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SBA'S PROCUREMENT ASSISTANCE PROGRAMS

HEARING

BEFORE THE

SUBCOMMITTEE ON REGULATORY REFORM AND OVERSIGHT

OF THE

COMMITTEE ON SMALL BUSINESS
HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

WASHINGTON, DC, MARCH 30, 2006

Serial No. 109–45

Printed for the use of the Committee on Small Business

Available via the World Wide Web: http://www.access.gpo.gov/congress/house

U.S. GOVERNMENT PRINTING OFFICE

28–555 PDF WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
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THURSDAY, MARCH 30, 2006

HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON REGULATORY REFORMAND OVERSIGHT
COMMITTEE ON SMALL BUSINESS
Washington, DC

The Subcommittee met, pursuant to call, at 2:00 p.m., in Room 2360 Rayburn House Office Building, Hon. W. Todd Akin [Chairman of the Subcommittee] presiding.

Present: Representatives Akin, Bartlett, Bordallo, Moore and Velazquez (Ex Officio).

Chairman. AKIN. The Committee will come to order. Good afternoon, everybody. I'm sorry that we had some votes and it has made us run a little bit late. We're going to try and redeem the time some here and so I'm going to proceed with an opening statement and then we'll take an opening statement by my counterpart here, the Ranking Member, and then if you'd like to make a statement you may.

What we're going to do is run five minutes right across for everybody. I'm going to hold everybody pretty close on time. It is the equivalent of Friday afternoon in a school environment and so we're going to do five minutes for everybody and then have a time of questions. I would expect we'll be probably done pretty close to an hour or somewhere in that vicinity, okay?

Good afternoon. Welcome to the hearing which will consider the Small Business Administration's procurement assistance programs. I want to especially thank those who have come some distance to participate in the hearing.

Most of you know that small businesses are the backbone of our economy. Most, if not all, large businesses started as small businesses. Small businesses are often times the driver of innovation in both products and services. The Federal Government plays an enormous role in promoting the growth of this sector as the consumer of goods and services that small businesses provide.

In fact, it is the stated policy of Congress that the Federal Government should purchase 23 percent of their goods and services from small businesses. Furthermore, the Small Business Administration oversees procurement assistance programs for small businesses that owned by the disadvantaged, women, veterans, or located in Historically Underutilized Business Zones.

In the past, small businesses have expressed concern that SBA and other federal agencies were not providing sufficient or effective

procurement assistance. In addition, there have been concerns that large businesses have received the benefit of small business contracting goals and policies. With a new associate deputy administrator for the Office of Government Contracting and Business Development at the SBA, this is the time for a new review of the Government's small business procurement policies.

This hearing will examine whether or not federal procurement assistance programs are, in fact, helping small businesses compete in the fiercely competitive and complex contracting environment. Are the SBA's and other federal agencies' programs and efforts sufficient to assist small businesses in finding real procurement opportunities? Also, the Subcommittee will explore innovative ideas and recommendations to improve and enhance assistance to small firms that want to do business with the Federal Government.

I now yield for an opening statement by my good friend and colleague, the Ranking Member of this Subcommittee, Ms. Bordallo of Guam.

[Chairman Akin's opening statement may be found in the appendix.]

Ms. BORDALLO. Thank you very much, Mr. Chairman, and good afternoon, everyone.

It has been some time since this Committee has been able to review the Small Business Administration's procurement assistance programs. These preferential contracting programs provide small businesses with some of the best avenues into the federal marketplace. And it is important that this Committee and Congress, as a whole, ensure that the SBA is administering these programs to their full potential.

The Federal Government is the largest buyer of goods and services in the world. During Fiscal Year 2004, the Federal Government's purchases exceeded $330 billion. Amazingly, the value of the federal marketplace roes by more than $100 billion in the past five years.

Small businesses, however, may not be benefitting from this growth in the federal marketplace to the extent that they should. And this of great concern to me. Small businesses are driving forces behind our economy. They are the largest creator of jobs. They are innovators that spur new technology and efficiencies in our economy. And they are also essential parts of the communities in which we live.

I represent Guam. And small businesses constitute nearly 90 percent of the businesses in my district. Supporting them is a top priority for me.

The HUBZone program on Guam, in particular, is growing in importance to the island's small business community. Fifty-four Guam firms have been certified as HUBZone businesses, since August of 2005 when all of Guam was designated as a HUBZone. And I have the Small Business Committee to thank for that. That was a piece of legislation that we put through. This is encouraging considering that only six Guam firms were certified for the program prior to this legislation.

Barriers to small businesses participating in the federal marketplace have traditionally been high. And this is one of the reasons why Congress authorized programs such as the Historically Under-

utilized Business Zone program, the 8(a) program; the Service-Disabled Veteran Business program, the Small Disadvantaged Business program; and, Women-Owned Business program. Congress has also set in place mandatory minimums for the percent of contracts that federal departments and agencies must award to small businesses each year.

These preferential contracting programs and the mandatory minimum contracting percentages allow for a more level playing field for small businesses to be created in the federal marketplace. And it is because of these initiatives that our nation's small businesses can more successfully compete for and be awarded Federal Government contracts.

Among other things, the SBA is responsible for ensuring that the playing field within the federal marketplace remains as advantageous as possible for small businesses. So it is the responsibility of this Committee today to review SBA's performance in achieving that goal, and to solicit ideas on how this Committee and Congress can enhance these initiatives to ensure that the barriers remaining between America's small businesses and the federal marketplace can be successfully overcome by our country's small entrepreneurs.

I look forward to your testimonies today. Thank you, Mr. Chairman.

Chairman. AKIN. Thank you and a brief statement will be made by Ranking Member of the Full Committee, Ms. Velazquez, at this time.

Ms. VELAZQUEZ. Thank you, Mr. Chairman, and I also to thank the Congresslady Bordallo for allowing me to sit in on this hearing and I want to express my appreciation for all the work, the hard work that you do on this issue.

Over the last several years, the federal marketplace has continued to rapidly increase and is $100 billion more than it was at the beginning of the President's term. This growth is attributed to spending related to the war and our involvement in Iraq. The Department of Defense procurement volume in 2004 was bigger than the entire federal marketplace in 1999.

Based on this, you would think that small businesses are thriving, but let me tell you nothing could be further from the truth. From 2003 to 2005 alone, small companies lost nearly $1.7 billion on contracting opportunities and contract actions to small businesses' decline by 31 percent. While this Administration claims small businesses are important, they obviously don't think they are important enough to do business with.

We constantly hear that SBA is doing more with less, but it is clear entrepreneurs are not benefitting. By 2007, the agency staff will be reduced by one third and their budget has already been cut in half. The lack of personnel and resources causes programs to be abused, fraud-ridden, and in some cases not executed at all.

One of the most important roles SBA serves is to ensure agencies comply with current contracting laws. This job falls on the Procurement Center Representative, the front line defense against items such as contract bundling. There were 73 PCRs when the federal marketplace was almost half of its current size and now there are only 58.

This leaves small firms without an advocate and results in a drop in contracting opportunities. At a time when many small businesses are struggling to recover from Hurricane Katrina and Rita, local entrepreneurs are receiving less than 20 percent of FEMA's contracting dollars. To make matters worse, nothing has been done to expand business opportunity in the Gulf region for recovery work.

While the SBA does not think this is alarming, our nation's small businesses are being neglected. These shortcomings are most glaring with respect to women and minorities. The 8(a) program, the primary program through which minority-owned businesses enter the federal marketplace has dropped by 20 percent. What is most disappointing is that this program has not been updated in nearly 20 years and as a result has moved away from its core mission of minority business development.

This Administration has also done nothing to implement the Women's Procurement Program that passed into law and signed by the President in 2000, an initiative that allows for women-owned businesses to access the federal marketplace. By failing to execute this program, women business owners have lost out on $25 billion in contracting opportunity. Small business participation in the federal marketplace is important and should not be viewed as an undue burden.Entrepreneurs are the innovators, drivers of our economy. They make this economy tick. This is not just good for small businesses, but it creates competition in the federal marketplace, gives federal agencies quality products and most importantly, it provides the best value for taxpayers' dollars.

If corporate America turns to small businesses and provides contracts for them, why can't the Federal Government do the same? Rather than recognizing this, the Administration's sole focus is providing big contracts to companies like Haliburton who then turn around and overcharge the Government millions of dollars. This is the wrong set of priorities for this nation and it needs to change.

Thank you, Mr. Chairman.

[Full Committee Ranking Member Velazquez's opening statement may be found in the appendix.]

Chairman. AKIN. Thank you, all of our speakers so far who have been able to stay within the five minutes here. So let's see if we can keep it within the five minutes and that will give us a little time for questioning as well.

Our first witness is Anthony Martoccia. Anthony is the Associate Deputy Administrator in the Office of Government Contracting and Business Development, U.S. Small Business Administration, Washington, D.C., but Anthony, my understanding is that this is your second month in the job, is that correct?

Mr. MARTOCCIA. That's correct.

Chairman. AKIN. What we're going to do is allow Mr. Barlett, because he's on a tight time schedule, to introduce Mr. Heckman. But I'm still going to go ahead and go straight across to Mr. Heckman even though he isn't first. Mr. Barlett, if you would introduce your witness, Mr. Heckman, and then we will proceed.

Mr. BARTLETT. When you come to him in the line, I'll introduce him. Are you starting down the line? Go ahead.

Chairman. AKIN. I was going to go down the line, but—

Mr. BARTLETT. When you come to him, yield to me, and I'll introduce him.

Chairman. AKIN. Okay, that was what I was thinking about. Then I'm going to continue with the introduction then of Anthony, and your introduction is done, basically. Now your honeymoon is over, and you've been here a month, so we look forward to your testimony. Thank you.

STATEMENT OF ANTHONY MARTOCCIA, OFFICE OF GOVERNMENT CONTRACTING AND BUSINESS DEVELOPMENT, U.S. SMALL BUSINESS ADMINISTRATION

Mr. MARTOCCIA. Chairman Akin, Ranking Member Bordallo, Distinguish Members of the Subcommittee, I am here today to discuss the President's FY Budget request for the Small Business Administration and related legislative issues, specifically those related to government contracting and business development.

I am Anthony Martoccia, Associate Deputy Administrator for Government Contracting and Business Development. Thank you for allowing me to represent the SBA on behalf of Administrator Barreto.

Since 2001, the SBA has been on a mission to deliver more services to the nation's small businesses. We are proud of the SBA's success in that quest, and the FY 2007 budget reflects a continuation of this goal.

Improved methods to assist small businesses gain access to government contracting opportunities have been implemented. By restructuring key agency operations and re-engineering the Agency's largest loan programs, the SBA has achieved record program growth while operating more efficiently and reducing its total budget by more than 37 percent since 2001. Government contracting dollars going to small businesses have grown significantly since Fiscal year 2000. There were $20 billion more in small purchases, prime contracts, small businesses in FY 2004 than in FY 2000, supporting an estimated 156,000 jobs.

In addition, subcontracting to small business has grown by $10 billion. With improved efficiencies in Fiscal Year 2007, SBA will be able to serve record numbers of small businesses with a total budget request of $624 million of which $74 million will be used for government contracting and business development.

SBA has increased the number of Procurement Center Representatives to 58, assisting small businesses with federal procurement. In FY 2004, small businesses received contract awards a little over $69 billion of the approximate $300 billion in total federal prime contract awards. Additionally, there were an estimated $45 billion in government-related subcontracts awarded to small businesses.

SBA's Office of Government Contracting and Business Development also instituted enhanced practices and technological improvements. GCBD is working with agencies to help them meet their missions, as well as helping small businesses to identify contracting opportunities through these technological improvements. Technology, such as the electronic Procurement Center Representative system create increased efficiencies concerning governing contracting opportunities.

Strides have been made to maximize staff resources and monitor contracting activities, as well as to improve communication and interaction with the small business community through the automation of many basic systems. These systems include the Electronic Subcontracting Reporting System, 8(a) application, HUBZone Procurement Query and Reporting System, Central Contractor Registration, Federal Procurement Data System Next Generation and Tech Net, among others. As technology is ever changing and improving, so are the efficiencies enhanced by using these E-gov systems.

The added benefit of these technological advances is apparent in the business matchmaking efforts following the Gulf Coast hurricane disasters. More than 500 small businesses were registered and assisted by our Procurement Center Representatives across the country to get over $30 million in contract support. In other Katrina-related contracting, approximately $1.24 billion Katrina-related contracts listed in FPDS were awarded to small businesses. Also approximately $1.5 billion in FEMA small business awards are pending.

In addition to GCBD's traditional functions, the Office will leverage opportunities outside of our division. Opportunities provided by SBA's Office of Capital Access, Entrepreneurial Development and SBA district offices outreach to assist small businesses to be ready and able to do business with the Federal Government.

The SBA operates like the businesses it helps to succeed by continually meeting challenges and evaluating cost effectiveness. The SBA has succeeded in achieving record growth in its programs while at the same time reducing the overall budget request through focused, practical implementation of the President's Management Agenda and related initiatives.

Creating a better environment for small business to thrive and compete is a priority. It is well documented that when small businesses are thriving, the overall economy is thriving.

Thank you. I will be happy to answer any questions you might have.

[Mr. Martoccia's testimony may be found in the appendix.]

Chairman. AKIN. Thank you. I really appreciate your testimony, Deputy. And you brought it in 30 seconds under time. You're doing pretty good.

Mr. MARTOCCIA. Thank you.

Chairman. AKIN. Get a little extra star for that. Thank you.

And Rafael—is that Collado?

Mr. COLLADO. Yes sir.

Chairman. AKIN. And you're the CEO and Chairman of Phacil, Incorporated from Camden, New Jersey.

Mr. COLLADO. Actually, it's Phacil, Incorporated in Camden, New Jersey.

Chairman. AKIN. Phacil?

Mr. COLLADO. Yes sir.

Chairman. AKIN. I got half of it. Thank you, please proceed.

STATEMENT OF RAFAEL COLLADO, PHACIL, INC.

Good Afternoon Chairman Akin, Congresswoman Bordallo, Members of this Subcommittee, fellow panelists and guests. My name

is Rafael Collado and I am the Chairman of the Board and CEO of Phacil, Inc. Phacil, Inc. is certified by the Small Business Administration as a Small Disadvantaged, 8(a) and HUBZone Business. The company provides Information Assurance/Security, Information Technology, Logistics Support and Engineering Services to the Federal Government and commercial customers. Phacil is unique among 8(a) companies in that it holds a Top Secret Facility clearance and is headquartered at the Applied Communication and Information Networking Center in Camden, New Jersey which is a HUBZone.

I am pleased to join this panel of industry and government leaders to participate in a dialogue about contracting opportunities made available as a result of the Small Business Administration's HUBZone program. And more specifically, the legislation reauthorizing the SBA itself. For me and my Company Phacil, participating in procurement opportunities within the context of the SBA have been extremely disappointing. After four years of participating in SBA programs, Phacil's appropriate expectations have not been realized.

