

**DOING BUSINESS WITH THE GOVERN-
MENT: THE RECORD AND GOALS
FOR SMALL, MINORITY, AND DIS-
ADVANTAGED BUSINESSES**

(110-105)

HEARING

BEFORE THE

SUBCOMMITTEE ON

ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND
EMERGENCY MANAGEMENT

OF THE

COMMITTEE ON

TRANSPORTATION AND

INFRASTRUCTURE

HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

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U.S. House of Representatives
Committee on Transportation and Infrastructure

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March 5, 2008

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Economic Development, Public Buildings, and Emergency Management

FROM: Subcommittee on Economic Development, Public Buildings, and Emergency Management Staff

SUBJECT: Hearing on "Doing Business with the Government: The Record and Goals for Small, Minority, and Disadvantaged Businesses"

PURPOSE OF THE HEARING

On Thursday, March 6, 2008, at 11:00 a.m., in room 2253 Rayburn House Office Building, the Subcommittee on Economic Development, Public Buildings, and Emergency Management will examine the small business programs of the Architect of the Capitol, the General Services Administration, the Federal Emergency Management Agency, the Smithsonian Institution, and the John F. Kennedy Center for the Performing Arts.

BACKGROUND

The Federal Acquisition Regulation (FAR) governs the process by which the Federal Government procures goods and services. With respect to small business concerns, the FAR, under Part 52.219-8, states that: "It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems". To implement this policy, each Federal agency establishes an annual goal that represents, for that agency, the maximum practicable opportunity for small business concerns.

Various laws have established requirements related to small business activities in the Federal Government:

- The Small Business Act of 1953 (P.L. 83-163) created the Small Business Administration (“SBA”) as an independent agency within the Executive Branch to encourage the use of and to protect the interests of small businesses. Its purpose was to “aid, counsel, assist, and protect the interests of small business concerns in order to preserve free competitive enterprise, ensure that a fair portion of the total purchases and contracts for supplies and services for the Federal Government is placed with small businesses, and to maintain the national economy.”
- The Small Business Act of 1958 (P.L. 85-536) amended the Small Business Act of 1953 and among other things created the Small Business Investment Corporation which focused on providing capital and equity investment.
- P.L. 95-507, which was enacted in 1978 also made major revisions to the Small Business Act. Among other things P.L. 95-507 redefined minority firms as socially and economically disadvantaged businesses; authorized the SBA to make to purchase the preferred securities of a minority small business investment company and make loans to State and local development companies; established a small business and capitalization program for socially and economically disadvantaged businesses; and perhaps most importantly, established an Office of Small and Disadvantaged Businesses in each federal agency having procurement powers.

Architect of the Capitol

Although the Office of the Architect of the Capitol (AOC) is not covered by the Small Business Act, the AOC has actively engaged in small business contracting. In 2007, the AOC initiated additional efforts to attract and increase small business participation while being consistent with the values of full and open competition. As part of this outreach effort, the AOC created a database of small businesses that have done business with the AOC or have self-identified as small businesses interested in future opportunities. “Since starting the program, the AOC has awarded 11 small business contracts worth more than \$10.5 million. These contracts range in value from \$121,000 to \$2.9 million and provide services ranging from janitorial services to website development.”¹

The AOC also started the Small Business Subcontracting Program. This program required large construction contracts or task orders exceeding \$1 million to submit a small business contracting plan. According to the AOC, the minimum subcontracting goals set for the large contracts are:

- Small Business Concerns: 28 percent
- Small Disadvantaged Business(SDB) Concerns: 8 percent
- Women-owned Small Business Concerns: 5 percent

¹ Architect of the Capitol. Small Business Fact Sheet. February 2008

- HUBZone Small Business Concerns: 3 percent
- Service-disabled Veteran-owned Small Business Concerns: 3 percent²

The goals established by the program meet or exceed the Small Business Administration's statutory goals for Federal executive agencies. The first contract awarded under this new program is worth \$3.9 million.

General Services Administration

The General Services Administration's (GSA) Office of Small Business Utilization (OSBU) advocates for small, minority, veteran, HUBZone, and women business owners. Its mission is to promote increased access to GSA's nationwide procurement opportunities. OSBU monitors and implements small business policies and manages a range of programs required by law. GSA's small business programs support entrepreneurial opportunities, identify new business opportunities, and increase technological capabilities. Consistent with SBA procedures, SBA negotiates with GSA concerning their prime contracting goals and achievement with small businesses to ensure that small businesses have the maximum practicable opportunity to provide goods and services to the Federal Government.

In addition, GSA has established the office of GSA Small Business Technical Advisors, located in each region. These offices work with their respective services, such as telecommunications or the public building service, to develop independent prime contracting goals for each small business category. These regional goals support the negotiated agency-wide goal. In developing independent contracting goals, a review of the achievements of the last three years and current year opportunities is performed.

According to GSA, the following agency-wide goals are in effect for fiscal years 2008-2009:

- 38 percent for prime contracts awards to Small Business
- 8 percent for prime contract awards to Small Disadvantaged Business (including 8(a) Business)
- 5 percent for prime contract awards to Women-owned Small Business
- 3 percent for prime contracts awards to HUBZone Small Business
- 3 percent for prime contract awards to Service-Disabled Veteran-Owned Small Business³

Each GSA region is responsible for developing and implementing outreach programs. Outreach efforts include activities such as small business fairs, trade group seminars, pre-award and post-award small business opportunity fairs and other forums that promote the utilization of small business as contractors. According to GSA: "These events are intended to provide an opportunity for small business to meet with agency representative to discuss their capabilities and learn of potential procurement opportunities. Additionally they promote partnering and teaming opportunities for small and large businesses".⁴

² Architect of the Capitol. Small Business Fact Sheet. February 2008

³ General Services Administration. Small Business Fact Sheet. February 2008.

⁴ General Services Administration. Small Business Fact Sheet. February 2008.

