annual small business goals. DOE’s M&O contractors have independent, diverse business systems that they use to manage subcontracting activities. Managed by the external resource of DOE OSDBU, MOSRC centrally collects and reports the 1st-Tier small business activity of DOE’s M&O contractors to SBA and the general public.

DOE resources and regulatory support for small businesses

There are several resources and regulatory support functions provided to small businesses. Some have been established for a while and some are new. We listen to the customer and continue to expand resources based on the communication and demand for process improvement.

We “advertise” small manufacturer’s exemption in each applicable consumer products energy conservation standards rule. Under the energy conservation standards program, the Secretary may determine via an exemption application if a small manufacturer (businesses with less than $8M in annual revenue) may be exempt from all or part of any energy conservation standard for up to two years. Although there have been a few exemption applications recently, we believe this exemption is important to highlight as a resource for small businesses constrained from entering a certain covered product market.

We point out any small business impacts to SBA Office of Advocacy during the EO 12866 interagency review process. OSDBU works with the SBA Office of Advocacy to share proposed or final regulatory language with small businesses for their input.

We recurrently post an updated forecast of contracting opportunities. Making forecasts available to identify upcoming Department requirements was established by Public Law 100-656, the Business Opportunity Development Reform Act of 1988, amending the Small Business Act to emphasize acquisition planning. The law requires agencies to compile and make available projections of contracting opportunities that small, minority, veteran-owned, and women-owned businesses may be able to perform. These rosters of planned service and supply requirements of the Department serve as a business development tool, guiding small businesses in their use as an internal acquisition planning resource—as requirements are initially posted, stakeholders can contact the Department’s Small Business Program Managers, to discuss their capabilities to perform the listed need. This engagement, in the early stages of acquisition planning helps procurement personnel shape the acquisition into a more small business friendly format. DOE has its legislated Headquarters Acquisition Forecast publicly available, updated on a recurring basis. Small businesses seeking the full range of Department needs are also guided to research the 17 DOE M&O contractors’ additional, separate acquisi-
tions forecasts, which list upcoming requirements unique to their respective facilities.

We provide business forms on our website, email, phone access so that companies can let us know when they feel that there has been an undue restriction on competition. When small businesses seek redress for alleged action or inaction of the Department, DOE OSDBU is charged with fielding such concerns. A challenge to the direct intervention and resolution of such issues is steered by the privity of contract held between the contracting officer and the contractor. As advocate for the small business in this case, DOE OSDBU guides and recommends, but does not direct a contractual action to take place, on behalf of the impacted small business.

Our organization hosts an annual Small Business Forum & Expo. Each year, OSDBU hosts DOE's Small Business Forum & Expo, a multi-day conference that connects small business attendees with DOE offices, power administrations, prime contractors and subcontractors. The Forum & Expo offers a comprehensive roster of educational workshops, where attendees can learn about subjects such as how to respond to a sources sought notice, how to obtain grant funding, and more. Attendees have the option to participate in matchmaking exercises, in which small businesses are allotted one-on-one time with a DOE specialist to ask questions most pertinent to them.

In 2017 we hosted our first Veterans Conference to emphasize the Department's commitment to Veteran-Owned Small Businesses (VOSBs) and Service Disabled Veteran-Owned Small Businesses (SDVOSBs). OSDBU is dedicated to assisting veterans who are interested in partnering with DOE. Over 200 business representatives and DOE acquisition staff participated in a full day of business development training, counseling, and matchmaking. OSDBU looks forward to future iterations of this annual event. To ensure DOE's ongoing support of VOSBs and SDVOSBs, I have assigned a veteran on my staff to serve as Veterans Liaison.

Over the last few years we have co-sponsored the ChallengeHER Forum. This event emphasizes the Department's commitment to Women-Owned Small Businesses (WOSBs). OSDBU is co-hosting this year's event in partnership with Women Impacting Public Policy, a nationally active WOSB advocacy organization. The event will take place in Miami, FL and promote DOE contracting opportunities for women.