Based on our experiences there is no doubt there is a bias against small business and that the SBA has done very little to mitigate it. I hope that forums such as this one will provide the guidance, and more importantly, sanctions that will transform the SBA from the bureaucratic speed bump for small disadvantaged companies into the facilitator of newly, reinvigorated, badly needed economic engines in urban communities.

By way of personal background, I was born in the South Bronx. With the support of my parents working as an electrical engineer in the aerospace industry and my mother, a home-maker, I did well in school. I graduated high school as both a Regents and National Merit scholar attended Polytechnic Institute of Brooklyn where I majored in Electrical Engineering and after Polytech worked for several of the largest technology firms in the United States.

Very early in my working career I knew that I wanted to start my own business. I did not want my life to potentially be in the hands of people who might not be fair to me. I decided that the only way I could help myself and my community was to build something which would directly contribute to the local economic infrastructure. In 1983 with the assistance of some friends I had grown up with, I founded Protocom Devices, Inc. and at its peak we employed over 200 people. The majority of these folks came from the local neighborhood and had been trained by the company to a high level of technological competence.

I since went on to found several other companies, including Inabox Communications which was acquired by Register.com in 2000. It was at Register.com that I met my current partner at Phacil, Sascha Mornell, who also shares the value of hard work, education, integrity, commitment and compassion for equality.

Phacil was formed by Sascha and me, fulfilling a life long dream of creating, nurturing and running our own business. In 2000, we formed Phacil and experienced all of the barriers that confront most Small Disadvantaged Businesses. Primarily, we experienced and continue to experience now what I call the institutional corruption of convenience, people not performing their congressionally-ap-

pointed duties because it requires them to work a little harder and they don't pay a price if they are not diligent.

For the sake of brevity I will limit my comments today to the major obstacles the company historically faced so as to illustrate the SBA's failure to effectively implement the HUBZone program and the pervasiveness of its institutional apathy which is most corrosive to equal opportunity. Therefore, I begin as any small disadvantaged business wanting to develop in the Government contracting marketplace with the SBA.

As I mentioned earlier, Phacil wanted to be a HUBZone company because Sascha and I wanted our Company to provide jobs to folks in economically disadvantaged neighborhoods. We had been successful previously; we wanted to continue and extend this success to folks in under utilized or under employed urban settings.

The HUBZone Program was most co-incident to this purpose, or so we thought. The program was and is, first and foremost, a jobs-creation program. It was open to all businesses regardless of race, ethnicity or sex—not a quota system—which appealed to my particular idealism best expressed by Dr. Martin Luther King when he said that he hoped one day his children would live in a world where they were judged "not by the color of their skin. but by the content of their character."

For me the decision to seek entry into the HUBZone program was a way of making part of that dream real. My first disappointment came, when after we had speedily filled out the forms, hired the requisite number of people from our limited capital resources and set up operations in Newark.the SBA said they were "too busy" to process our paperwork and worse yet had no idea as to when they could review it so that we could be certified. Despite numerous calls, emails and personal visits, we could not get any movement or support whatsoever from the SBA. Upset and frustrated, we decided to reach out to our local Congressman, the Honorable Donald M. Payne.

Mr. Robert Cottingham from Congressman Payne's office came to visit us within a day of our call. He took the time to listen to us, asked a few questions and then very frankly told us that there might not be very much he could do. Thanks to the Congressman's assistance, within three days of that meeting, the SBA reviewed, asked a few questions and clarifications and certified us as a HUBZone company. That was the first time, but certainly not the last time, that aggressive and principled congressional involvement helped balance the scales of opportunity on our behalf and on that of the communities whose citizens we employ.

Our experience with the HUBZone program caused us to become very concerned that other potential beneficiaries in Newark were being underserved by the SBA. Sascha and I, with assistance from—

Chairman. AKIN. Mr. Collado, we're already out of time. We have actually quite a lengthy record that is part of our record for the Committee that you've submitted. Do you want to just sort of summarize in one sentence?

Mr. COLLADO. Surely. In closing, I would like to remind the Members of this Committee that Phacil has depended on the active, aggressive support of our elected representatives in leveling

the playing field in dealing with Federal Government acquisition and contracting. Borrowing in a bipartisan manner from the words of two great American Presidents I say as President Kennedy did, "always remember that sincerity is always subject to proof." In that same vein, another great American President, Ronald Reagan warned us "to trust and verify."

I would again want to thank the Members of the Committee for this opportunity to share my perspective and I'd like my comments entered into the record. Thank you.

[Mr. Collado's testimony may be found in the appendix.]

Chairman. AKIN. Without objection, and thank you for sharing and obviously an exciting personal journey and all. I think people have some questions for you.

I would call on Mr. Bartlett to introduce our next witness. I'm sorry they didn't arrange the name tags on the table in the same order they did in our notes, so we're going to jump over to Mr. Heckman, but I'd like to recognize Roscoe Bartlett, my esteemed colleague.

Mr. BARTLETT. My honor. Kurt Heckman is a resident of Hagerstown, Maryland. He is the President of Sycamore US which is based in Frederick and McHenry, Maryland. He has a mathematics degree from Eastern Nazarene College and has 22 years' experience in the U.S. intelligence community. He has primarily served as a systems engineer and has designed mission planning software for large, aerospace applications. However, he is most proud, as he well should be, of his beautiful wife of 23 years and his 5 children.

In 1996, Mr. Heckman founded a small business to support the intelligence and aerospace communities with engineering services. Kurt and his business partner, Jim Lockwood, named the company and I really like this, named the company Sycamore Associates because Zaccheus, from the Bible, climbed up a Sycamore tree as a dishonest businessman and came down from the tree an honest businessman.

Since 1996, Mr. Heckman and his team have led the company from a single contract with a few engineers, to numerous contracts with the US intelligence community, HUD, Fannie Mae, Freddie Mac, Ginnie Mae, Lockheed Martin and Orbital Systems employing a staff of over 100 people.

I am honored to know him. He is both a friend and a constituent. He has brought really high-paying jobs to a HUBZone in a really depressed part of our district, a city that—a county that until a few years ago had 14 percent unemployment. And I think his employees there get what, four times the average income? HUBZones are really, really working in his district and thanks to Kurt Heckman, we had a lot of employees now in HUBZones.

Thank you for coming as a witness, and I'm honored to be here.

Chairman. AKIN. Roscoe, thank you for that great introduction, and Kurt, you can proceed. Thank you.

STATEMENT OF KURT HECKMAN, SYCAMORE US, INC.

Mr. HECKMAN. Congressman, thank you for your kind introduction. It's an honor to be here in front of this subcommittee today. On behalf of the 100 employees at Sycamore, please accept my

thanks for creating the HUBZone program and maintaining it through these years.

In my ten years at Sycamore, I've discovered that there is really only one inherent virtue to being a small business, and that virtue is that the stockholders know the employees on a first name basis. It's impossible to work side by side with your employees for any length of time and coldly refer to them as "labor." In a small business, employees are your partners. In a small business like Sycamore, they become owners where 20 of my 100 employees own part of my company. Small business is where humanity truly intersects with economics and frankly, a lot of America's business problems today can be traced to dehumanization of our workers.

Sycamore has been a delight to me for the last 10 years, but with the delight comes a burden regarding the care of a growing number of individuals and families. We've worked to create the employee-centric company that I always wanted to work for, and the net result is that we have top-performing men and women and virtually no attrition. People come to Sycamore and stay, and in the Intelligence Community, that is virtually almost unheard of. For moral and ethical reasons, we keep the respect for our employees at the top of our priorities, but it is also good business. A stable and motivated workforce is a powerful thing. If your employees know that you will do everything in your power to take care of them, they won't bolt at the first sign of bad news; couple that with honesty and transparency, and you will overcome great hurdles.

You should know that Sycamore was a successful business prior to the HUBZone program. We were five years old, had 30 people, were doing about $3 million in annual revenue, but with the exception of some small contracts with Fannie Mae, Freddie Mac and Ginnie Mae, the vast majority of our business was as a subcontractor. That was fine, but as a sub you typically don't get credit for your success, you rarely get project management experience and in general, leadership opportunities are scarce. Often you can't even cite the good work you've done as a sub on proposals. Furthermore, as a sub, the prime's add-on cost creates a lower ceiling for what you can pay your employees and what benefits you can provide. The funny part is that even though the primes skim their G&A and profit off of the top of our bill rates, my employees are typically higher paid than their prime contractor peers, and certainly have better benefits, and that's because as a small business we've had to be efficient.

In our five years as a HUBZone certified company, we've gone from a good little company, to a leader in the small business arena. We've more than tripled in size, and have five significant prime contracts because of the HUBZone program. The HUBZone requirements on the agencies have given us a chance to perform and I am happy to say that we have executed. Our performance grades are excellent across the board, and on our largest prime contract, which is a multimillion dollar HUBZone IT contract in the Intelligence Community, we have received our fourth straight 100 percent award fee for outstanding performance. Instead of viewing HUBZone regulations as a burden and a mandate to do work with inferior businesses, our customers see it as an efficient and simplified way to do business with an excellent company.

I must confess that I love how the HUBZone program isn't geared to make rich men and women richer, but sends dollars to communities with statistically proven needs. It was very easy for Sycamore to extend its practices of excellence to our customers and employees to include our community. All three of our offices are in HUBZones. Sycamore is required to have 35 percent of our staff be residents of a HUBZone. We have over 50 percent. Our investment in the HUBZone community in 2005 was over $2.5 million.

In closing, one our first HUBZone employees is a smart young man that was literally working in a coal mine in the Appalachian region of Western Maryland. Today, through his own efforts and with the help of tuition assistance, part-time work, benefits and technical training from Sycamore, that young man has a bachelor's degree in mathematics, has some of the highest security clearances in the land, and has a full-time job making over $45K straight out of college and is on his way to a terrific career and a bright future, all because of the HUBZone program. On his behalf and the others in Sycamore, thank you for creating the HUBZone program.

[Mr. Heckman's testimony may be found in the appendix.]

Chairman. AKIN. Thank you so much for your testimony and the story as well.

Our next witness is John Lopez. He's Chairman of the Association for Service Disabled Veterans from Washington, D.C.

John?

STATEMENT OF JOHN LOPEZ, ASSOCIATION FOR SERVICE DISABLED VETERANS

Mr. LOPEZ. Good morning Mr. Chairman, Ranking Member and Members of the Committee.

Thank you for your attention and without objection, I shall submit a written statement for the record and summarize my testimony for the Committee.

Since the beginnings of our nation, the people of the United States of America have placed great confidence in that interpretation of the United States Constitution that permits our Government to conscript or seduce our citizens to be killed, disabled and tortured in military service, for the security and prosperity of the total population.

Complicit in that application, has been presumption that our nation, through its Government, would provide rehabilitation for our service disabled veteran survivors of the resulting horror.

This has not been the case when service disabled veterans have attempted to maintain their rehabilitation as owners and operators of smaller businesses.

It has been nearly six years since the U.S. Congress first provided support for the service disabled and prisoner of war veteran enterprise initiative, by enacting Public Law 106-50 and Public Law 108-183.

The Administration followed that direction by invoking Presidential Executive Order 13360, directing aggressive and immediate implementation of those laws and specifying actions to be taken.

Those activities took place in October 2004 and since that time frustration has continued and subsequently the legislated intent of the United States Congress has been variously interpreted by regu-

lators, due to the necessity for inserting and parsing of the required language, statements and references to existing regulations and laws.

This bureaucratic abuse has had the effect of confusing and impeding the effort to increase the participation of the service disabled veteran in government procurement and contracting opportunities.

The policy of the nation and the intent of the Government has been ignored and the congressional compact for our nation's security has been violated.

Consequently, it is imperative that the Congress enact H.R. 3082 "The Veterans Owned Small Business Promotion Act" which clarifies and reemphasizes the intent of the U.S. Congress. The intent is a splendid example of the concern and focus of the congressional response to the veteran's need for rehabilitation and transition assistance.

H.R. 3082 gives specific authority to the Department of Veterans Affairs to confirm the eligibility of service disabled veteran businesses and to accept direct responsibility for the provision of benefit to the veteran, especially, the service disabled veteran. It puts the task to that agency specifically established for the purpose of serving "those who have borne the battle."

H.R. 3082 also clarifies the misconception that Veterans Entrepreneurship, and the proposed act, are a socioeconomic development initiative or a cultural inequity panacea.

H.R. 3082 is a specified contribution to that continuing obligation of our nation to rehabilitate those veterans that sacrifice for our nation's security and prosperity.

The service disabled veterans government service incurred misery, is unique. There is no justification for requiring that service disabled veteran indemnification and rehabilitation be adjusted to the conduct of any other socio-economic program. H.R. 3082 only addresses the symptoms of the Government's neglect of responsibility for our nation's disabled veteran.

To finally and accurately respond to that responsibility, the U.S. Congress is urged to amend the Small Business Act by adding a new section, the service disabled veteran comprehensive eligibility amendment as follows:"The U.S. Congress hereby authorizes businesses owned and operated by veterans with service connected disabilities, adjudicated by the United States Department of Veterans Affairs, to enter into contracts with the United States Government and any department, agency, officer or government contractor, thereof having procurement powers obligating the entity to furnish articles, equipment, supplies, services, or materials to the Government or to perform construction work for the Government. In any case in which the procurement officers certify to any officer of the Government having procurement powers, that the service disabled veteran business is competent and responsible to perform any specific government procurement contract to be let by any such officer, such officer shall be authorized and directed to let such procurement contract to the service disabled veteran owned business upon such terms and conditions as may be agreed upon between the service disabled veteran owned business and the procurement officer. Whenever the procurement officers and service disabled vet-

eran owned business fail to agree, the matter shall be submitted for determination to the Secretary or the head of the appropriate department or agency by the procurement officers."

Chairman. AKIN. Mr. Lopez, your out of time here. Did you want to have one concluding sentence?

Mr. LOPEZ. I have one concluding sentence already. It would be appropriate to recall the words of the first President of the United States of America, George Washington, who stated that "the willingness with which our young people are likely to serve in any war, no matter how justified, is directly proportional to how they perceive the veterans of early warn, were treated and appreciated."

I would be pleased to answer any questions of the Committee.

[Mr. Lopez's testimony may be found in the appendix.]

Chairman. AKIN. Thank you very much for your statement and for your concern about the service people that are overseas, particularly, and who have served our country.

Our next witness is Catherine Giordano. And you're the President of Knowledge Information Solutions from Virginia Beach.

Thank you. Please, and Ms. Giordano, please proceed.

STATEMENT OF CATHERINE GIORDANO, KNOWLEDGE INFORMATION SOLUTIONS, INC.

Ms. GIORDANO.

Mr. Chairman and Members of the Subcommittee, my name is Catherine Giordano. I am CEO of Knowledge Information Solutions, located in Virginia Beach, an 8(a) certified firm. I am testifying today on behalf of Women Impacting Public Policy, a bipartisan organization representing 39 small business groups with a combined membership of over 535,000 women in business nationwide.

Procurement programs are near and dear to my heart. Our company has several contracts with Department of Defense and a number of other government agencies and holds six Government Wide Acquisitions Contracts. Due to our success in the federal marketplace, our company has grown from $9 million in annual revenues to $27.5 million in the last five years. So, it is possible for a small company to penetrate the federal marketplace.