Federal Emergency Management Agency

The Federal Emergency Management Agency (FEMA) operates its small business program through the Small Business Specialist Office and more recently through programs of the recently established the Private Sector Office. The Small Business Specialist office is principally responsible for ensuring FEMA's compliance with small business procurement regulations, practices, and goals of the Federal Government. The newly created Private Sector Office has been established to conduct outreach to businesses at the state and local levels to engage these entities in all aspects of emergency management, identify and engage the private sector businesses to aid FEMA during disasters, and to leverage private sector resources to help during a recovery efforts.

FEMA's Small Business Specialist Office's goals include:

- "Participating in outreach forums to meet with the Small Business Community;
- Conducting personal meetings with interested vendors/contractors to present company capabilities and performance;
- Developing goals and acquisition strategies which are increasingly structured for maximizing the number of awards to small businesses;
- Networking with representatives of the U.S. Small Business Administration and local small business development centers;
- Participating in local, State and national conferences, seminars, and exhibits to gain access to current small business issues and interface with business and industry; and
- Enhancing the Central Contractor Registration, also referred to as "CCR," in order to capture local company information interested in debris removal and/or to support disaster response and recovery requirements, as needs arise".⁵

John F. Kennedy Performing Arts Center

The Kennedy Center is not covered by the Small Business Act but is committed to awarding a fair portion of its government purchases to small, minority and disadvantaged business enterprises. The Center looks for opportunities to offer contracts to such businesses. Given the Center's relatively small budget, the opportunities for such awards are limited; however, each contracting action is evaluated as to its suitability for a small, minority and disadvantaged business opportunity in accordance with the guidance provided by the Small Business Act and subsequent amendments. In addition to such ongoing efforts, the Center has established Basic Ordering Agreements with five small businesses for general construction services, including life safety work on the roof terrace, and security upgrades at parking garage lobbies.

Smithsonian Institution

The Smithsonian Institution is not an "agency" as defined in the Small Business Act, 15 *United States Code* (U.S.C.) Section 632(b), and the Administrative Procedures Act, 5 U.S.C. Section

⁵ Federal Emergency Management Agency. Small Business Fact Sheet 2008

551(1), and therefore is not subject to the statutes and Executive Orders governing small business and small disadvantaged business requirements. However, the Institution abides by the spirit and intent of these various statutes and Executive Orders on all projects where federally appropriated dollars are spent. In addition, they apply small business goals in all procurement actions, to the greatest extent practicable. The Office of Contracting and the Office of Equal Employment and Minority Affairs monitor and implement the Institution's programs in this area.

According to the Smithsonian, it is the Institution's policy that "to the maximum extent practicable, and within the context of the Institution's contracting needs, small businesses and SDBs should be provided opportunities to compete for and be awarded Smithsonian procurements and contracts for which they qualify and are able to meet performance requirements".⁶

Smithsonian Office of Contracting

According to Smithsonian directives and policy, the Director of the Office of Contract (OCon) and the Smithsonian Supplier Diversity Program (SDP) Manager establish annual small business and SDB utilization goals. Consistent with SBA procedures, these goals are established considering guidance provided by the SBA, the SBA nationwide small business and SDB utilization goals, and annual goals established by individual Smithsonian units. These targets are also based on the established goals for a percentage of the number and dollar amount of subcontracts awarded by Smithsonian prime contractors to small businesses and SDBs in previous years. The SDP Manager obtains SBA review of the Smithsonian-proposed goals on a biennial basis. "When the SBA recommends changes to the Smithsonian proposed goals, the SDP Manager confers with the Director of OCon, prior to entering discussions with the SBA to adjust the Smithsonian-proposed procurement goals. Information regarding the Institution's current goals for small business and SDB utilization is published separately by the Office of Equal Employment and Minority Affairs (OEEMA)".⁷

According to Smithsonian practices, at the beginning of each fiscal year this information is updated and revised goals are established. There are periodic reviews and progress reports are prepared. These reports look at progress in terms of the number of procurement actions taken and the total value of awards made by the Smithsonian units to small businesses and SDBs, and by the number and dollar value of subcontracts that Smithsonian prime contractors award small businesses and SDBs during each fiscal year. Following the SDP Manager's review, these reports are provided to the SBA in accordance with the Institution's external report review and clearance procedures.⁸

Office of Equal Employment and Minority Affairs

Within the Smithsonian, the Office of Equal Employment and Minority Affairs (OEEMA) coordinates with the Office of Contracting on small business matters. OEEMA conducts outreach to the small and disadvantaged business community, and advocates for these interests within the Institution. OEEMA also "monitors and reports on equal employment opportunity (EEO) and

⁶ Smithsonian Institution. Smithsonian Directive 216. August 2005.

⁷ Smithsonian Institution. Smithsonian Directive 216. August 2005.

⁸ Smithsonian Institution. Smithsonian Directive 216. August 2005.

small and disadvantaged business (SDB) initiatives.”⁹

⁹ Smithsonian Institution. Smithsonian Directive 216. August 2005.

WITNESSES

Mr. Stephen Ayers
Acting Architect of the Capitol

Ms. Terrie Rouse
Chief Executive Officer for Visitor Services
Capitol Visitor Center

The Honorable Lurita Doan
Administrator
General Services Administration

Mr. Roger Mosier
Vice President
John F. Kennedy Center for the Performing Arts

Mr. Albert Sligh
Director
Office of Management
Federal Emergency Management Agency

Ms. Era Marshall
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Ms. Rosalind Styles Stephenwoof
President
National Association of Minority Contractors
Washington, D.C. Metro Chapter

Mr. Dennis C. Smith
Small Business Coordinator
Capital City Associates, Inc.

Mr. Joel Zingesser
Associated General Contractors of America

Ms. Catherine Giordano
President/CEO
Knowledge Information Solutions, Inc.