In FY18 we are planning a HUBZone Forum to target this small business category. The road trip across the country will provide business development training, further advertise upcoming contracting opportunities, and connect new businesses with DOE buyers at our network of laboratories.

We also have an established Mentor-Protégé Program (MPP) to encourage seasoned contractors to provide business development and sub-contracting opportunities to small businesses interested in partnering with the Department. It is distinct from SBA's MPP, by being an agreement, not a contract-based business arrangement, enabling more flexibility of
participation by small businesses. OSDU has a concerted effort un-
derway to increase the Department’s 28 MPP agreements in FY18. In FY17 DOE OSDBU had 28 participants in the program accomplishing about $10M in subcontracting.

Our office actively seeks to participate in outreach events to continuously grow DOE’s network of capable small businesses. We not only host and attend events but specifically partner with other OSDBU offices and share our resources for the benefit of the government as a whole. In FY17, OSDBU attended 32 events, spanning all small business socio-economic categories. Over 10,000 total attendees were present at these events.

The Department is very involved in engaging small businesses, and we look forward to including additional obligations to small businesses that are not currently included in SBA’s goaling process and utilizing future goaling processes through our enhanced partnership with the SBA. Some of these include:

The Small Business Vouchers program (SBV) is in DOE’s Office of Energy Efficiency and Renewable Energy (EERE). This program is leveraging the world-class resources of the national labs with the SBV program. Through the program, eligible small businesses can tap into the reserve of national laboratory intellectual and technical assets to overcome critical technology and commercialization challenges. The program fosters a strong partnership between the labs and clean tech small businesses, benefiting both. While small businesses receive access to state-of-the-art facilities and experts, the national labs broaden their service to private-sector technological development, supporting small business development, job creation and American competitiveness. Since March, 2016, the SBV program has awarded vouchers to 114 businesses worth a total of $22 million.

The Small Business Innovation Research and Small Business Technology Transfer programs (SBIR/STTR) are operated through DOE’s Office of Science, spurring technological innovation by investing in capable American small businesses. SBIR/STTR encourages participation by socially and economically disadvantaged small businesses, mirroring the Department’s overall goal to involve these firms in DOE’s missions. In FY16, SBIR/STTR awarded $216 million to small businesses to explore technological innovation and to perform R&D. In FY17, the programs awarded $242 million for those same purposes.

The Federal Energy Management Program (FEMP) is operated by DOE’s EERE office. FEMP helps federal agencies meet energy-related goals by facilitating streamlined partnerships with small energy service companies. FEMP also hosts an annual in-person training event titled Energy Exchange, which provides professional skill-building, training, and networking opportunities. In addition, FEMP offers small businesses a robust online training program free of charge.

The Gateway for Accelerated Innovation in Nuclear (GAIN) program is operated by DOE’s Office of Nuclear Energy to provide the nuclear community with access to technical, regulatory,
and financial support. GAIN hosts workshops discussing regulatory review processes, licensing processes, industry consensus standards and Quality Assurance Program development. As part of its mission, GAIN looks to involve the American small business community in the innovation and application of advanced nuclear technologies. To achieve this goal, GAIN has implemented a small business vouchers program. In FY16, eight small businesses received vouchers totaling $2 million.

In conclusion, I would like to state that our organization is sensitive to the need for oversight of fair business practices that open doors for small businesses to access Federal contracting. I am personally focused, as a veteran myself, to help service disabled veterans re-engage the workforce through our Department’s search for entrepreneurs, as they bring knowledge, skills, dedication and a strong work ethic to the agency. I appreciate Congress supporting the 25 federal OSDBU offices that help our Federal contracting workforce assist capable small and disadvantaged businesses in performing these contracts. I welcome any questions and look forward to working with you, Mr. Chairman and this Subcommittee, to further any efforts that aim toward that goal.