I ask that the written testimony be made part of the record.

Chairman. AKIN. Without objection.

Ms. GIORDANO. Rather than read the testimony, I will try to come to seven points of interest to the Subcommittee.

Number one, adequate funding for SBA staff that can provide procurement assistance. The number one issue for small businesses who want to enter the federal market is an understanding of how the federal buying system works and the ability to respond to a federal sales opportunity. The SBA regional offices should be prepared to provide this assistance, but the reality is that there is inadequate staff to provide procurement expertise to small businesses. Members report that the assistance from SBA regions is inconsistent. We believe this to be largely due to whether or not the Procurement Center Representatives are located at that facility and whether or not the SBA staffer is properly trained to under the government procurement.

WIPP urges the Committee to work with the Appropriations Committee to ensure adequate funding for additional PCRs beyond the six requested in the FY07 President's Budget.

Number two, implement the law. Restricted competition for women-owned businesses is key to meeting the congressional goal of five percent. Putting aside any philosophical discussion on whether competition should be restricted to minority, women-owned, HUBZone certified or veteran, the practical reality is that unless federal agencies are required to do so, it will not happen. The most recent statistics show that only 3 percent of all federal business is awarded to women-owned businesses. As long as there is no penalty to the agencies, nor the federal employees, that the agency fails to meet the women-owned goal, it's just nice to have.

Number three, why is the 8(a) certification so difficult to obtain? In the absence of restricted competition for women-owned businesses, the tool most often cited by the federal agencies is go get your certification for 8(a). And yet, it is abundantly clear to WIPP that SBA presumes that women business owners are not really socially and economically disadvantaged. One only needs to go through the tedious process of assembling reams of financial documents, personal stories dating back decades to be awarded an 8(a). In the past, clear and convincing evidence was the standard which made it almost impossible for women-owned businesses to get into the 8(a) program. In the late 90s, that standard changed to the preponderance of evidence in order to facilitate the entrance of women-owned businesses into the program.

It seems to our members that SBA has reverted back to the old standard for women-owned businesses. If the SBA believes that women who are not minorities should not qualify, then they should just say so. It would save our members hundreds of hours of paperwork and valuable dollars.

Number three, increase in income thresholds for 8(a) certification. Income thresholds have not been updated since 1998. The present and real problem for the program thresholds are so low in 2006 dollars that the program is really set up to fail. If the business owner does not have assets on which to draw the business is likely not to succeed.

Four, reverse the trend toward contract bundling. Despite the President's initiative in 2002 which clearly stated that unbundling of contracts was a priority of the Administration.

I will try to come to the others quickly.

OMB reported for every $100 awarded, only $33 go to small business.

Number five, Congress should closely monitor strategic sourcing which in most cases means bundling. Strategic sourcing basically means that a very large contract will have only one source and that company can sell to the Government as opposed to any award or multiple vendors. Small businesses can be harmed in two ways: one, by structuring a procurement so that even a large team of small businesses can never win a contract. Basically, if the small business does not align itself with the winner, they are out of luck.

Chairman. AKIN. Your time is expired. We may be able to get to some of your points with the questioning later on.

Ms. GIORDANO. Thank you.

Chairman. AKIN. We have taken your statement for the record, I believe.

Ms. GIORDANO. Thank you.

[Ms. Giordano's testimony may be found in the appendix.]

Chairman. AKIN. Our next witness is going to be Christina Schneider, Chief Financial Officer of Purcell Contracting Corporation from Watertown, New York. Is that right, Ms. Schneider?

Ms. SCHNEIDER. Yes.

Chairman. AKIN. Proceed, please. Thank you.

STATEMENT OF CHRISTINA SCHNEIDER, PURCELL CONTRACTING CORPORATION

Ms. SCHNEIDER. My name is Christina Schneider and I am testifying on behalf of the Associated General Contractors, the nation's largest and oldest construction trade association. We represent more than 32,000 construction firms nationwide. Our firm derives much of its work from Department of Defense construction contracts. Our main office is in upstate New York near Fort Drum, the home of the 10th Mountain Division. We were a HUBZone contractor. We've since grown out of the program. We have graduated the HUBZone program. We have now sales slightly more than $31 million average. We wouldn't describe ourselves as large business. We're more medium size, but we're considered large business according to the SBA standards.

AGC is pleased to share our thoughts for this year's upcoming reauthorization of the Small Business Act. I am going to focus on the changes that we recommend for the HUBZone program, the impact of contract bundling and the growing concern over large construction contract awards to Alaska Native Corporations.

Regarding the HUBZone program, we suggest that you limit the program to construction projects in or near HUBZones within 150-mile radius of the HUBZone contractor's principal place of business. Only those projects can offer employment to a significant number of HUBZone residents and only those projects can promise to make a lasting change on their economic circumstance. Extending the HUBZone program to distant projects only encourages brokering, merely acting as an agent to get someone else to perform the work. While the HUBZone concept may have merit encouraging economic development within HUBZones, the concept does not transfer appropriately to the construction industry. Since a HUBZone contractor can perform work outside the zone, this does not economically benefit the zone.

The HUBZone concept is designed to encourage employment in the HUBZone and is suited for manufacturing and other industries where the majority of employees are working in the HUBZone.

Our second point is that Congress should authorize and require a smaller price preference applied to the construction industry. While Congress may want to give HUBZone contractor's an advantage, it should be an advantage that reflects the realities of the market. At most, Congress should give the construction contractors in the HUBZone a 5 percent bid preference. Such a bid preference would still exceed the profit margin in the vast majority of federal construction contracts.

As a HUBZone contractor, our firm was once awarded a construction contract that was nearly $1 million over the lowest bidder when the 10 percent preference was applied. As a small business we were thrilled. As a taxpayer, we were embarrassed.

While Congress may want to give HUBZone contractors an advantage, a 10 percent preference for the construction industry is a windfall, not an advantage.

Regarding contract bundling, it's been a concern in the construction industry for several years. It's still going on. Small contracts are being bundled to result in large dollar volume solicitations and HUBZone preferences are being applied to large dollar volume solicitations.

I'm going to skip through this. I'm running out of time.

Regarding the Alaskan Native contracting issue. AGC has continued to hear complaints about the ANC. Speaking on behalf of my firm, we have been directly impacted by a $400 million sole source award to Alaskan Native corporations at Fort Drum, New York. We've met with SBA Headquarters and we determined that SBA believes in their statistics to you that ANCs are small businesses. And we don't believe that.

In other words, awarding large dollar volume contracts to ANCs, large and small, helps the SBA and contracting agencies meet their utilization goals.

We understand the ANC matter is currently under investigation by the GAO. And we look forward to their findings. We hope we'll be resource for information for the Committee as it reviews the findings of this report.

Thank you for the opportunity to testify.

[Ms. Schneider's testimony may be found in the appendix.]

Chairman. AKIN. Thank you very much, Ms. Schneider. You came in 30 seconds under, pretty good there. You get your star here too.

What I'm going to do is I'm going to allow the Ranking Member, Ms. Bordallo, she has five minutes to ask questions. And I'll let her proceed first.

Ms. BORDALLO. Thank you very much, Mr. Chairman. I have three quick questions for Mr. Martoccia.

First of all, I know you're very new in your position, but what are your initial impressions about SBA's procurement assistance programs and what new thinking do you feel you bring to the table?

Mr. MARTOCCIA. I bring a perspective—I've been a contracting officer all my life in the Federal Government. So I bring that perspective. I know we need to communicate, train and provide outreach to the procuring community. And we have to use the resources that the procuring activities have. They have small business specialists. Each procuring activity typically has a small business specialist and I think with our PCRs and our new electronic system that we should be able to get involved in the procurement strategy before decisions are being made to give those small companies a fair opportunity.

Ms. BORDALLO. So you do see inadequacies in things that you will be changing?

Mr. MARTOCCIA. I see improvements that can be made. I don't see any inadequacies.

Ms. BORDALLO. Do you believe that the SBA has all the authority necessary to promote the development of small business and improve their access to the federal marketplace?Or should Congress be providing more, in your opinion?

Mr. MARTOCCIA. I believe that we're providing the opportunities needed. You know, as far as the dollars, our dollars have improved every year since President Bush took office and they're going up. I know the total dollars have gone up, but the percentages, especially in the women-owned businesses and other areas have been moving up significantly in the last few years.

Ms. BORDALLO. Weren't there cuts made at SBA?

Mr. MARTOCCIA. There have been cuts, but I think, you know, they're operating smarter with better technology and I think we have the adequate resources necessary to perform our job.

Ms. BORDALLO. But really then you can't say funds have been, you know—

Mr. MARTOCCIA. I know funds have been cut 37 percent over the last five years.

Ms. BORDALLO. That's correct, yes. By your comments, I understood that things were—funds were becoming larger and larger as each year goes by?

Mr. MARTOCCIA. No, I say the results of the small business program have been pretty successful since President Bush took office. The dollars go into small businesses in prime as well as subcontracts. It's gone up significantly since the Year 2000.

Ms. BORDALLO. Now one last question I have for you. Can you describe the SBA's efforts to combat contract bundling?

How can SBA's record on this be improved?

Mr. MARTOCCIA. Well, we're working with the agencies to make it a priority. We share your concern that bundling in large contracts do provide less opportunities for small business. So we're working with the agencies to communicate, to train, to talk to the program managers and the contracting officers and the senior level officials to find best practices to improve opportunities for small businesses.

Ms. BORDALLO. So you do consider this a priority?

Mr. MARTOCCIA. Yes, I do.

Ms. BORDALLO. Thank you. Thank you. Thank you, Mr. Chairman.

Chairman. AKIN. Thank you for your questions and being right on point with some very good questions.

I'm next going to recognize Ms. Velazquez who is not just a Member of the Committee, but also is the Ranking Member of the Full Committee. So if you would please proceed.

Ms. VELAZQUEZ. Thank you, Mr. Chairman. Mr. Martoccia, look, I know you have been there, what, a month now, two months?

Mr. MARTOCCIA. Five weeks.

Ms. VELAZQUEZ. Well, welcome and I'm sorry.

Mr. MARTOCCIA. I'm enjoying the job.

Ms. VELAZQUEZ. I'm sorry. Sir, I know that you read the papers, don't you?

Mr. MARTOCCIA. Yes, I do.

Ms. VELAZQUEZ. USA Today, Washington Post, New York Times. If you look at the SBA disaster loan response to Katrina, I don't think that it has been good. And you know why? Eighty percent decline rate on disaster loan for Katrina victims because you don't have the resources. In five years, the budget has been cut by 50 percent, so and then later on we are going to discuss PCR.

But let's go to the question. In 2003, the SBA's Inspector General conducted an audit of the HUBZone program. The result was that the program was vulnerable to contracting fraud. Then there were almost 7,500 companies in the program and SBA did nothing. Now there are nearly 13,700 companies and SBA has still done nothing.

Why have you allowed this time bomb to continue ticking?

Mr. MARTOCCIA. I'm not aware of any fraud involved in the program. I know that the marketplace polices itself pretty well and if a procurement is set aside for HUBZone companies, that any interested party can protest that to the contracting officer who would fully investigate with SBA whether a company falsified their status.

Ms. VELAZQUEZ. Well, the thing is that you have 13,700 and you have not conducted the audits and even if SBA reviewed 500 companies per year, you will never keep up with the incoming businesses.

My second question, the number one problem facing small businesses in their attempt to get Government contracts is contract bundling. A report for SBA's Office of Advocacy has estimated that bundles represent nearly 10 percent of all government contracting dollars and have reduced small business contract opportunities by more than half, yet for the past two and a half years, SBA has filed four appears on bundled contracts. Why isn't the SBA challenging agencies when they are taking opportunities away from small businesses?

Mr. MARTOCCIA. We do challenge agencies when they're taking business away from small businesses and we have PCRs in the field who are working with the agencies to assure that these contracts are not restricting small business participation. We are communicating to the senior levels of the agency. We're talking to the small business specialists. We're talking to the contracting officers. We're trying to train contracting officers. We want them to justify when they have to have a large contractor or a bundled contractor, what the benefits are, what the efficiencies are. So we are proactive in trying to assure the contracts are not being bundled.

Ms. VELAZQUEZ. I can see that proactive when you challenge on four contracts. Four appeals.

Mr. MARTOCCIA. Well—

Ms. VELAZQUEZ. The witnesses here are telling us that is a big issue for them. The President, in 2002, issued his small business agenda. And in that agenda he said my number one priority is going to be contract bundling. We need to tackle it. And in two and a half years, you're going to tell me that only four appeals?

Mr. MARTOCCIA. Those are four formal appeals.

Ms. VELAZQUEZ. Let's go to the next question.

Mr. MARTOCCIA. But we have discussed and made many changes to the contracts that are to be bundled and made many changes to

the procuring activities to break up these contracts into smaller parts that small business can participate in.

Ms. VELAZQUEZ. Thank you. In your testimony, you spent a lot of time talking about the small business goal being achieved. In reality, the goal has been achieved because SBA counts large businesses' awards as going to small companies. The Office of Advocacy has said that SBA is counting $2 billion in award to large businesses. This is the number one management challenge to the office, according to the Inspector General. The General Accounting Office has also confirmed this problem.

So can you please explain to us why it is appropriate for the SBA to claim that the government-wide small business goal has been met, when you are counting large businesses to do that?

Mr. MARTOCCIA. I don't think—

Chairman. AKIN. Time has expired. You can go ahead and answer her question.

Mr. MARTOCCIA. I don't think the problem is as widespread as some people think. I think what happens is that small companies, successful small companies are being purchased by large companies. If they have a five-year contract, the company is being purchased and we do have—we just instituted a rule on novations. And in addition to that we have rulemaking which will require small businesses to recertify if they're being bought off.

Ms. VELAZQUEZ. I'm sorry. You just can't come here and inform to the small business people that are here to say to them that $2 billion is nothing. $2 billion. You can do better than that.

Chairman. AKIN. Thank you. The next questioner would be Congresswoman Moore. We're trying to stick to five minutes.

Ms. MOORE. Thank you, Mr. Chair. I would be offended, Mr. Martoccia, that you were new, except that I'm new too.

But I am concerned about whether or not you've realized that we have an 8(a) program, an 8(a) procurement program which has not been redesigned since it was started. And it has really cost billions of dollars in contracting opportunities to those small and disadvantaged businesses.

The Federal Government purchases—is the largest buyer of goods and services in the entire world. And during the '90s, there were so-called reforms that allowed Government buyers to use a number of expedited contracting options with the exception of the 8(a) program which meant that 8(a) programs and minority businesses have been left behind.

And you know, one of the things, one of the SBA programs is the HUBZone program which operates in distressed areas, but you don't have to be a minority business or a disadvantaged business to take advantage of that. Again, women-owned businesses, the Women's Procurement Program never implemented. There is a bill that I am co-sponsoring, along with our Ranking Member, Representative Barrow, called the MOVE Act, which would really modernize the 8(a) program so that minority businesses won't lose billions of dollars by what Congressman Barrow calls a repeal by neglect in terms of how this program operates.