HEARING ON DOING BUSINESS WITH THE GOVERNMENT: THE RECORD AND GOALS FOR SMALL, MINORITY, AND DISADVAN- TAGED BUSINESSES

Thursday, March 6, 2008

HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC
BUILDINGS, AND EMERGENCY MANAGEMENT,
Washington, DC.

The Subcommittee met, pursuant to call, at 11:06 a.m., in Room 2253, Rayburn House Office Building, the Honorable Eleanor Holmes Norton [Chairwoman of the Subcommittee] presiding.

Ms. NORTON. We were waiting for the Ranking Member, but he graciously indicated that we should go ahead. We will be pleased to hear his opening statement when he comes.

The Subcommittee is very pleased to welcome our witnesses today. We look forward to learning from the testimony about small business participants concerning their experience in contracting with the Federal Government and equally from the testimony of agencies within the jurisdiction of this Subcommittee about their goals and accomplishments for small business and for minority, women-owned, and disadvantaged businesses.

Small businesses are central to today's economy. The Federal Government is the largest small business contractor and, therefore, has a special obligation to this indispensable economic sector. The roughly 25 million small businesses in the United States account for fully 50 percent of the Nation's private non-farm national product; however, they receive only 20 percent of Federal contracts. Women make up 30 percent of the small business owners nationally, but receive only 3.4 percent of Federal contracts. Minorities are 18 percent of small business owners nationally, but receive only 6.8 percent of Federal contracts. Service-impaired veterans face the worst odds of all, with only .87 percent of Federal dollars going to their firms.

I do not suggest that all of these small businesses should, would even desire, or would be qualified to do business with the Federal Government, or that rigid statistical parity is the goal. However, the Government fell \$12 billion short of meeting its own modest contracting goals for small businesses. Yet, small businesses are responsible for the lion's share of new jobs. Because most of the jobs created by small businesses remain in this Country, their formidable job creation power has premium value for our economy and

the American people. Moreover, considering increasing predictions for recession today, Federal procurement and contracting become even more important for small businesses.

For almost 50 years, it has been the policy of the Federal Government to encourage the participation of small businesses in Federal procurement and contracting. The Small Business Act requires an affirmative Federal policy of doing business with small businesses—and I am quoting—“in order to preserve free competitive enterprise, ensure that a fair portion of the total purchases and contracts for supplies and services for the Government is placed with small businesses, and maintain and strengthen the overall economy of the Nation.”

For minority- and women-owned businesses, there is an additional 14th Amendment constitutional obligation carried out in Federal law by Title VI of the 1964 Civil Rights Act. In *Fullilove v. Klutz*, the Supreme Court found that Congress had the authority to remediate historic discrimination in contracting through—and I am quoting from the decision by Justice Berger—“prospective elimination of ... barriers ... to public contracting opportunities.” These statutes have been carried out in several ways, including targeting Federal procurement contracts and subcontracts for small businesses, management and technical grants, educational and training support, and surety bond assistance.

It may be that insufficient agency-by-agency oversight contributes to the deficiencies in Federal small business contracting and procurement. The Small Business Administration does do oversight, but there has been little Congressional oversight to hold individual agencies accountable in implementing the small business practices of the Federal Government.

At this hearing, we are trying to do our due diligence and help provide that accountability as a Subcommittee. The agencies before us today have submitted information to our Subcommittee that indicates that they have endeavored to meet the mandate required by Federal law. Three of the agencies—the Architect of the Capitol, the Smithsonian Institution, and the John F. Kennedy Performing Arts Center—technically are not covered by the Small Business Act but have voluntarily chosen to abide by the law.

We look forward to hearing from all the Federal agencies for which we perform oversight: the General Services Administration, the Federal Emergency Management Agency, the Architect of the Capitol, the Capitol Visitors Center, the Smithsonian, and the John F. Kennedy Performing Arts Center. We thank our small business representatives as well: the National Association of Minority Contractors; Capital City Associates; the Associated General Contractors of America; and Catherine Giordano, CEO of Knowledge Information Solutions.

We are prepared to hear from the first witness. I suppose we should go from left to right. It doesn't matter. But I will remind everyone to please turn off your phones and BlackBerries during a hearing in the House of Representatives.

Ms. Stephenwoof, would you like to begin?

TESTIMONY OF ROSALIND STYLES STEPHENWOOF, PRESIDENT, NATIONAL ASSOCIATION OF MINORITY CONTRACTORS, WASHINGTON, D.C. METRO CHAPTER; DENNIS C. SMITH, SMALL BUSINESS COORDINATOR, CAPITOL CITY ASSOCIATES, INC.; JOEL ZINGESER, ASSOCIATED GENERAL CONTRACTORS OF AMERICA; CATHERINE GIORDANO, PRESIDENT/CEO, KNOWLEDGE INFORMATION SOLUTIONS, INC.; ALBERT SLIGH, DIRECTOR, OFFICE OF MANAGEMENT, FEDERAL EMERGENCY MANAGEMENT AGENCY; MICHAEL J. RIGAS, DEPUTY ASSOCIATE ADMINISTRATOR, OFFICE OF SMALL BUSINESS UTILIZATION, GENERAL SERVICES ADMINISTRATION; ERA MARSHALL, DIRECTOR, OFFICE OF EQUAL EMPLOYMENT AND MINORITY AFFAIRS, SMITHSONIAN INSTITUTION; ROGER MOSIER, VICE PRESIDENT, JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS; STEPHEN AYERS, ACTING ARCHITECT OF THE CAPITOL; AND TERRIE ROUSE, CHIEF EXECUTIVE OFFICER FOR VISITOR SERVICES, CAPITOL VISITOR CENTER

Ms. STEPHENWOOF. Congresswoman Norton and esteemed Members of the Subcommittee on Economic Development, Public Buildings, and Emergency Management—

Ms. NORTON. Could I just indicate to you that your entire—to all of you who are testifying, your entire statement will be received in the record, so you should try to keep that in mind when giving your testimony so we will have time for everyone. We do our have our very important witnesses, as well, from the agencies.