And I'm wondering if we could depend on your stewardship to move this initiative forward and bring it before the Administration's attention?

Mr. MARTOCCIA. Are you speaking of the women-owned program?

Ms. MOORE. The 8(a) program modernization, the women's initiative, yes.

Mr. MARTOCCIA. We'll be working on all the programs to—

Ms. MOORE. To modernize them so that minority businesses can, in fact, take advantage of some of the contracting opportunities. We can't, because these programs are stagnant. Would you stipulate to that being true?

Mr. MARTOCCIA. No. What I would I would say is we're complying with the law and I think the laws are flexible enough for us to deal with the agencies to improve the opportunities—

Ms. MOORE. In 1990, the Government buyers used an expedited means to get contracts. The exception was that 8(a) programs couldn't do it.

Mr. MARTOCCIA. Well—

Ms. MOORE. Would you stipulate—you said you're following the law.

Mr. MARTOCCIA. Right.

Ms. MOORE. But the law is stagnant is what we're saying.

So we're asking for a commitment from you that you will look at the need to initiate reforms of the 8(a) program.

Mr. MARTOCCIA. We'll try to reform the 8(a) program when it's necessary.

Ms. MOORE. It's necessary now. We've lost tens of billions of dollars in contracting opportunities.

Mr. MARTOCCIA. The 8(a) program provides the most expedited method of contracting of all the set aside programs.

Ms. MOORE. Okay, Mr. Chair, I'd like to yield the balance of my time to the Ranking Member.

Chairman. AKIN. Yes, you can do that and I believe Ms. Velazquez said she had a question also, so why don't you proceed.

Ms. BORDALLO. Go right ahead.

Ms. VELAZQUEZ. Mr. Martoccia, since Mr. Giordano raised the issue of the women's procurement program, it is appropriate for me to ask this final question. I understand that the Rand Corporation is conducting the study for the SBA to identify industries that are under represented by women and entrepreneurs in order to get this program up and running. Rand was subject to a class action lawsuit by several of its own female employees on a pay disparity issue.

Can you explain to this Committee how SBA could contract with a company that was sued by its own female employees on a study designed to implement a program to halt women business owners?

Mr. MARTOCCIA. I'm not familiar with that lawsuit. The way the Government works is that if a company—

Ms. VELAZQUEZ. No, no, no. I'm not asking you—

Mr. MARTOCCIA. I have to answer the question.

Ms. VELAZQUEZ. Look, how could the Federal Government give out a contract, we love to lecture people here about you know, playing by the rules, and you have a company that has been sued by their female employees and they are the company that is going to do a study about women being under represented? That's bizarre.

Mr. MARTOCCIA. Well, the Government has a process called the debarred list and when a company is not responsible to perform

Government contracting work, they're not allowed to receive contracts. To that extent, if they're not on the debarred list—

Ms. VELAZQUEZ. My last question. In your testimony you state that the current number of SBA Procurement Center Representatives is 58.

Mr. MARTOCCIA. Correct.

Ms. VELAZQUEZ. When the federal marketplace was half this size that it is now—

Chairman. AKIN. Congresswoman, this is your last question, right?

Ms. VELAZQUEZ. Okay. My last. How do you expect 58 people to do twice the work that 73 did?

Mr. MARTOCCIA. Since President Bush took office, he moved—we moved the number of PCRs from 35 to 58 and they cover approximately three quarters of the buying activities in the Federal Government.

In addition to that, we're instituting an electronic Procurement Center Representative system which will be very effective and efficient and productive in providing those requirements at a sooner date so the PCRs can get involved from their desk, on their computer to talk to the procuring agencies and officers about their procurement strategies with regard to small business participation.

Chairman. AKIN. Thank you for responding. Now it is my turn. I only have five minutes as well.

I'm going to ask you for short answers. I'm trying to give you a few short-answer questions.

The first one is, because the only person who got into play here was Anthony and I want everybody else to have a chance too.

And so what I'd like you to do first of all would be to state how would you rate the SBA's performance on procurement assistance contracting? You've got a choice of good or medium or bad and I want to go straight across. Good, medium or bad. This is report card. Some of you are technical people and I'm one of the very few engineers that they allowed to get into politics which tells you I wasn't much of an engineer.

Rafael, I'm going to let you go first.

Mr. COLLADO. Bad.

Chairman. AKIN. Bad, okay.

Mr. LOPEZ. Worse than bad.

Chairman. AKIN. Worse than bad. That wasn't an alternative, but I know what it means.

Mr. LOPEZ. Bad.

Chairman. AKIN. Kurt?

Mr. HECKMAN. They've had some successes. I would say medium.

Chairman. AKIN. Medium, okay. Catherine?

Ms. GIORDANO. Other.

Chairman. AKIN. Other. Do you have a little short other?

Ms. GIORDANO. It would be below medium and just above bad.

Chairman. AKIN. Okay. Christina.

Ms. SCHNEIDER. Bad.

Chairman. AKIN. Okay. That being the case, now I'm going to give you a chance for a little bit longer answer, okay?

We've got a guy in here, Anthony, who is a brand new guy on the block. Now it used to be when Harvard Business School would

do cases, they wouldn't want to know your second or your third piece of advice. They want to know your very best shot.

So what I'm going to ask for those of you who, if you have one piece of advice—let me ask one other question—well, I don't have time for that.

Here's just one shot. You have a piece of advice to give to the SBA, you've got a brand new guy. He's got an open mind for the moment anyway. What's your best piece of advice to him on how we try to do a better job here, because we're all on the same team. We really want to make this work.

Rafael, you're an innovative guy. What's your best shot?

Mr. COLLADO. Best piece of advice is force the unbundling of contracts and audit, audit, audit prime contractors at their meeting—and agencies—at their meeting their goals. Make sure they're not lying about their numbers.

Chairman. AKIN. That was short and very much to the point. Thank you.

John?

Mr. LOPEZ. I'm Stanford Business School and we don't do that.

Chairman. AKIN. I already got in trouble politically, didn't I? I applied there too, but they didn't take me.

Mr. LOPEZ. I would suggest to Mr. Martoccia that he demand accountability from his workforce and demand reports. Documentation. Documentation goes a long way to steering decisions and making certain those decisions are the correct ones.

Chairman. AKIN. Thank you.

Mr. HECKMAN. I would say in speaking from the HUBZone program side where I am, I would recommend that they would do an automatic audit of the HUBZone requirements and they can't do them for all the HUBZone allocations, there's just too many. But I would recommend they automatically do it for any HUBZone contract that is awarded above some reasonable threshold, $10, $12, $15 million something like that, so that at least the big ticket items that go out there, it's just carte blanche. If you win a HUBZone contract above that threshold, you're going to be audited.

Chairman. AKIN. Okay, good. Thank you.

Catherine?

Ms. GIORDANO. I think first and foremost is implement the women-owned rule. I think if we were having children based on how long it takes to gestate, this would be a twin, quadruple—elephants, because it takes you that long to have elephants.

I think it's an over-abused process on our part to be last in line, waiting for something that was passed in 2000.

Chairman. AKIN. Thank you.

Ms. SCHNEIDER. My advice isn't necessary to the SBA, it's to Congress and my advice is to look hard at the utilization reports that you're getting because I don't believe they're accurate. I believe they're flawed. I believe the statistics we heard today are fraught with large dollar volume contracts awarded to Alaskan Native Corporations under the guise of small business. I believe that large volume HUBZone contract awards are being—HUBZones are fronting for large businesses in those large dollar volume awards. There's no way a small business can bid $100 million HUBZone contract in the construction business.

There's really nasty stuff going on out there and when the SBA sits at this table and tells you that they've doubled their utilization volume, I'm sitting here and—

Chairman. AKIN. Christine, I'm down to 10 seconds. What I'd like to ask you to do, all of you that had recommendations, if you don't mind writing them up and shooting them over to the SBA to Mr. Martoccia so that he can hear what you have to say. I think that would be helpful just for starting places.

I will take, Christina, what you were saying, and see if we can factor that into what we're doing. I was going to ask another question which I don't have time to do.

Ms. VELAZQUEZ. Mr. Chairman, we would like to receive a copy of those recommendations.

Chairman. AKIN. If you could send those to the Committee, that would be good, too.

I was going to also ask you, being a conservative Republican, my question would be can the Government really do this or not? I mean I have some skepticism about that, but I'm not going to ask that question. And with that, I'll make this informal, let people chat as they have time to this afternoon.

The hearing is adjourned.

(Whereupon, at 3:54 p.m., the hearing was adjourned.)

Opening Statement
March 30, 2006
Regulatory Reform and Oversight Subcommittee
House Committee on Small Business
W. Todd Akin, Chairman

Good morning and welcome to this hearing which will consider the Small Business Administration's procurement assistance programs. I want to especially thank those who have come some distance to participate in and to attend this hearing.

Most of you know that small businesses are the backbone of our economy. Most, if not all, large businesses started as small businesses. Small businesses are often times the driver of innovation in both products and services. The federal government plays an enormous role in promoting the growth of this sector as the consumer of goods and services that small businesses provide. In fact, it is the stated policy of Congress that the federal government should purchase 23 percent of their goods and services from small businesses. Furthermore, the Small Business Administration oversees procurement assistance programs for small businesses that are owned by the disadvantaged, women, veterans, or located in Historically Underutilized Business Zones.

In the past, small businesses have expressed concern that SBA and other federal agencies were not providing sufficient nor effective procurement assistance. In addition there have been concerns that large businesses have received the benefit of small business contracting goals and policies. With a new associate deputy administrator for the Office of Government Contracting and Business Development at the SBA, this is the time for a new review of the government's small business procurement policies.

This hearing will examine whether or not federal procurement assistance programs are in fact helping small businesses compete in the fiercely competitive and complex contracting environment. Are the SBA's and other federal agencies' programs and efforts sufficient to assist small businesses in finding real procurement opportunities? Also, the subcommittee will explore innovative ideas and recommendations to improve and enhance assistance to small firms that want to do business with the federal government

I now yield for an opening statement by my good friend and colleague, the Ranking Member of this Subcommittee, Ms. Bordallo of Guam.

STATEMENT
of the
Honorable Nydia M. Velázquez, Ranking Democratic Member
House Committee on Small Business
Regulatory Reform and Oversight Subcommittee Hearing
Thursday, March 30th, 2006

Thank you Mr. Chairman. I was also want to thank Congresswoman Bordallo for letting me sit in on this hearing. I appreciate all of the hard work you are doing on this issue.

Over the last several years the federal market place has continued to grow quickly. Currently it is 100 billion dollars more than it was at the beginning of the President's term. This growth is attributed to spending related to the war on terror and our involvement in Iraq. As an example, the Department of Defense's procurement volume in 2004 was bigger than the entire federal market place in 1999. Based on this you would think that small businesses are thriving, but there could not be anything further from the truth.

From 2003 to 2004 alone, small companies lost nearly 1.7 billion in contracting opportunities and the number of contract actions to small businesses has declined by 31%. While this Administration claims small businesses are important, they obviously don't think they are important enough to do business with.

We constantly hear that SBA is doing more with less but small businesses are not benefiting. By 2007 the agencies staff will be reduced by 1/3 and the budget has already

been cut in half. The lack of personnel and resources causes programs to be abused, fraud-ridden and in some cases not to be executed at all.

One of the most important roles that SBA serves is to ensure that agencies comply with current contracting laws. This job falls on the Procurement Center Representatives (PCR's), the front line defense against items such as contract bundling. There were 73 PCR's when the federal marketplace was almost half of what it is now. Today, there are only 58 PCR's leaving small businesses without an advocate. As a result agencies are failing small businesses as evident with the drop contracting opportunities.

At a time when small businesses have been affected by hurricanes Katrina and Rita and need help more than ever, local small businesses are receiving less than 20% of FEMA's contracting dollars. Also, nothing is being done to expand small business opportunities in the Gulf Region for recovery work. While the SBA does not think this is alarming, our nation's small businesses are being neglected.

These short comings are most glaring with respect to women and minorities. The 8 (a) program- the primary program through which minority-owned businesses enter the federal marketplace has dropped by 20%. What is most disappointing is that this program has not been updated in nearly 20 years. As a result, it has moved away from its core mission of minority business development.

Also, this Administration has done nothing to implement the Women's Procurement program, an initiative that allows for women-owned businesses to access the federal market place. By failing to execute this program, women business owners lose out on $25 billion in contracting opportunities.

Small business participation in the federal market place is important and should not be viewed as an undue burden. Small businesses are the innovators, drivers of the economy - they are what make this economy tick. This is not just good for small businesses, it creates competition in the federal market place, it gives federal agencies quality products, but most importantly it provides the best value for tax payer dollars.

Rather than recognizing this, this Administration's sole focus is providing no bid contracts to companies like Halliburton who then turn around and over charge the government millions of dollars. This is the wrong set of priorities for this nation and it needs to change.

Statement of Representative Sue Kelly
Committee on Small Business
Subcommittee on Regulatory Reform and Oversight
Hearing on SBA's Procurement Assistance Programs

Thursday, March 30, 2006
2 p.m. 2360 RHOB

In our work here today, it is important to recognize that procurement methods within the federal government must be fair to small businesses, especially those small businesses owned by women and minorities.

One resource in achieving the goals we set for ourselves is to work closely with the procurement assistance programs at the SBA.

I represent New York's Hudson Valley and the small businesses there constantly remind me of the importance of not just fairness, but equal access to government contracts.

Government procurement standards should be equal across the board.

In order to be fair, it is important to understand the methods that can be created or enhanced to make sure everyone, of all races, ethnicity and gender has access to government contracts.

Open and competitive bidding leads to fair contracting, which ensures that public sector agencies are able to purchase the most effective and efficient products and technologies and remain in equity with who those contracts are awarded to.

One issue that comes to mind when thinking of methods to get closer to the 5% contracting level for women and minority owned small businesses is the problem with contract bundling. Contract bundling also has a negative impact on small businesses in general.

Combining several smaller federal projects into one massive package is often too large for any small business to handle – no matter the gender or ethnicity of the owner.

When government contract bundling occurs, small businesses are no longer able to compete because of the size, diversity, aggregate dollar value, or specialized nature of the procurement requirements.

Further, government contract bundling reduces the quality of the work on federal projects, because it edges out small contractors who could do more work at a higher quality for less money.

I look forward to hearing the testimony here today and learning more about how the SBA is working with Congress to achieve the goals we've set for small businesses.

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

TESTIMONY OF

ANTHONY MARTOCCIA

Associate Deputy Administrator, Government Contracting and Business Development

United States House of Representatives

Subcommittee on Regulatory Reform and Oversight

Committee on Small Business

Thursday, March 30, 2006

Chairman Akin, Ranking Member Bordallo, distinguished members of the Subcommittee, thank you for inviting me here today to discuss the President's FY 2007 budget requests for the Small Business Administration (SBA) and related legislative issues, specifically those relating to Government Contracting and Business Development (GCBD).

I am Anthony Martoccia, Associate Deputy Administrator for Government Contracting and Business Development (GCBD). Thank you for allowing me to represent the SBA on behalf of Administrator Barreto.

Since 2001, the SBA has been on a mission to deliver more services to the nation's small businesses. We are proud of the SBA's success in that quest, and the FY 2007 budget reflects a continuation of this goal.

Improved methods to assist small businesses gain access to government contracting opportunities have been implemented. By restructuring key Agency operations and reengineering the agency's largest loan programs, the SBA has achieved record program growth while operating more efficiently and reducing its

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total budget by more by 37% since 2001. The SBA has improved the effectiveness of the taxpayers' dollars supporting small business development.

Government contracting dollars going to small businesses has grown steadily since FY 2000. There were $20 billion more in small business contracts in FY 2004 than in FY 2000. That amount supports an estimated 156,000 jobs. With improved efficiencies in FY 2007, SBA will be able to serve record numbers of small businesses with a total budget request of $624 million, of which $74 million will be used for Government Contracting and Business Development.

Small Business Contracting Awards

	Small Business	Total SDB	8(a)	Women	HubZone	Service Disabled Vets
Year						
2004	23.08% ($69.2B)	6.18% ($18.5B)	2.81% ($8.4 B)	3.03% ($9.1B)	1.59% ($4.8B)	0.38% ($1.2B)
2003	23.61% ($65.6B)	7.01% ($19.5B)	3.64% ($10.1B)	2.98% ($8.3B)	1.23% ($3.4B)	0.20% ($549M)
2002	22.62% ($53.3B)	6.75% ($15.9B)	2.39% ($5.7B)	2.50% ($6.8B)	0.71% ($1.7B)	0.13% ($298M)
2001	22.81% ($50.1B)	7.12% ($15.6B)	2.86% ($6.3B)	2.49% ($5.5B)	0.72% ($1.6B)	0.25% ($554M)
2000	22.26% ($44.7B)	3.61% ($7.3B)	2.88% ($5.7B)	2.28% ($4.6B)	0.33% ($663M)	N/A

SBA's GCBD has increased the number of Procurement Center Representatives (PCRs) assisting small business with federal procurement issues to 58. For non-salary expense compensating budget items specifically addressing Government Contracting and Business Development, the request is for $4.9 million in FY 2007. This includes $2 million in direct costs for 7j, $1.1 million for HUBZones administrative costs such as travel, office supplies and contract support (in addition to over $1.4 million in compensation and benefits). GCBD has 177 employees, of which 103 are located around the country providing small business contracting assistance. Their salaries and benefits are included in SBA's overall request for compensation and benefits.

In Fiscal Year 2004, small businesses received contract awards totaling a little over $69 billion of the approximate $300 billion in total federal prime contract awards. Additionally there were an estimated $45 billion in government related subcontracts awarded to small businesses.

SBA's Office of Government Contracting and Business Development also instituted enhanced practices and technological improvements. GCBD is working with agencies to help them meet their missions, as well as helping small businesses to identify contracting opportunities through these technological improvements. Systems such as the e-PCR create increased efficiencies concerning government contracting opportunities and monitoring.

Strides have been made to maximize staff resources and monitor contracting activities, as well as to improve communication and interaction with the small business community through the automation of many basic systems. These systems include the Electronic Subcontracting Reporting System, the electronic 8(a) application, the HUBZone Procurement Query and Reporting System, as well as the Central Contractor Registration, and Tech Net among others. As technology is ever changing and improving, so are the efficiencies enhanced by using these E-gov systems.

The added benefit of these technological advances is apparent in the business matchmaking efforts following the Gulf Coast Hurricane disasters. More than 500 small businesses were registered and received telephone calls from our Procurement Center Representatives. Approximately $30 million in contract support has already been awarded to many of these firms. Approximately $1.24 billion Katrina related contracts listed in FPDS-NG were awarded to small business. An additional $1.5 billion in FEMA small business awards are pending.

In addition to GCBD's traditional functions, the Office will leverage opportunities outside of our division. Opportunities include those provided by SBA's Office of Capital Access, Entrepreneurial Development and SBA district offices to reach out to small businesses.

The SBA operates like the businesses it helps to succeed by continually meeting challenges and evaluating cost effectiveness. The SBA has succeeded in achieving record growth in its programs while at the same time reducing the overall budget request through focused, practical implementation of the President's Management Agenda (PMA) and related initiatives.

Creating a better environment for small business to thrive and compete is a priority. It is well documented that when small businesses are thriving, the overall economy is thriving.

Thank you. I will be happy to answer any questions you might have.

Subcommittee on Regulatory Reform and Oversight

March 30, 2006

Good Afternoon Chairman Akin, Congresswoman Bordallo, Members of this Subcommittee, fellow panelists and guests. My name is Rafael Collado and I am the Chairman of the Board and CEO of Phacil, Inc. Phacil, Inc. is Certified by the Small Business Administration as a Small Disadvantaged, 8(a) and HUBZone Business. The Company provides Information Assurance/Security, Information Technology, Logistics Support and Engineering Services to the Federal Government and Commercial customers. Phacil is unique among 8(a) companies in that it holds a Top Secret Facility clearance and is headquartered at the Applied Communication and Information Networking Center in Camden, New Jersey (a HUBZone).

I am pleased to join this panel of industry and government leaders to participate in a dialogue about contracting opportunities made available as a result of the Small Business Administration's HUBZone program. For me and my Company Phacil, participating in procurement opportunities within the SBA have been disappointing. After four years of participating in SBA programs, Phacil has expectations have not been realized. Based on our experiences we must conclude that there is a bias against small businesses.

By way of personal background, I was born in New York's South Bronx. As a product of a disadvantaged community, I am committed to providing a sustainable economic base in a distressed community in the United States.

With the support of my parents an electrical engineer working in the aerospace industry and a home-maker, I did well in school. I graduated High School as both a Regents and National Achievement/Merit scholar attended Polytechnic Institute of Brooklyn where I majored in Electrical Engineering and after Polytech worked for several of the largest technology firms in the United States, including Xerox, ITT and Exxon.

Very early in my working career I knew that I wanted to start my own business. I did not want my life to potentially be in the hands of people who might not be fair to me. I decided that the only way I could help myself and my community was to build something which would directly contribute to the local economic infrastructure. In 1983 with the assistance of some friends I had grown up with, I founded Protocom Devices, Inc. and at its peak we employed over 200 people. The majority of these folks came from the local neighborhood and had been trained by the company to a high level of technological competence.

I went on to found several other companies, including Inabox Communications which was acquired by Register.com in 2000. It was at Register.com that I met

my current partner at Phacil, Sascha Mornell who also shares the value of hard work, education, integrity, commitment and compassion for equality.

The Phacil Journey

Phacil was formed by Sascha and me, fulfilling a life long dream of creating, nurturing and running their own small business in a manner that would provide a sustainable economic base in distressed communities in the United States. In 2001 we formed Phacil and experienced all of the barriers that confront most Small Disadvantaged Businesses. Primarily, access to the government contracting industry.

For the sake of brevity I will limit my comments today to the major obstacles the Company historically faced so as to illustrate that DHS is a very typical government agency and that it is this pervasiveness of institutional apathy that is most corrosive to equal opportunity. While ultimately I will end my remarks with our specific experiences at The Department of Homeland Security (DHS), I must (for the sake of clarity and consistency) begin, as any Small Disadvantaged Business wanting to develop in the government contracting marketplace, with the Small Business Administration (SBA).

As I mentioned earlier, Phacil wanted to be a HUBZone company because Sascha and I wanted our Company to provide jobs to folks in distressed neighborhoods. We had been successful previously; we wanted to continue and

extend this success to folks in under utilized or under employed urban settings. The HUBZone Program was most co-incident to this purpose, or so we thought. The Program was and is, first and foremost, a JOBs creation program. It was open to all businesses regardless of race, ethnicity or sex (not a quota system) which appealed to my particular idealism best expressed by Dr. Martin Luther King when he said that he hoped one day his children would live in a world where they were judged "not by the color of their skin...but by the content of their character".

For me the decision to seek entry into the HUBZone program was a way of making part of that dream real. My first disappointment came, when after we had speedily filled out the forms, hired the requisite number of people from our limited capital and set up operations in Newark...the SBA said they were "too busy" to process our paperwork and had NO idea as to when they could review it so that we could be certified. Despite numerous calls, emails and personal visits we could not get any movement whatsoever from the SBA. Upset and frustrated, we decided to reach out to our local Congressman...The Honorable Donald M. Payne (NJ-10). Mr. Robert Cottingham from Congressman Payne's office came to visit us within a day of our call. He took the time to listen to us asked a few questions and then very frankly told us that there might not be very much he could do...but that he would earnestly try to assist us. He also cautioned us that he wanted us to assist other folks in the Congressman's District that might want to start their businesses by giving them Phacil's assistance, support and advice.

In effect, he was informing us that he was very much about the overall economic development of the community and not just Phacil. I think he was shocked when he found out that our commitment was to do exactly that...community success...not just the success of Phacil.

Thanks to the Congressman's assistance, within three days of that meeting, the SBA reviewed, asked a few questions/clarifications and certified us as a HUBZone company. That was the first time, but certainly not the last time, that aggressive and principled Congressional involvement helped balance the scales of opportunity on our behalf and on that of the communities whose citizens we employ.

Our experience with the HUBZone program caused us to become very concerned that other potential beneficiaries in Newark were being underserved by the SBA. Sascha and I, with assistance from Congressman Payne's office sponsored (out of our own pockets) the first Department of Defense HUBZone Symposium on the campus of the New Jersey Institute of Technology. This symposium was attended by Federal, State and city elected officials as well as over 100 business community participants. We were forced to finance it ourselves because both the DOD and the SBA said they did not have funds available to educate disadvantaged community entrepreneurs about this potentially helpful program. Our symposium was a success, with several companies applying and receiving HUBZone certification. In fact, the

Department of Defense ran other HUBZone outreach programs, directly modeled on our event, as a result of this success.

Phacil continued, unsuccessfully, to market to the Federal government. Not because our products or services were either inferior or unnecessary, because typically, we exceeded most of the Federal customer requirements. Rather, the bureaucratic infrastructure of government contracting imprisoned us in what felt like an "Alice in Wonderland" world. It was as if large prime contractor's had control of the Federal contracting system and hence created a "separate..but unequal" environment where large companies won contracts **without bidding** and Small Disadvantaged Companies where forced into inequitable relationships, such as subcontractor or Mentor-Protégé arrangements, to actually provide the product or perform the services. We continually turned to the SBA for assistance and support and were at best ignored ... and in many instances rebuffed. That said, we continued to aggressively, both in oral and written form, insist that the SBA fulfill its responsibilities to assure equal opportunity for Small, Veteran-Owned, Woman and Disadvantaged businesses.

Our constant pressure on the SBA resulted in a backlash. There came a time when we were made aware by our potential Federal government customers that our marketing efforts would be helped by applying for 8(a) certification. Despite our excellent personal credentials, a proven outstanding track record in business and a strong commitment to the economic development goals of the program, we

were rejected three times. We later learned that the basis of our rejection was principally formulated on the fact that we were persistent in seeing our application to its positive conclusion.

As a result of the lengthy delay we lost the opportunity to bid for a major procurement being prepared by the GSA specifically targeted towards 8(a) firms. We had recently been awarded a similar contract from the GSA on the basis of our HUBZone certification and we had a very good chance of being successful on the 8(a) version of that same contract…but we needed our certification. At the time it was critical that we succeed in pursuing that opportunity because Federal agencies tend to award contracts based on cumulative certifications. Having both 8(a) and HUBZone was, and is, a competitive necessity.

Despite our preparation hard work and timely application submission we were unable to participate in the solicitation. Regrettably we were denied entry into a procurement vehicle that would have created hundreds of jobs in the communities Phacil serves. Again, after intervention by members of Congress many meetings, a review and analysis of the application, the senior SBA administrators determined that Phacil indeed had met or exceeded the qualifications needed for entry into the 8(a) program. Unfortunately….it was too late for that procurement vehicle and too late for us to be able to assist providing employment to folks who desperately need a chance.

With all of our SBA certifications now in place, we continued to aggressively seek opportunities in the Federal government marketplace. The next hurdle we faced was that of security clearances. Before 9/11 this barrier to small companies had been significant. 9/11 raised this barrier to almost metaphysically impossible proportions. National security became the watchword to routinely bar anyone who was new, different or not otherwise already connected to the defense or national security establishment. Clearly, minority owned companies suffered in a disproportionate manner from this. Just as occurred in seeking our 8(a) certification, the process for receiving security clearance involved filling out a long form and then submitting that form to an organization, Defense Security Service that was overwhelmed by the job it was being called upon to do. There was no quantifiable accountability. We could not get any answers as to when our applications would be acted upon. Realizing that our savings could not finance the company for two years, we turned to our local Congressional delegation again in an effort to at least get our applications reviewed. Once Congress and the DSS Inspector General got involved we learned several things.

The first was that, several months earlier, in a bureaucratic transfer to OPM our information had been "lost". The second was that DSS could have administratively given us expedited "Interim" clearances (routinely done for larger companies as admitted by DSS directly) but neglected to mention this to us untill our Congressional delegation got involved in the process. It was before we received our Top Secret facility clearances. During that entire period...even

though we were making tentative headway in the Department of Defense marketplace, though we were receiving praise and outstanding reviews from our DoD customers...we were constantly beholden to large Prime Contractors who lorded their security clearance umbrella over us in a manner that made us, effectively, technological "share-croppers". In one case in particular at the Missile Defense Agency our work resulted in an additional $2M to the prime contractor and despite that we received ZERO new work from the Prime. This is from an agency that has literally provided zero contract opportunities for HUBZone companies in four years.

Recently Phacil's hard work has been modestly rewarded by work by the Army, Defense Logistics Agency, Veterans Administration and GSA, to name a few. In fact, Phacil now fills a key technological leadership role in the Army's Distributed Common Ground System (DCGS-A), the transitional Joint Intelligence Operations Capability/Center as well as continuing our work in securing the country's Missile Defense information technology infrastructure by directly advising the Chief Information Officer of the Agency. Our employees operate in the highly classified SCI as well as collateral security environments supporting Operation Iraqi Freedom. And in several of our contracts where feasible, Phacil has successfully reduced waste, created better efficiencies, increased productivity and decreased the cost to the Government for these services. In fact, Phacil was recently singled out by the General Services Administration as an example of one of their most successful Small Disadvantaged Businesses.

Concerning procurement opportunities at the Missile Defense Agency, or MDA we have met with no success. Our experience which is a documented concern in a December 20, 2004 article titled *"Small Firms Shortchanged on Federal Contracts"* leads us to question MDA's suggestion that it is trying to meet small business goals. We believe that agencies such as MDA and the Department of Homeland Security are misclassifying large firms as small businesses thereby skewing the reporting and making it difficult for us to compete.