Ms. Stephenwoof?

Ms. STEPHENWOOF. I wish to express my sincere appreciation for the opportunity to appear before you today to discuss Doing Business with the Government: The Record and Goals for Small, Minority and Disadvantaged Businesses. I currently serve as the President of the Washington, D.C. Chapter and member of the National Board of Directors of the National Association of Minority Contractors.

NAMC was established in 1959 to address the needs and concerns of minority contractors and to create parity in the construction industry. We have aggressively pursued equity and contracting for small, minority, and disadvantaged businesses, and attempted to create venues to review the procedures in place with the Federal Government, local governments, and private sector. One of our primary objectives is to continuously seek legislative action of minority business issues to advocate for change in laws that hinder minority businesses access to, or prevent minority business growth in the Nation's \$400+ billion a year construction industry.

In March 2006, the Washington, D.C. chapter hosted the Base Realignment and Closure Tri-Service Industry Outreach Forum to provide information to small and minority businesses for bidding on the 5-year \$7 billion military construction workload contracts for the United States Army Corps of Engineers, the Navy, and the Air Force. The forum created a venue for small businesses, minority businesses, 8(a), HubZone, women-owned, and veteran-owned businesses to identify opportunities for joint ventures, partnerships, contracting and subcontracting prior to bidding period. These venues have created opportunities for non-traditional dialogue be-

tween the Federal Government, prime contractors and subcontractors exclusively for recruiting small and minority businesses for inclusion on teams for bidding. We propose and recommend similar forums to be conducted throughout the Federal Government to increase the level of small and minority business participation.

NAMC has also met with the U.S. Department of commerce's Minority Business Development Agency, whose mission statement includes that it was designed to empower minority business enterprises for the purpose of wealth creation; to achieve entrepreneurial parity for MBEs by actively promoting their ability to grow and compete in the global economy and challenges faced by MBEs for developing programs that provide the keys to entrepreneurial success.

However, the measurable success of its programs and services are not available. The State of Minority Business Enterprises Report issued in 2006, an overview of the 2002 survey of business owners, indicated a great disparity of the average gross receipts of minority firms, which was \$162,000, considerably lower than the \$448,000 average gross receipts of non-minority firms. It also indicated that during the reporting period gross receipts of MBEs decreased by 16 percent, and over the same period of time the average gross receipts of non-minority firms remained level. Again, it is imperative that a recent measure of the success of MBE programs should be tantamount to the Federal Government agencies dedicated to servicing MBEs and should include economic indicators of MBE business success with the Federal Government itself.

NAMC is also working in partnership with the Associated General Contractors of America and with the U.S. Department of Transportation to create a Disadvantaged Business Enterprise Contractors' Tool Kit, which is meant to be a practical guide in establishing a contractor's DBE compliance program as implemented by the State and local governments where they work. The Tool Kit provides information ranging from getting started to assessing one's performance in meeting its own program. NAMC recommends this Committee review the model and consideration for expansion to its oversight agencies.

NAMC sits on the MBE Advisory Committee established by the Washington Area Sanitation Commission to review proposed legislation by the State of Maryland for the establishment of a minority business utilization program. The Committee prepared and submitted comments on the proposed legislation and Commission's proposed Standard Operating Procedures for the MBE Program. Again, NAMC suggests the establishment of an SBE/MBE Advisory Committee which can assist in the assessment of existing programs and recommendations for improvement or implementation of an MBE program within your agency.

In conclusion, NAMC recommends the Subcommittee on Economic Development, Public Buildings, and Emergency Management consider the following: establishment of an MBE Advisory Committee to review the existing MBE program, its effectiveness and measure of its success; two, conduct a study of the existing MBE programs by each Federal agencies and its effectiveness; three, host targeted forums created by Federal agencies to reach the small and minority community, and follow up with reports of their

success; and, lastly, conduct extensive monitoring and reporting of small and minority business participation and publish its findings which include recommendations for penalties for non-compliance.

NAMC stands ready to assist with the further pursuit of your desire to increase the level of participation of small and minority businesses with the Federal Government. And that ends my presentation.

Ms. NORTON. Ms. Stephenwoof, we will reserve questions until the end of all four of the panelists.

We go to the next person to your right, Mr. Dennis Smith, Small Business Coordinator, Capitol City Associates, Inc.

Mr. SMITH. Thank you, Madam Chair. It is indeed a pleasure for me to be here this morning.

In Capitol City I am a small business outreach coordinator. There, I work with the BRAC project in finding small businesses. I make this introduction to say to that as a result of being out in the community, working with many of the different businesses, they oftentimes call me with respect to small business issues. So what I am conveying to you today is oftentimes some of the comments that I receive from businesses; and conveying some of the advice that I oftentimes give to businesses with respect to some of the issues that they find.

Ms. NORTON. And that is where our interest lies.

Mr. SMITH. That is right, yes. So I would like to move directly, then, to, once again, my background. I just recently left the Missile Defense Agency, program manager at their small business office. They moved to Huntsville, Alabama as a result of BRAC, and I decided to stay here in the Washington, D.C. area.

There, at the Missile Defense Agency, there is about a \$4.2 billion procurement budget. Of that procurement budget, 85 to 90 percent of that went to five companies; and I find that that rate there is in fact a trend that you kind of see in Federal Government procurement today. And I want to move from there right to my points that I am making.

Let's take, for instance, a current solicitation that is on the street now with AOC, the Architect of the Capitol. It is currently advertising in solicitation notice RFP060085 facility support services. AOC is soliciting for housekeeping, landscaping, snow removal, pest control, elevator, lift maintenance, and other services as necessary. The solicitation says the resulting firm fixed price contract will be awarded to one contractor.