Even though Phacil has followed the advice of our DHS contact who suggested that the only (or at least a "fastest" way) Phacil could participate in opportunities at DHS was through a Mentor-Protégé, or M-P, relationship, we have been awarded no contracts. The MP relationship is a theoretical win-win-win; DHS gets pre-qualified Small Disadvantaged Businesses to work at the Department, Protégés get access to work and opportunities and Prime or Large contractors get favorable ratings in evaluation of contracts.

We are not naïve and understand that as my dad once said"The world is not fair". However we believe it is reasonable to seek an opportunity to have the Department of Defense and large government agencies fulfill its Congressional mandate to use Small Businesses.

It is Congresses' responsibility to make sure that Small Disadvantages Firms have the fair opportunity to subcontract to larger Companies who will have their

subcontracting goals scrutinized and be held accountable for meeting those goals. We suggest that with tighter Congressional oversight DHS and other agencies can enforce completion of contracts as written in the Mentor Protégé Agreement, and if that is not possible that DHS and the Mentor company be called and held accountable…either financially or in some statutory legislative forum. The key is accountability, the key is over-sight by legislators, the key is enforcement.

Despite all of the preceding, Phacil keeps its eyes on the prize. In the latter part of the 20th century, civil rights pioneers fought and died for the political rights which people like me enjoy. I believe that I and others like me have an obligation and responsibility to build on those sacrifices…to answer the call to advance the cause of the economic rights of the disadvantaged citizens of this country.

In closing I would like to remind the members of this committee that Phacil has depended on the active, aggressive support of our elected representatives in leveling the playing field in dealing with Federal government acquisition and contracting.

I want to once again thank The Members here for this opportunity to share our perspective and look forward to working with you and our federal and industry partners to promote economic development in our country's distressed communities.

The Testimony of
Mr. Kurt Heckman
President
Sycamore.US, Inc.

Before the House Small Business Committee, Subcommittee on
Regulatory Reform and Oversight

March 30, 2006

Congressman, thank you for your kind introduction. It's an honor to be here in front of this subcommittee today. On behalf of the 100 employees at Sycamore, please accept my thanks for creating and maintaining the HUB Zone program.

In my ten years at Sycamore, I've discovered that there is really only one inherent virtue to being a small business, and that virtue is that the stockholders know the employees on a first name basis. It's impossible to work side by side with your employees for any length of time and coldly refer to them as "labor". In a small business, employees are your partners. In a small business like Sycamore, they become owners where 20 of my 100 employees own part of the company. Small business is where humanity truly intersects with economics and frankly, a lot of America's business problems can be traced to dehumanization of our workers.

Sycamore has been a delight to me for the last ten years, but with the delight comes a burden regarding the care of a growing number of individuals and families. We've worked to create the employee centric company that I always wanted to work for, and the net result is that we have top performing men and women and virtually no attrition. People come to Sycamore and stay, and in the Intelligence Community, that is almost unheard of. For moral and ethical reasons, we keep respect for our employees at the top of our priorities, but it is also good business. A stable and motivated workforce is a powerful thing. If your employees know that you will do everything in your power to take care of them, they won't bolt at the first sign of bad news; couple that with honesty and transparency, and you will overcome great hurdles.

You should know that Sycamore was a successful business prior to the HUB Zone program. We were five years old, had 30 people, were doing about three million in annual revenue, but with the exception of some small contracts with Fannie Mae, Freddie Mac and Ginnie Mae, the vast majority of our business was as a subcontractor. That was fine, but as a sub you typically don't get credit for your successes, you rarely get project management experience and in general, leadership opportunities are scarce. Often you can't even site the good work you've done as a sub on proposals. Furthermore, as a sub, the prime's add-on cost creates a lower ceiling for what you can pay your employees and what benefits you can provide. The funny part is that even though the primes skim their G&A and profit off of the top of our bill rates, my employees are typically higher paid than their prime contractor peers, and certainly have better benefits, and that's because as a small business we've had to be efficient.

In our five years as a HUB Zone certified company, we've gone from a good little company, to a leader in the small business arena. We've more than tripled in size, and have five significant prime contracts because of the HUB Zone program. The HUB Zone requirements on the agencies have given us a chance to perform and I am happy to say that we have executed. Our performance grades are excellent across the board, and on our largest prime contract, which is a multimillion dollar HUB Zone IT contract in the Intelligence Community, we have received our 4th straight 100% award fee for outstanding performance. Instead of viewing HUB Zone regulations as a burden and a mandate to do work with inferior businesses, our customers see it as an efficient and simplified way to do business with an excellent company.

I must confess that I love how the HUB Zone program isn't geared to make rich men and women richer, but sends dollars to communities with statistically proven needs. It was very easy for Sycamore to extend its practice of excellence to our customers and employees to include our community. All three of our offices are in HUB Zones. Sycamore is required to have 35% of our staff be residents of a HUB Zone. We have over 50%, and our investment in the HUB Zone community in 2005 was over $2.5 million.

In closing, one our first HUB Zone employees is a smart young man that was literally working in a coal mine in the Appalachian region of Western Maryland. Today, through his own efforts and with the help of tuition assistance, part-time work, benefits and technical training from Sycamore, that young man has a bachelor's degree in mathematics, has some of the highest security clearances in the land, and has a full time job making over $45K straight out of college and is on his way to a terrific career and a bright future, all because of the HUB Zone program. On his behalf and the others in Sycamore, thank you.

Testimony

Of

John K. Lopez, SDV, Chairman
Association for Service Disabled Veterans

To

The Small Business Committee
U.S. House of Representatives

Thursday, 30 March 2006
Rayburn House Office Building
Washington, DC

Good morning Mr. Chairman, Ranking Member and Members of the Committee.

Thank you for your attention and without objection, I shall submit a written statement for the record and summarize my testimony for the Committee.

Since the beginnings of our nation, the people of the United States of America have placed great confidence in that interpretation of the United States Constitution that permits our government to conscript or seduce our citizens to be killed, disabled and tortured in military service, for the security and prosperity of the total population.

Complicit in that application, has been presumption that our nation, thru its government, would provide rehabilitation for our service disabled veteran (SDV) survivors of the resulting horror.

This has not been the case when SDV have attempted to maintain their rehabilitation as owners and operators of smaller businesses (SDVOB).

It has been nearly six (6) years since the U.S. Congress first provided support for the service disabled and prisoner of war veteran enterprise initiative, by enacting P.L. 106-50 and P.L. 108-183.

The Administration followed that direction by invoking President Executive Order 13360, directing aggressive and immediate implementation of those laws and specifying actions to be taken.

Those activities took place in October 2004 and since that time frustration has continued and subsequently **the legislated intent of the U.S. Congress has been variously interpreted by regulators, due to the necessity for inserting and parsing of the required language, statements and reference to existing regulations and laws.**

This bureaucratic abuse has had the effect of confusing and impeding the effort to increase the participation of the service disabled veteran (SDV) in government procurement and contracting opportunities.

The policy of the nation and the intent of the government has been ignored and the Congressional compact for our security has been violated.

Consequently, it is imperative that the Congress enact H.R. 3082 "The Veterans Owned Small Business Promotion Act" which clarifies and reemphasizes the intent of the U.S. Congress. The intent is a splendid example of the concern and focus of the Congressional response to the veteran's need for rehabilitation and transition assistance.

H.R. 3082 gives specific authority to the Department of Veterans Affairs (USDVA) to confirm the eligibility of service disabled veteran businesses and to accept direct responsibility for the provision of benefit to the veteran. Especially, the service disabled veteran. It puts the task to that agency specifically established for the purpose of serving "those who have borne the battle".

H.R. 3082 also clarifies the misconception that Veterans Entrepreneurship, and the proposed act, are a socioeconomic development initiative or a cultural inequity panacea.

H.R. 3082 is a specified contribution to that continuing obligation of our nation to **REHABILITATE** those veterans that sacrifice for our nations security and prosperity.

THE SERVICE DISABLED VETERANS GOVERNMENT SERVICE INCURRED MISERY, IS UNIQUE!

There is no justification for requiring that service disabled veteran indemnification and rehabilitation be adjusted to the conduct of any other socio-economic program. The neglect to support the rehabilitation of service disabled veteran businesses has also placed unnecessary stress on the family of the SDV.

The age old adage that; "BESIDE EVERY SUCCESSFUL MAN STANDS A WOMAN"; pales in significance when compared to the role of the wives', mothers', sisters' and daughters' who care for those service disabled and prisoner

of war veterans (SDV) that are enhancing their **REHABILITATION** through the ownership and management of a smaller business (SDVE).

Besides, the enormous burden of caring for the SDV's life long disabilities, incurred in sacrifice for the well being of all the free world, these women are vested participants in the daily management of the SDV enterprise. Without their participation the SDVE is surely doomed to failure.

For too long has this extraordinary contribution gone unrecognized and the unique investment of Vested Women (VW) gone uncompensated.

Present legal interpretation states that the legal entitlement of the SDVE ceases when the SDV owner dies or is incapacitated, leaving the significantly invested VW with a practically totally devalued business. The actual VW role as a defacto partner and enabling force in the enterprise is discarded.

This is an unacceptable disposition of the accomplishments of the SDV and the sacrifice of the VW. Disgracing the responsibility of the nation for the sacrifices of the veterans' unique initiative. H.R. 3082 will alleviate this injustice and provide for SDV business succession.

In the words of one Vested Woman (VW); **"WOMEN HAVE STOOD BY TOO LONG WHILE OUR DISABLED VETERAN LOVED ONES HAVE TAKEN ABUSE AND DISRESPECT FOR THEIR SACRIFICE FOR THIS NATION EVEN WHILE THEY STRUGGLE WITH REHABILITATION.**

It is estimated that over 2,500,000 women are integral in the operation of SDVE and over 15,000,000 in all veteran owned business.

Future generations of American military heroes will be forever indebted to the Congress, and especially the 109th Congress, for their commitment to honor and support those killed, maimed, and tortured in the continuing struggle to provide security and prosperity for the people of the world.

Those Iraqi-Afghanistan veterans returning from harms way are experiencing a far different outreach from others who have served, and that is a tribute to the conscience of the Members of the U.S. Congress.

The 25 million military veterans of our nation thank the Chairman and Ranking Members of the Committee and Subcommittees, **the 500 thousand grandmothers, 12 million wives and 6 million granddaughters that are direct stakeholders and beneficiaries of veteran's entrepreneurial investment and the 30 million employees of veteran enterprises (SDVE),** thank the U.S. Congress for the compassionate and responsible leadership that they have demonstrated in the development of veterans entrepreneurship.

However, H.R. 3082 only addresses the symptoms of the governments neglect of responsibility for our nations disabled veteran. To finally and accurately respond to that responsibility, the U.S. Congress is urged to amend the Small Business Act by added a new section: **"THE SERVICE DISABLED VETERAN COMPREHENSIVE ELIGIBILITY"** amendment as follows;

"The U.S. Congress hereby authorizes businesses owned and operated by veterans with service connected disabilities (SDVOB), adjudicated by the United States Department of Veterans Affairs (DVA), to enter into contracts with the United States Government and any department, agency, officer or government contractor, thereof having procurement powers obligating the entity to furnish articles, equipment, supplies, services, or materials to the Government or to perform construction work for the Government. In any case in which the procurement officers certify to any officer of the Government having procurement powers, that the SDVOB is competent and responsible to perform any specific Government procurement contract to be let by any such officer, such officer shall be authorized and directed in his discretion to let such procurement contract to the SDVOB upon such terms and conditions as may be agreed upon between the SDVOB and the procurement officer. Whenever the procurement officers and

SDVOB fail to agree, the matter shall be submitted for determination to the Secretary or the head of the appropriate department or agency by the procurement officers."

In this amendment, the U.S. Congress should be able to practically and accurately resolve the nations obligation to the sacrifice of our service disabled veterans.

It would also be appropriate to recall the words of the First President of the United States of America, "George Washington, who stated that **"THE WILLINGNESS WITH WHICH OUR YOUNG PEOPLE ARE LIKELY TO SERVE IN ANY WAR, NO MATTER HOW JUSTIFIED, IS DIRECTLY PROPORTIONAL TO HOW THEY PERCEIVE THE VETERANS OF EARLY WARS, WERE TREATED AND APPRECIATED."**

Thank you for your attention, I would be pleased to answer any questions the Members may ask.

Statement of Ms. Catherine Giordano

On Behalf of

Women Impacting Public Policy

Submitted to

House Subcommittee on Regulatory Reform and Oversight
House Small Business Committee

"Oversight of the Small Business Administration's Procurement Programs"

March 30, 2006

Mr. Chairman and Members of the Subcommittee, my name is Catherine Giordano. I am CEO of Knowledge Information Solutions, located in Virginia Beach, Virginia, a certified 8(a) firm. I am testifying today on behalf of Women Impacting Public Policy (WIPP). WIPP is a bipartisan organization representing 39 small business groups with a combined membership of over 535,000 women in business nationwide.

Procurement programs are near and dear to my heart—our company has federal contracts with Department of Defense and a number of other government agencies and holds six Government Wide Acquisitions Contracts (GWAC)s. Due to our success in the federal marketplace, our company has grown from $9 million in annual revenues to $27.5 million in the last five years. So, it is possible for a small company to penetrate the federal marketplace.

As Congress moves to reauthorize the Small Business Administration's (SBA) programs this year, there is one glaring problem—adequate funding for SBA staff that can provide procurement assistance. The number one issue for small businesses who want to enter the federal market is an understanding of how the federal buying system works and the ability to respond to a federal sales opportunity. Not only is marketing expertise required, but also an array of other complex issues. It is essential that small businesses understand teaming agreements, mentor protégé programs, the correct way to respond to Requests for Proposals, the complex acquisition rules, and the different kinds of contract vehicles. The amount of expertise required to be a successful contractor to the government can be overwhelming.

The SBA regional offices should be prepared to provide this assistance but the reality is that there is inadequate staff to provide procurement expertise to small

businesses. In addition, WIPP members report to us that while some SBA offices are able to introduce them to federal installations in their region and are knowledgeable about upcoming procurements, many are unable to do so. We believe this to be largely due to whether or not Procurement Center Representatives (PCR)s are located at that facility and whether or not an SBA staffer is properly trained to understand government procurement. PCRs are charged with reviewing agency contracts and have the ability to review subcontracting plans and compliance with those plans. With a bare bones staff, this requirement is neigh to impossible. There is a financial incentive to the government to increase the PCR program. In the "FY2004 SBA Breakout Procurement Center Representatives Report to Congress," it showed that a team of eight employees in the Breakout PCR program saved the federal government $2.52 billion from FY85 through FY04 in lower costs and prices.

According to WIPP's 2006 Annual Member Survey, 68% of respondents believe that the number of PCRs should be increased. WIPP urges the Committee to work with the Appropriations Committee to ensure adequate funding for additional PCRs beyond the six requested in the FY07 President's budget.

Putting aside any philosophical discussion on whether competition should be restricted to minority, women, HUBZone-certified or veterans, the practical reality is that unless federal agencies are required to do so, it will not happen. For example, the Congress has given the federal agencies a goal to meet of awarding five percent of all federal contracts to women owned businesses. The most recent number shows that only three percent of all federal business is awarded to women owned businesses. That represents billions of dollars, according to an annual report prepared by Rep. Nydia

Velázquez, Ranking Member of this Committee. So, if the goal is not a mandate, it simply will not happen. It is in the category of "nice to have" but there is no penalty to the agencies nor the federal employees if the agency fails to meet the woman owned goal.

We have said for as long as WIPP has been in existence that P.L. 106-554 must be implemented in order to meet a five percent target for women owned businesses. This is a critical tool to helping women owned businesses grow and diversify into the federal marketplace. We have asked for assistance from Congress and the White House with limited results. And so, today, six years later, the law is sitting on the books with no implementation in sight. Furthermore, WIPP members believe that the contracting goal of 5 percent should be increased. According to WIPP's 2006 Annual Member Survey, 66% believe that the five percent goal for woman owned business contracting should be increased.

In the absence of restricted competition for women owned businesses, the tool most often cited by the federal agencies is to "go get your 8(a) certification." And yet, it is abundantly clear to WIPP that the SBA presumes that women business owners are not really socially and economically disadvantaged. One only needs to go through the tedious process of assembling reams of financial documents, personal stories dating back decades to be awarded an 8(a). In effect, while the SBA touts the electronic application as an improvement, the accompanying paper documentation for women owned businesses requires a staggering number of binders to support the evidence.

In the past, "clear and convincing evidence" was the standard which made it almost impossible for women owned businesses to get into the 8(a) program. In the late 1990's, that standard changed to "preponderance of evidence" in order to facilitate the

entrance of women owned businesses into the program. It seems to our members that SBA has reverted back to the old standard for women owned businesses. If the SBA believes that women who are not minorities should not qualify, they should just say so. It would save our members hundreds of hours of paperwork and valuable dollars.

While we are on the subject of the 8(a) certification, we note that the income thresholds have not been updated since 1989. That presents a real problem for the program—the thresholds are so low in 2006 dollars that the program is really set up to fail. If a business owner does not have assets on which to draw, the business is less likely to succeed.

We look to Congress to reverse the trend toward contract bundling despite the President's initiative in 2002 which clearly stated that unbundling of contracts was a priority of this Administration. When the President launched the initiative in 2002, the Office of Management and Budget (OMB) reported that for every $100 awarded on a bundled contract, there is a $33 decrease to small businesses. They went on to say, that because these types of contracts "run longer and encompass a greater scope, competition is reduced in terms of frequency and the number of opportunities" for small business. Despite strong evidence that bundling is not good for small business or the government, a 2004 Government Accountability Office (GAO) Report No. 04-454 "Impact of Strategy to Mitigate Effect of Contract Bundling on Small Business Is Uncertain", shows that federal agencies are confused over what constitutes "contract bundling" which results in poor accountability and disparity in reporting. While 928 bundled contracts were captured in the Federal Procurement Data System (FPDS), only 24 of those contracts

were reported by agencies to the GAO. We urge the Committee to clear up the confusion for the agencies and continue its efforts to unbundle contracts.

One of the most troublesome trends is "strategic sourcing" which in most cases ends up meaning "bundling." Strategic sourcing basically means that a very large contract will have only one source or company which can sell to the government as opposed to an award to multiple vendors. Small businesses can be harmed in two ways. One, by structuring a procurement to be so large that even a team of small businesses could not win the contract, small businesses lose out on the contracting opportunities. This is especially true in the area of office products where small businesses are licensed resellers and provide the support required by maintenance of the equipment. Second, selection of a single vendor cuts out many small businesses that would be eligible for subcontracting opportunities if multiple vendors were awarded the contract. Basically, if the small business does not align itself with the winner, they are out of luck.

Another issue which is tremendously confusing to small businesses is the "non-manufacturer" rule and the waivers required by SBA. SBA's website on the non-manufacturer rule states "Section 303 (h) of Public Law 100-656 and Section 210 of Public Law 101-574 incorporated into the Small Business Act, requires that agency contracts be directed solely to small business manufacturers under set-aside provisions. This requirement is commonly referred to as the Nonmanufacturer Rule. The Small Business Act also contains provisions that allow the Administrator of the SBA to waive this requirement when there are no small business manufacturers or processors available to supply the product to the Federal Government. The Administrator has delegated the

authority to make decisions on waivers of the Nonmanufacturer Rule to the Associate Administrator for Government Contracting in the following cases:

- after reviewing a determination by a contracting officer that no small business manufacturer or processor can reasonably be expected to offer a product meeting the specifications (including period of performance) required of an offeror or by the solicitation; or
- for a product or class of products after determining that no small business is available to participate in the Federal procurement market.

These two types of waivers of the Nonmanufacturer Rule are regularly referred to as "individual waivers" or "solicitation-specific" and "class waivers."

The nonmanufacturer rule, which is designed to help small businesses is hurting small businesses particularly in the area of technology products. The waivers are granted by the regional SBA offices. But there is much confusion on how the waivers are administered and when the law applies. For example, if a small business assembles technology components but is not the Original Equipment Manufacturer (OEM), does the small business need a waiver? If that is the case, and waivers are not granted, small business resellers have just been cut out of a large segment of the federal market. We urge the Committee to review this rule and clarify how it should be administered.

With respect to the small business offices, known as the Office of Small and Disadvantaged Business Utilization (OSDBU)s, we urge the Committee to empower these small business advocates within federal agencies whose work is invaluable to small business contracting. The law which established these offices, P.L.95-507, clearly states that the Director of the OSDBU office should "be responsible only to, and report directly

to, the head of such agency or the deputy of such head, except that the director for the Office of the Secretary of Defense shall be responsible only to, and report to, such Secretary or the Secretary's designee." The OSDBUs are required to identify proposed solicitations that involve bundling and with the agency to revise those contracts to increase small business participation.

In reality, many OSDBUs do not report to the Secretary/Director of the agency and do not have the authority to influence agency procurements to any real extent. In many cases, they are relegated to a lowly position with inadequate budget and no meaningful oversight of procurements. And, yet the OSDBUs are the voice of small business within the agencies. We believe that only Congressional insistence and oversight will turn these critical offices into defenders of small business that Congress envisioned.

Thank you for giving me this opportunity to testify before you today on procurement programs. I have also attached WIPP's recent testimony before the Senate Small Business and Entrepreneurship Committee on the President's FY2007 budget request and legislative proposals for the SBA for the record. I would be happy to answer any questions.

Coalition Partners

American Small Business Coalition

American Women in Radio and Television

Association for Enterprise Opportunity

Association for Women in Communications

Association of Women's Business Centers

Black Women Enterprises

Boardroom Bound

Business Women's Network

Center for Women's Business Research

Consumers for Cable Choice

Enterprising Women

Euro-American Women's Council Europe – Greece

Filipina Women's Network

Financial Women International

Hispanics Impacting Public Policy

Kansas City Council of Women Business Owners

National Associations for Female Executives

National Association of Small Disadvantaged Businesses

National Association of Women Business Owners

National Business Association

National Indian Business Association

National Defense Industrial Association

National Women Business Owners Corporation

Native American Women's Business Council

New Jersey Association of Women Business Owners

Oklahoma State Chamber

San Francisco Small Business Network

Small Business & Entrepreneurship Council

Small Business Television Network

UNIFEM / USA

Women Construction Owners & Executives

Women Entrepreneurs, Inc.

Women Impacting Public Policy – Florida

Women Impacting Public Policy – Pennsylvania

Women in Technology International

Women Presidents' Organization

Women's Business Enterprise National Council

Women's Leadership Exchange

WorldWIT

STATEMENT OF MS. CHRISTINA SCHNEIDER

TO THE

COMMITTEE ON SMALL BUSINESS

SUBCOMMITTEE ON REGULATORY REFORM AND OVERSIGHT

ON

REAUTHORIZATION OF THE SMALL BUSINESS ACT

MS. CHRISTINA SCHNEIDER
CHIEF FINANCIAL OFFICER
PURCELL CONSTRUCTION CORP.
566 COFFEEN STREET
WATERTOWN, NY 13601

MARCH 30, 2006

March 30, 2006
United States House of Representatives
Committee on Small Business
Subcommittee on Regulatory Reform and Oversight

My name is Christina Schneider and I am testifying on behalf of the Associated General Contractors, the nation's largest and oldest construction trade association. Founded in 1918, our association represents more than 32,000 construction firms nationwide. I serve as a member of AGC's Small Business Task Force. I am also Chief Financial Officer of Purcell Construction Corporation in Watertown, New York. Our firm derives much of its work from DOD construction contracts. Our main office is in upstate New York near Ft. Drum, the home of the Army's 10th Mountain Division. Until recently, we were a HUB Zone contractor, with contract sales of less than $31 million over a three-year period. In 2005, we "graduated" from the HUB Zone program, having contract sales slightly more than the $31 million average. Although we certainly would not describe ourselves as a large business – we are more medium sized – we are now considered a large business according to the SBA size standard for construction.

AGC is pleased to share our thoughts for this year's upcoming reauthorization of the Small Business Act. I am going to focus on the changes AGC members recommend for the HUB Zone program, the impact of contract bundling and the growing concern over large construction contract awards to Alaska Native Corporations. AGC thanks the Committee for the opportunity to highlight these areas of concern to the construction industry.

HUB Zone Program

AGC has significant concerns about the effectiveness, fairness and cost effectiveness of the HUB Zone program. The program, as applied to construction, does not make maximum impact on employment in HUB Zone areas because it is not geographically limited to projects in and around HUB Zones. AGC remains concerned about HUB Zone contractors who simply broker projects. In fact, AGC members have questioned the HUB Zone status of HUB Zone contractors via GAO protest and have had no success in getting SBA's attention on matters such as this. The 10 percent price premium afforded to HUB Zone construction contractors is an excessive advantage because industry profit margins tend to run to a maximum of two or three percent. Self-certification for HUB Zones status is a problem because there are unfortunately, bad actors in the marketplace. SBA should better manage and investigate success and potential abuses of the program. SBA should also audit complaints to ensure only accurate application of HUB Zone status, because it is such a significant windfall to the designee.

Accordingly, we offer several suggestions for improving the program with the full intent that the program serves its purpose as the Congress intended. I would like to note in advance that many of these issues were addressed in H.R. 4234, The Small Business Gulf Coast Revitalization Act of 2005, sponsored by Ms. Velazquez. We thank her for her foresight to include several of these provisions in her legislation and support her in this effort.

Limit the Program to Construction Projects in or Near a HUB Zone. The HUB Zone program should apply only to contracts for the construction of federal projects within a 150-mile radius of the HUB Zone contractor's principal place of business. Only those projects can offer employment to a significant number of HUB Zone residents, and only those projects can promise to make a lasting change in their economic circumstance.

Extending the HUB Zone program to distant projects only encourages brokering - merely acting as an "agent" to get someone else to perform the work. While the HUB Zone concept may have merit in encouraging economic development within a historically underutilized and economically disadvantaged community, the concept does not transfer appropriately to the construction industry. Since a HUB Zone contractor can perform work outside of the zone, this does not economically benefit the zone.

To use my firm as an example, as a HUB Zone contractor we were awarded a HUB Zone bid at Ft. Lee, VA. However, our corporate offices and the bulk of our employees are located in a HUB Zone in upstate New York. Due to the nature of construction, it does not make sense to move our people from New York to Virginia for the job. So you see our HUB Zone contract awarded in Ft. Lee VA did not increase our employment in the actual HUB Zone where we are located in New York. This is unfair to other construction companies that work to provide the government with good value in competition as the low bidder. As a result, the program does not maximize HUB Zone employment and it ensures that the government will never get the best price.

The HUB Zone concept is designed to encourage employment in the HUB Zone and is suited for manufacturing or other industries where the majority of employees are working in the HUB Zone. Construction does not fit that mold.

Congress should authorize and require a smaller price preference apply to the construction industry. While Congress may want to give HUB Zone contractors an advantage, it should be an advantage that reflects the realities of the market. At most, Congress should give the construction contractors in the HUB Zone program a five percent bid preference. Such a bid preference would still exceed the profit margin on the vast majority of federal construction contracts. As a HUB Zone contractor, even our firm was once awarded a construction contract that was nearly $1 million dollars over the lowest bidder when the 10 percent preference was applied. As a small business, we were thrilled. As a taxpayer, we were embarrassed. While Congress may want to give HUB Zone contractors an advantage, a ten percent preference for the construction industry is a windfall, not an advantage.

Change the HUB Zone Self-Certification Process. Currently, HUB Zone businesses are required to self-certify to the SBA that they are a HUB Zone business. It is a simple matter of registering the business through the Central Contractor Registry (CCR), filling out a self-disclosure form to the SBA and checks a box stating that you are a HUB Zone business - all with no additional oversight by the SBA.

Congress should require the SBA to revise the self-certification process by requiring HUB Zone companies file an annual report certifying their annual sales and affiliations,

including partnerships with large firms performing subcontract work for the HUB Zone business. The burden of challenging a contractor's HUB Zone status is left to competitors who wish to file a protest with the SBA or GAO after a bid. The protest process is costly for the firm protesting because legal fees can be significant and it is also costly for the contracting agency, because the protests create delays in the final contract award, which in turn creates delays in contract completion. But the integrity of the program should be ensured.

Require SBA Routinely to Investigate Alleged Abuses of the Program. Some construction contractors have found the SBA indifferent to their complaints that individual firms are abusing the HUB Zone program, or violating its terms or conditions. The SBA should require the agency's local offices to investigate such complaints and publicly report their findings and decisions in a public writing within ten days. The bottom line is that such abuse often hurts other small businesses, and the SBA should take an equal interest in all members of the small business community.

Contract Bundling

Contract bundling has been a concern in the construction industry for several years. While there is no clear definition of bundling, it appears that the consolidation of various projects is occurring more frequently. Small contracts are being bundled to result in large dollar solicitations that small businesses are not able to compete for unless they partner with large firms. While on the surface this may not seem harmful, this practice undermines the intent of the small business program by allowing large business to obtain work normally set aside for smaller firms. AGC recommends that the federal government annually report to Congress on contract bundling so that the magnitude can be gauged and trends can be spotted and addressed by Congress. In addition, Congress should require SBA to monitor not only total dollar volume of small business contracts, but the number of total contracts and the size of those contracts as well.

The contract bundling situation is further compounded by the fact that small business set-asides keep increasing. The now overwhelming number of special preference programs leaves little work for small businesses without a preference and medium size businesses able to compete for work. My firm is an example of the success of the small business program, but right now, our Federal contracting options are very limited. Now that we have "graduated" from the program, we have found we can no longer compete on projects currently available for bid in our own backyard at Fort Drum, NY because absolutely every project, regardless of size, has a preference attached to it. That excludes us from even competing for the work. Contract bundling, combined with pressure on agencies to meet their small business utilization goals, is leaving firms like mine with no opportunity to grow our business beyond the "graduate" level. Ironically, we have been shut out of our own expertise, the Federal market.