In FAR 2.101, bundling is described as the consolidation of two or more requirement previously provided or performed under separate small contracts into a solicitation of offers for a single contract that is unlikely to be suitable for award to a small business concern. There is a need here to challenge the acquisition plan. I would be very curious to see the acquisition plan prepared by the contracting officer. Each contracting officer should prepare an acquisition plan in accordance with FAR 7.105.

This is just one example of what we, as small businesses, are up against. Were there alternative strategies that would reduce or minimize the scope of bundling here, or what was the rationale for not choosing alternatives? This right here, this question is asked

during the acquisition plan and FAR 7.107, the contracting officer should have asked himself or herself this question.

As a business person, should I complain as I look at this particular solicitation out on the street? Should I complain as a landscaping company to say, I cannot get a part of this solicitation? Well, the complaint really should be at the PCR, the Procurement Center Representative. I heard you say something about SBA doing its job.

Ms. NORTON. I said they did some oversight, unlike the rest of the committees.

Mr. SMITH. Section 125 of 13 C.F.R. states that the duties of the PCR, the PCR should be coordinating with the small business specialists on anticipated bundled contracts. Are they performing their duties? The PCR should ensure that they are necessary and unjustified bundling of contracts is avoided; assess impediments to small business primes.

AOC's current acquisition is not an isolated bundled solicitation. I would compliment AOC in sending out their forecasts and sending out their notices, because everyone knows the Fed Bus Op is a farce. So AOC does a good job in sending out their notices to businesses if you subscribe there. But this is just one of many bundled contracts that I have seen come out of AOC this year or over the past year, say, fiscal year.

Another small business impediment is subcontracting. One of the procurement vehicles that the government personnel recommends to small businesses, they say, oh, you should go and subcontract. Go talk to Boeing, go talk to Northrop Grumman. That is a nightmare by itself. But without going there, being a subcontractor to one of the large contractors is a very challenging task, but in the construction arena it is even that more difficult. And I want to talk about the construction arena because I am working on a BRAC project and I want to be specific to that.

In accordance with FAR 19.7, a solicitation offer that is expected to exceed, in the case of construction, \$1 million—in the case of non-construction it is \$550,000—must present a subcontracting plan. In construction, the plan is too often a generic reiteration of a good faith effort that is verbatimly coming out of FAR itself. A prime contractor, when responding to a solicitation, often details their team. When they submit their solicitation, their proposal, they submit a proposal that will highlight who their mechanical is, who their electrical company is.

But they should also include in there who their minority prime is. Not all, but some. I am not asking them to buy down the entire job at that time, but describing the way to do this, they should be encouraged by way of evaluation criteria. So to specifically identify two or more small business partners in the submittal of their solicitation.

I can detail that and walk any of your staff through that point, if I could. I was a director of a small business in Prince George's County, minority business office. I have worked as outreach manager at EPA and, as I said, I worked at the Missile Defense Agency. So I have been through the gamut of all of these different institutions or government entities, so I know specifically that it is possible to happen.

Once the plan is submitted, the Government then tells the prime contractor that they should report twice a year. So, in construction, they report twice a year in what is called a 294 and a 295. The 294 and 295 is currently being replaced by the electronic subcontracting reporting system. It is the individual subcontracting plan and the summary subcontracting plan. And in reporting twice a year in construction is just grossly inadequate.

No one should report twice a year. Under 49 C.F.R. Part 26, what DOT says to the States is that there should be a monthly report. So in the State jurisdiction we have a monthly report that we have to do. In construction, if you make a guy have to report once every six months, between Division 01 work and Division 04 work, it has all been done. So from setting up the fence to temporary electrical work under Division 01 to Division 04 masonry work, it has all been completed by then. So there needs to be some accountability and some understanding as to how the industry operates. So this right here is impractical if we have a reporting method twice a year in construction. Very much so impractical.

The Office of Small Disadvantaged Business Utilization offers many remedies to small business concerns in order to do business with the Government. One of the remedies that you will hear from some of the OSDBU offices is that, well, small businesses, they need to do intelligence, they need to gather information. There is nothing more hostile than trying to go into a government office and to try to find some information.

The thing is, though, is that what you have—and you have, in FAR Part 10 describes how the contracting officer should be conducting market research. So you have this information already. If the contracting officer did the market research, then you would wind up having information that would be going out to the small businesses. But let me be more specific, go back a little.

In the OSDBU office, the director of the OSDBU office should have a direct relationship with the secretary of the agency or the under secretary. If that right there was enforced, then the OSDBU director would be saying to the agency heads, I want you, on a monthly basis, to come and to give the public a pronouncement as to what you were doing. If the public understood what the agency was doing, where they were going, the small business would in fact receive intelligence, would be able to do their research and have an understanding as to what the government agency was going to procure or what the government agency's mission was and where it was in fact going over the next fiscal year or two.

The small businesses have an uphill battle when trying to do business with the Federal Government, even when they are awarded a contract. I had a contractor call me about a contract. This was an 8(a) firm who won an award, so they thought. The firm was told by ATEC, the U.S. Army Test and Evaluation Command, they had been awarded, via GSA e-Buy—which I am not as familiar with—a contract for \$1.1 million. This was an award to establish an asset management system. This was in January of 2008.

Then they were told, the next day, oh, no, they had not won the award. After they had been sent an e-mail and information, the firm was saying to me that—firms are very scared to in fact—very afraid to complain, because they are afraid that they in fact

may be stopped the next time they go after a solicitation. The award was made to Hewlett Packard instead. The small business was intimidated by the tone and reference to what they should do by the contracting officer or the COTAR.

In summary, it is declared policy of the Congress that the Government should aid, counsel, assist, and protect insofar as possible, the interest of small business concerns in order to preserve free competitive enterprise, to ensure a fair proportion of total purchases and contracts or subcontracts for property and services for the Government, including, but not limited to, contracts or subcontracts for maintenance, repair, and construction, be placed with small business enterprises, to ensure a fair proportion of the total sales of Government property be made to such enterprises, and to maintain and strengthen the overall economy of the Nation.

In accordance with Public Law 95-507, that stipulated that it is the policy of Government to provide maximum practical opportunities in its acquisitions to small businesses, small disadvantaged businesses, and women-owned businesses. This stipulation also extends to having the maximum practical opportunity to participate as subcontractors in contracts awarded by an executive agency. Let's make this legislation, Public Law 95-507, a reality. Thank you.

Ms. NORTON. Thank you, Mr. Smith.

Our Ranking Member, Mr. Graves, has come, and I would like to ask if he has any opening remarks he would like to make.

Mr. GRAVES. Thank you, Madam Chair. I want to say that I appreciate your holding this hearing today. I am looking forward to hearing the rest of the testimony this morning on small business contracting opportunities within the agencies.

This is a very important issue to me. As a Member of the Small Business Committee also, I have been dedicated to fighting for the rights of small business owners. Small businesses play an essential role in our economy. In fact, they represent more than 99 percent of all employers, employing 51 percent of private sector workers. Additionally, small businesses are indispensable for job creation: they produce 60 percent to 80 percent of all new jobs.

Because of the vital role small businesses play in the United States economy, it is important that we ensure that small businesses can navigate the Federal bureaucracy. The Federal Government should not discriminate against businesses because of their size but, instead, should encourage entrepreneurship. The Small Business Act directs the Federal Government to protect the interest of small businesses in order to preserve free and competitive enterprise, ensure that a fair portion of Federal Government contracts are placed with small businesses, and maintain and strengthen the overall economy of this Nation.

However, many Government agencies are not achieving their goal for contracting with small businesses, particularly as prime contractors. I look forward to hearing whether the agencies represented here today are meeting those contracting goals and what programs they have in place to ensure that small businesses have the opportunity to compete for Federal Government contracts.

Additionally, I am concerned about the practice of consolidating contracts, or contract bundling. This practice limits the ability of

small businesses to compete and ultimately hurts the American taxpayer. Therefore, I ask for all of our witnesses today to help our Nation's small businesses by limiting within their agencies the bundling of contracts for larger companies. Also, I strongly encourage all of you to work to level the playing field for small businesses by continuing efforts to increase small business subcontracting, reduce contract bundling, obviously increase transparency in contracting data, and approve access to Federal procurement opportunities.

Again, Madam Chair, I appreciate the opportunity to give my statement as a result of votes, and I very much appreciate this hearing. This is something I have been interested in for a long time.

Ms. NORTON. Thank you very much. I am sure that your background in the Small Business Committee will be central and important to this hearing.

Mr. Joel Zingesser, Associated General Contractors of America.

Mr. ZINGESER. Thank you, Madam Chair and Mr. Graves, Members of the Subcommittee. My name is Joel Zingesser, of Grunley Construction, a local construction company here in the Greater Washington area, where I lead the firm's strategic planning, business development, and new technology programs, including our efforts in sustainable design and construction, and integrated project delivery opportunities.

For over 50 years, our firm has specialized in renovations, restorations, and modernization of large-scale government and commercial buildings, including office, laboratory, and educational facilities. We have had the good fortune of working in this building and appreciate all the opportunities we have to work with the Federal Government. In addition, we have constructed new facilities in addition to existing buildings for both public and private sector clients.

On behalf of the Associated General Contractors of America, we strongly support full and open competition for the many contracts necessary to construct improvements to real property. This includes competition among general contractors, specialty contractors, suppliers, and service providers. Over the years, it has been established that such competition energizes and improves the construction industry to the benefit of the industry as a whole and the Nation as a whole. As the Subcommittee considers the changing Federal procurement landscape, AGC offers the following points for consideration.

At this point, I would like to stand on the submitted statement, discussing information about construction inflation, reprogramming authority, and agency consistency. Given your focus on small business and the involvement of small business, I would like to highlight three particular areas in my written statement.

Contract bundling. Contract bundling has been a concern in the construction industry for several years. While there is no 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 can undermine

the intent of the small business program by allowing large business to obtain work normally set aside for smaller firms. This confluence of pressure is leaving many small firms with fewer opportunities to grow in their own prime business area.

Rather than creating additional set-asides or goals, the Congress should instead focus on how the existing programs can be improved to increase opportunities for small firms. We believe 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.

A second point related to small business activity in our industry is the Alaska Native contracting program. Over the last few years, the volume of complaints AGC has received from its members about the growing reliance of the use of Alaska Native Corporations by Federal agencies as a contracting vehicle to easily attain small business contracting goals continues to increase. The fact of the matter is that, in today's Federal contracting market, ANCs have extraordinary special preferences that significantly reduce Federal contracting opportunities for traditional small businesses.

Some ANCs have taken excessive advantage of their special benefits to obtain multi-million dollar sole-source government contracts. In April of 2006, the General Accountability Office issued a report demonstrating how ANCs have been using the SBA program, reporting that awards to ANCs went from \$265 million in fiscal year 2000 to \$1.1 billion in fiscal year 2004; by 2005, ANC contracting dollars had more than doubled to \$2.4 billion; and between fiscal year 2000 and 2004, 77 percent of ANC contracts were sole-source awards.

The SBA must better track the growth of ANCs. While the GAO report states that this program is fulfilling its purpose, it is clear that the Government must improve its management and oversight of the program. Congress should encourage agencies to examine the impact that these preferences have had on other disadvantaged groups and the overall effect of these awards to the Federal market.

The third point I would like to touch upon is one that, actually, I personally have been very, very committed to within the AGC organization. Another major challenge that prime contractors continue to face is the inability to report the real total dollar amount of small business participation on contracts. Currently, prime contractors are not allowed to report subcontractor participation beyond the first tier subcontractor. Allowing prime contractors to report the dollars associated with small business participation below the first tier is critical data not only to demonstrate a full calculation of total subcontractor participation, but also to provide additional incentive to those prime contractors that achieve their subcontracting goals.