Rather than creating new specialty set-asides or goals, the Congress should instead focus on how the existing programs can be improved to increase opportunities for small firms. As the Committee moves towards a reauthorization of the SBA's programs, construction as an industry should be included in any revised definitions of contract bundling, to ensure that these consolidations are reviewed for potential negative impact on existing small businesses.

Additionally, AGC is concerned that SBA does not currently have, nor is planning for additional resources devoted to ensuring that small companies are not economically aggrieved by contract bundling. There is currently an insufficient number of Procurement Center Representatives at SBA to monitor bundled contracts.

As the Small Business Committee reviews the issue of contract bundling and determines how to move forward to solve the problem, the main issue remains that contractors need experience as prime contractors in order to grow. In the past, increased use of subcontracting has been the answer to provide small businesses opportunities to work on federal contracts. In the construction industry, small business has proven to be an asset. The construction industry has proven that small businesses can compete as prime contractors on a relatively level playing field. Looking for more prime contractor opportunities for small to mid size businesses should be the solution the government and the Committee should seek.

Alaska Native Contracting

AGC has increasingly heard concerns from our members about the growing reliance on the use of Alaskan Native Contracting (ANC) by the Federal agencies as a means to easily attain small business contracting goals. The special preference awarded to an ANC supersedes any available by the traditional 8(a) program and we believe this program is clearly being used by procurement agencies as a tool for contracting officials to meet their 8(a) goals.

Speaking on behalf of my firm, Purcell Construction Corporation has been directly impacted by a $400 million dollar sole source award to an Alaskan Native Corporation for a contract at Fort Drum, NY. We have met with SBA Headquarters and were left with the impression that the SBA advocates the use of ANCs because the law says the ANCs are in fact "small businesses." When challenged as to how a legitimate small business can compete for a $400 million dollar contract, the SBA replied that current law allows ANC awards, regardless of size, are legitimate. In other words, awarding large dollar volume contracts to ANCs large and small helps the SBA and contracting agencies meet their utilization goals.

We understand the ANC matter is currently under investigation by the GAO. We look forward to the findings of the forthcoming GAO report on this issue and we hope to be a resource of information for the Committee as it reviews the findings of this report.

Conclusion

Thank you for the opportunity to testify on our recommendations for improving the Nation's small business program. Construction offers tremendous opportunities for all size contractors. The government gets the best products with maximum competition. AGC looks forward to working with the committee on balancing the needs of the federal government's procurement system and creating an environment in which construction contractors can continue to work to improve the quality of federal construction delivered to the owner – the Federal government and ultimately the American taxpayer.

Statement of Ms. Barbara Kasoff, President

On Behalf of
Women Impacting Public Policy

Submitted to
Senate Small Business and Entrepreneurship Committee

"The President's FY2007 Budget Request and Legislative Proposals for the SBA"

March 9, 2006

Madam Chair and Members of the Committee, I am pleased to submit the views of Women Impacting Public Policy (WIPP) on the proposed FY2007 budget for the Small Business Administration (SBA). WIPP, a bipartisan nonprofit organization, represents 550,000 women in business nationwide and 40 women business associations united in one voice.

Overall, the SBA has played a major role in encouraging the sector of the economy that has experienced growth and created jobs– small business. Women business owners have benefited greatly from the programs at the SBA and we commend the SBA on their ability to serve the needs of women who are starting and growing their businesses.

Our support for the National Women's Business Council (NWBC) remains strong and we are pleased the Administration recognizes its importance to the women's business community by continuing to fund the Council at $743,000. The NWBC plays a key advisory role to the Administration and to the Congress on women's business policy.

We also commend the Administration for continuing to fund the SCORE program at $4.95 million, but are disappointed to see that funding for this resource does not include additional funding to rebuild the Gulf Coast. Since its founding in 1964, SCORE has helped more than 7 million businesses from idea to start-up to success. SCORE represents a low cost and an excellent value for business advice from successful business men and women. By helping small businesses succeed, SCORE supports job creation in communities nationwide.

We are disappointed that the funding request for much needed counseling centers such as Women's Business Centers (WBC) and Small Business Development Centers

(SBDC) has been reduced from FY 2006 levels. The FY 07 budget request allows for $11.8 million in funding for WBCs and $87.1 million for SBDCs, a reduction for both programs from previous levels. In the budget atmosphere of cuts which currently face the agencies, WIPP acknowledges that steady funding for programs providing services targeted specifically to women business owners could be considered a victory. We would point out, however, that the SBA expects Women Business Centers (WBC) to provide greater assistance to more women who are socially and economically disadvantaged but with flat funding. According to reports by the National Women's Business Council[1] and the Center for Women's Business Research[2], women-owned businesses are increasing greatly. The estimated growth rate in the number of women-owned firms was nearly twice that of all firms (17% vs. 9%), and employment expanded at twice the rate of all firms (24% vs. 12%). This further underlines the need for resources dedicated to women-owned businesses through Women's Business Centers.

Furthermore, we echo the sentiments of WIPP's coalition partner, the Association of Women's Business Centers, in expressing our concern for the reduced funding level and request that funds be appropriated consistent with the current authorized level of $16.5 million. This is the level of funding needed in order to meet current commitments and to continue to grow the program to meet unmet demand in areas currently not served by the program. This level of funding would also help each Center meets its administrative requirements to serve women business owners.

In FY05, the Congress required that 48% of the WBC funding go toward sustainability (existing) Centers. We are disappointed that the SBA has chosen again not

[1] National Women's Business Council, *Analyzing the Economic Impact*, September 2004
[2] Center for Women's Business Research, 2003 and 2004

to include that funding formula in its FY07 request. WIPP has stated many times and will continue to believe that existing WBCs with a proven track record should be funded by this program or transitioned into a self-sustaining mode. It just is not good business to fund new centers and stop funding the existing centers which have shown a record of success. WIPP continues to believe that devoting 52% of the funding for WBCs to the creation of new centers but spending 48% on existing centers is a much wiser use of taxpayer dollars. Women's Business Centers provide essential services to women, especially socially and economically disadvantaged women who need a comprehensive support system in order to succeed in starting a business. We urge the Congress to put in place this formula for FY07.

We regret that the Administration has chosen not to request funding for the Microloan and Microloan Technical Assistance program. The Microloan program has unique characteristics which would not likely be offered by traditional lenders. This is the loan program with the greatest reach to women business owners and is the single largest source of funding for microenterprises. According to a recent NWBC analysis of SBA loan program performance over the past five years, 45% of 7(m) program loans, and 44% of the dollars lent in the program, went to women-owned businesses in FY 2003—significantly greater shares than any other SBA loan program. We urge the Congress to reinstate funding for the Microloan and Microloan Technical Assistance programs.

With regard to federal contracting, SBA plays a pivotal role in ensuring that government agencies feel compelled to meet their small business goals. Initiatives such as business matchmaking scratch only the surface in all of the government contracting activities the SBA oversees. We urge the Congress to strengthen the SBA's hand by

giving it adequate funding and resources to carry out procurement initiatives and agency review of contracts.

We commend the SBA for recognizing the vital role that Procurement Center Representatives (PCRs) play in providing critical technical assistance for small business. The SBA has stated that it is asking its PCRs to shift some of their focus from counseling for small businesses to reviewing and influencing procurements. WIPP believes that this additional focus is critical to providing contracting opportunities to small businesses. We also believe that the Congress should consider granting additional funding to hire additional PCRs. It is our understanding that the SBA intends to hire six additional PCRs, but WIPP members believe the number should be much higher. We believe a critical need in SBA Regional Offices is procurement expertise and introductions to regional government installations. SBA Regional Offices do not currently have the personnel or the expertise to carry out this critical assistance to small business owners.

WIPP commends the SBA for its program goals for FY07 that include identifying and mitigating regulatory and statutory barriers to contracting for small businesses and identifying contracting opportunities through increased Electronic Procurement Contracting Representative (e-PCRs). We look forward to the regulations SBA states it will promulgate in FY06 to bring the Women-Owned Small Business Federal Contract Assistance Program, included in SBA's Reauthorization Act (P.L. 106-554), to fruition. Failure to implement this program has cost women businesses billions of dollars in federal contracting dollars.

Thank you for the opportunity to submit our comments on the FY07 proposed budget for SBA. WIPP strongly believes that SBA provides important services to women nationwide and we urge the Congress to adequately fund this important agency.

RECOMMENDATIONS MADE BY SMALL BUSINESS ADVOCATE RAUL ESPINOSA IN HIS PUBLIC TESTIMONY TO THE HOUSE REGULATORY REFORM AND OVERSIGHT SUBCOMMITTEE

Hearing on Procurement Assistance at SBA

His testimony was made on behalf of a coalition of 14 Advocacy Group he helped formed to fight government contracting abuse.

The coalition represents in excess of 50,000 small business owners.

Full text of his testimony is available on this link

http://acquisition.gov/comp/aap/documents/Fairness%20in%20set%20aside%20Procurement%20Coalition%2003%2023%2006.pdf

1. *Get this subcommittee to support the efforts of both Sen. Martinez and Cong. Mica to request both the Government Accountability Office (GAO and the Air Force Inspector General (IG) to initiate investigations into the Air Force reported abusive contracting practices and the actions by Malmstrom AFB to avoid taking both responsibility and liability for an agreement they signed to settle a previous dispute dating back to 2003.*

2. *Get the Office of Federal Procurement Policy (OFPP) to consider retracting the suspension of the price evaluation adjustment for DOD for small and disadvantaged businesses to force DOD into addressing the problems raised in the testimony.*

3. *Get the SBA Office of Government Contracting to overhaul the entire Government Contracting Protest System.*

4. *Get SBA Government Contracting Office to incorporate the* **CARB** *initiative into its own protest system to give small businesses a fair settlement avenue when their rights have been abused.*

5. *Get the Office of Federal Procurement Policy (***OFPP***) to recommend new ethical standards – based on the debarment of violators – to prevent fraud in the government set-aside program.*

6. *Get the Office of Advocacy to review through a study - with the goal of strengthening - all the references to small and socio-economic businesses on both the FAR and DFAR.*

7. *Get the SBA Government Contracting Office to strengthen its own CCR database by weeding out unethically 'self-certified small businesses who purposely fail to include their independent contractors, sales force, consultants and affiliates in their current count of employees and, in addition, hide their gross sales – often in the $20 + million – solely to qualify for set-aside contracts.*

8. *Get the SBA Office of Government Contracting to incorporate dispute resolution elements, penalties and their enforcement into its proposed 'size standards' revision.*

9. *Get the SBA to cease making monetary and/or jail threats on its documentation for size standard violations since the agency has no enforcement powers.*

10. *Get the Office of Advocacy to publish the names of companies a) whose self-certification has been successfully challenged and b) which have received set-aside contracts* in spite of the fact that they were not 'small business' by government standards as reported in the Miami Herald investigative report.

11. Get *the Office of Advocacy to lobby Congress for new legislation which would make the current references to punishment for the violations of the Small Business Act enforceable.*

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12. *Get the OMB Acquisition Advisory Panel to strengthen FAR Part 19 while lowering the preferred status of GSA Contract holders (FAR Part 8) to both open competition and level the playing field in ALL government solicitations.*

13. Get the *OMB Acquisition Advisory Panel to also consider recommending that ALL existing GSA contracts permit small businesses to purchase commodities from manufacturers on the GSA schedule (for resale to the government) at prices below the GSA schedule without causing a violation of the GSA contracts.*

14. *Get the Office of Advocacy to take a more active role, coordinating and reporting to both our advocacy community and to Congress the recommendations herewith offered including the incorporation of the* ***CARB*** *initiative and its principles.*

15. *Get the Office of Advocacy to lobby the U.S. Chamber of Commerce (and other similar groups) and through them, all of their respective state groups and chambers, including our own Florida Chamber for the inclusion of 'ethical standards' for their memberships to prevent abuse of small businesses in public contracting.*

16. *Get the Advocacy Office to lobby and support efforts to implement the Free Universal Access (FUA) initiative on public solicitations and thus prevent unscrupulous IT firms to charge small businesses for their access.*

17. *Get the OMB Acquisition Advisory Panel to recommend adding 'foreign purchases' to the list of commodities subject to the 'set-aside restrictions.'*

18. *Get the Advocacy Office to fund a study, which would consider transferring, to private industry governmental programs and services directed toward small businesses which contract with the government. Combining these with other valuable services currently been offered by private industry, would permit these services to become self-supporting at a great saving to taxpayers.*

19. *Get the the SBA Administrator to appoint an Advisory Committee on Government Procurement which would advice GCBD on ways to implement procurement changes at all government agencies.*

20. *Get The White House to have its policy making staff hold a meeting with members of the advocacy community and the SBA Administrator aimed at helping the SBA 're-inventing' itself with more adequate support and funding of programs which would be made accountable for their effectiveness*

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Links to references on Espinosa's fight against contracting abuse, including his recommendations

Winning a challenge against the Air Force and a Large Company in Federal Court
http://acquisition.gov/comp/aap/documents/Fairness%20in%20Set-Aside%20Procurement%20Coalition%20102605.pdf

Contracting Abuse by the U.S. Air Force
http://acquisition.gov/comp/aap/documents/Raul%20Espinosa%20102605.pdf

The CARB initiative
http://acquisition.gov/comp/aap/documents/Raul%20Espinosa%2012%2006%2005.pdf

For questions or details please contact

Raul Espinosa
President and CEO
FitNet Purchasing Alliance
Saint Augustine,FL
904.347.4726 cell
raul.espinosa@fitnet.net

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QUOTES FROM PROMINENT SMALL BUSINESS ADVOCATES FOLLOWING RAUL ESPINOSA'S PUBLIC TESTIMONY CALLING FOR A FIGHT TO END CONTRACTING ABUSE

These non-profit groups represent in excess of 100,000 small businesses

"Raul Espinosa's testimony targets the integrity of the government's small business development programs. To continue in the present course, without implementing his recommendations, is to allow large companies to effectively conspire with the government in lynching the type of companies the Small Business Act intends to protect."

Anthony Robinson
President of MBELDEF
www.mbeldef.org

"Opening government procurement to small businesses rests with enhancing their access to the contracts, modernizing the system and simplifying the bidding processes. Government has an obligation to abide by and to enforce its own rules in this arena. Raul Espinosa's testimony has shed light on a contracting system that is in need of both an upgrade and of a lot of reform."

Karen Kerrigan,
President & CEO
Small Business & Entrepreneurship Council
www.sbecouncil.org

"Raul Espinosa's efforts, to incorporate ethical and disciplinary standards in government contracting and to also involve the private sector into taking responsibility for part of the solution, is very commendable. Some of our members have benefited at one point from the contracts targeted for small and disadvantaged businesses, but now they are all ineligible for those contracts. What we want is to stop the fraud and the abuse so that other minority firms can gain access to those same contracts and grow their business."

Roger Campos,
President & CEO
Minority Business Round Table (MBRT)
www.mbrt.net

"Raul's testimony sheds light on the abuses that have been allowed to transpire for decades without any punishment. For small businesses to succeed in government contracting, the government must be held accountable for enforcing its own regulations which it has miserable failed to do."

Lloyd Chapman
President
American Small Business League (ASBL)
www.asbl.com

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