I would like to add to this that we do have the movement away from the 294 and 295 forms to this electronic data system. That system holds the promise of being able to dig down and get in more real time real information about those second-and third-tier subcontracts. Now, the reason that is important is that it is critical to understand the construction industry operates differently than many other industries. In fact, a large contract for, say, \$100 mil-

lion, will go to subcontractors in packages that in many cases a small business cannot do at that first tier. But the real work, when you dig down, you will find who is doing the work, and it is the second-and third-tier subs under that contractor that is doing the work.

For example, a large renovation project of \$100 million might have \$30 million in mechanical work. When you look to see who is really doing the mechanical work, you will find that the second-and third-tier subs are small businesses. So the flow of Federal dollars in the construction industry gets down to small businesses much deeper than it is recorded and reported, and it is because of this limitation of only being able to report at the first tier level. I hope that registers.

In conclusion, thank you for the opportunity to provide our views on working with the Federal market. We believe this market offers tremendous opportunities for both construction contractors and the Federal Government. AGC looks forward to working with the Subcommittee on balancing the needs of the Government and creating an environment in which construction contractors can continue to work to improve the quality of construction delivered to the owner, the Federal Government, and ultimately the American taxpayer.

I would be happy to answer questions about any of the other parts that I skipped over.

Ms. NORTON. Thank you very much, Mr. Zingesser.

We want to hear now from Catherine Giordano, who is the President and CEO of Knowledge Information Solutions, Inc.

Ms. GIORDANO. Good morning, Chair Holmes Norton, Ranking Member Graves, and other Members of the Subcommittee. My name is Catherine Giordano. I am the CEO of Knowledge Information Solutions, located in Virginia Beach, Virginia. I am a value-added network integrator with a full range of products and services to create, manage, and secure networks. We are an 8(a) woman-owned firm.

I am appearing today on behalf of Women Impacting Public Policy, a national bipartisan public policy organization representing well over a half a million women and minorities in business, including 45 associations that partner with us. Thank you for holding this hearing and for inviting me to testify.

I would like to spend some time this morning talking about my own experience with Federal contracting and then touch on policies that affect all small businesses as they seek Federal contracts. Let me say at the outset that while I have been very successful in the Federal contracting arena, it has not been without challenges.

In 2002, when I bought this company, its revenue was roughly \$9 million, and almost all of that was in the commercial arena. I made a conscious decision to expand my business by making a major component of that revenue Government business. Since that time, my business has grown 20 percent each year, with 90 percent of that revenue attributable to government contracting.

One of the first steps we took was to get a GSA IT 70 schedule contract. We submitted our paperwork in October of 2002 and were awarded the contract in December of 2003. This year-long delay cost millions of dollars of lost revenue to KIS. We spent approximately \$50,000 to get on the IT 70 schedule, on internal and exter-

nal resources. This is not just a problem specific to my company; many small businesses spend significant dollars preparing the paperwork for getting on schedule. I know Administrator Doan has made a big push to get contracts awarded 30 days after businesses submit their paperwork, and I applaud that effort.

It is important to note that a small business must also maintain their schedule contract. We have spent approximately \$20,000 for contract updates for each Multiple Award Schedule we hold. On that note, the time and effort for small businesses spending on implementing changes to their schedule contracts can be long and laborious: in some cases over a year.

KIS has found GSA Multiple Award Schedules redundant and overlapping in categories of information technology delivery services. Each Multiple Award Schedule holder, such as KIS, must bid for each contract opportunity under the schedule, which adds to the cost of bidding and proposal costs. In other words, if you were awarded an 8(a) STARS contract, it only means you can bid on opportunities that are assigned to that contract; no business comes with the award. We estimate that we have spent \$850,000 on competitive bids on these schedules. Needless to say, that is out of the reach of most small businesses.

On a positive note, the 8(a) STARS contract has been good for KIS. It is run by a professional team in Kansas City, Missouri that practices rapid response and skilled contract officers. My only regret is that it is not utilized as the preferred GSA Multiple Award Schedule for small businesses. Redundant GSA schedules offering the same services and products force small businesses to participate in a number of schedules rather than just one. Redundancy is not exclusive to GSA; every agency has its own information technology services contract, for which we must also compete.

Now let me turn to some policy issues that affect small women-owned businesses. The most pressing issue is the SBA's proposed rule on the women's procurement program, whose comment period ends March 31 of 2008. Public Law 106-554, passed in 2000, established a women's procurement program because Federal agencies did not meet their 5 percent women-owned contracting goal. In fact, the Federal Government has never met the goal; the highest number it has ever achieved is 3.4 percent.

The SBA studied the data for seven long years, only to publish, on December 27 of 2007, an unsatisfactory proposed rule: Women-Owned Small Business Federal Contract Assistance Procedures.

The SBA chose the narrowest method of data analysis and identified only four NAICS codes that will be subject to restricted competition: cabinetmaking, engraving, other motor vehicle dealers, and national security and international affairs.

But there is another hurdle to clear before these limited four categories can be eligible for set asides. An agency must perform an internal audit of its past contracting actions to show that it is rectifying past discriminatory contracting practices before any contract can qualify for a set aside. By requiring this additional finding of past discriminatory practices by agency, we believe this proposed rule sets forth a new legal standard which will be damaging not only to this program, but potentially every women business enterprise in the Country. Women Impacting Public Policy and its coali-

tion partners are asking the SBA to withdraw this rule. In addition, many Members of the House and Senate have urged the SBA to withdraw the rule, and we are grateful for their support.

There are other policies which affect the ability of women-owned businesses to do business with the Government. Consolidated contracts, also known as bundled contracts, hurt small businesses. OMB reported in 2002 that for every \$100 awarded on a bundled contract, there is a \$33 decrease to small businesses. A 2004 GAO report shows that Federal agencies are confused over what constitutes contract bundling. We urge the Subcommittee to clear up the confusion for the agencies.

WIPP continues to believe that if you list us, it is important principle in subcontracting you must use us. Small businesses spend thousands of dollars in staff resources to be part of the subcontracting plan on a prime contractor's bid. We believe prime contractors should utilize the small businesses they include in their subcontracting plan unless the small business could no longer meet the requirements. There should be penalties assessed for violating the subcontracting plan.

The Federal Government's ability to meet small business goals is far from impressive. According to SBA, fiscal year 2006 Federal contracting numbers show that only 7 of 24 Federal agencies met the 23 percent small business goal. Additionally, only 10 major agencies met 5 percent women-owned contracting goals of 5 percent.

In conclusion, it is not impossible for small women-owned businesses to be successful in Federal contracting. But our success does not rest solely on the quality of our products and services; Federal acquisition policy largely dictates if and when we will be successful. The Congress and the Federal agencies must work together to ensure that the policies they enact and the paperwork they create do not shut out the ability of women-owned businesses to succeed in the Federal marketplace.

Thank you for your time.

Ms. NORTON. Thank you, Ms. Giordano.

I want to thank all four of you. We had you come before our agency witnesses. Sometimes the protocol for the opposite because we would like them to respond to some of what they have heard here. Could I just ask, across the panel, what agencies have you personally or do you know personally of doing business with the Federal Government? What agencies?

Ms. STEPHENWOOF. You mean that we work with specifically? Right now we are working with, under the BRAC we are working with the—I am sorry—okay, I am working with the U.S. Army Corps of Engineers specifically at this time.

Ms. NORTON. Mr. Smith, you mentioned the Missile Defense agencies?

Mr. SMITH. I was contracted as a program manager in their small business office.

Ms. NORTON. What other agencies in the Federal Government are you familiar with?

Mr. SMITH. That I work with? I work with EPA. As a consultant, I have written proposals, successful proposals for AOC.

Ms. NORTON. Architect of the Capitol?

Mr. SMITH. Yes. EPA. I work with the Army. I work with HUD. I work with many of these agencies.

Ms. NORTON. Mr. Zingesser, if you have done work in this building, what agency were you working with to do that?

Mr. ZINGESER. We are very, very fortunate to be working for the Architect of the Capitol, the General Services Administration, the Corps of Engineers, the NAFAC, and some work for some other three-letter agencies.

Ms. NORTON. I just want to put on the record your experience across the board.

Ms. Giordano?

Ms. GIORDANO. We are privileged to hold a number of contracts: GSA, NIH, all agencies within DOD. We also have the FBI, Department of Justice, the Securities and Exchange Commission, and several others.

Ms. NORTON. So we have heard from witnesses that run the gamut from construction to high tech, so we have a good cross section here.

Ms. Stephenwoof, you indicated a forum, that a forum was held by your organization.

Ms. STEPHENWOOF. Yes.

Ms. NORTON. You say that you recommend targeted forums created by Federal agencies to reach the small and minority business community. I want to know if any of you have had any experience with such forums or meetings that were called for small businesses by any Federal agency.

Ms. STEPHENWOOF. I can start. This past fall—

Ms. NORTON. I am not talking about—I am speaking largely to the notion of intelligence, to the notions that Mr. Smith raised about notices to business. I am trying to understand how the small business community knows, except through in the ordinary course of business like every business person, about what kinds of business is available.

Mr. ZINGESER. I can just say that, in our industry, all of the agencies that I mentioned, perhaps with the exception of AOC—I am not sure that they do or do not do this, but, in general, GSA, the Corps of Engineers, NAFAC, they routinely hold programs for small businesses to attend and we, as a large business, attend those because it is very useful and helpful to us to meet new small business representatives. An awful lot of business cards get passed around; people get to know each other. And then within the Greater Washington Area, which is where we work, a number of the trade associations, in addition to agency, but the real estate trade associations and so forth, again, hold various meetings which encourage small business participation.

Ms. NORTON. So do you find that this leads to the kind of information that helps various small businesses get work with the Federal Government?

Mr. ZINGESER. I would think so. The only other point I would make is that most large general contractors themselves have their own outreach programs, which are really required as part of the FAR.

Ms. NORTON. Yes, but you criticized at least the way in which some records are kept. On page 4 of your testimony, Mr. Zingesser,

you say that prime contractors aren't allow to report subcontractor participation beyond the first tier. The implication is that some of the work beyond the immediate or first tier subcontractor is in turn subcontracted. Is that what you are saying?

Mr. ZINGESER. Well, I definitely do not want to be misunderstood. I believe that the SBA regulations that the agencies must follow in scoring their small business programs will not allow those agencies to reach down to the—

Ms. NORTON. I am trying to find out—if in fact you think that some of the business gets further subbed, as it were, what is the reason that you believe the Government wouldn't want to know that?

Mr. ZINGESER. My point—let me make sure that I am clear. My point is real simple. I think that the agencies that are procuring construction are not doing all that bad a job in trying to meet these goals. I think the issue is that, in general, there are many more dollars that are truly flowing to small businesses—

Ms. NORTON. Mr. Zingesser, okay, I will take that point. Mr. Smith says that twice a year—and you understand the construction business the way he does—they have got to report twice a year. I can't imagine, in these twice a year reports, why they wouldn't want the Government to know, and by the way, beyond the subcontracts that we have, we want you to know about this, that, and the other and that the Government wouldn't want to record those.

Ms. STEPHENWOOF. Well, if I could, I could speak to follow up on what he was saying. The Government, under the FAR, when they count the small business dollars, they only count the first tier.

Ms. NORTON. Well, that is what I know. I am trying to understand if there is a lot more work going on out there, you would think everybody would want that to be known.

Ms. STEPHENWOOF. Exactly.

Ms. NORTON. So I know what you are testifying to. I am trying to understand, from your point of view, assuming Mr. Zingesser, who is in the business, is correct, why this wouldn't come out and why the Government, who is always criticized for its small business contracting work, wouldn't want to shout it to the hilltops. I mean, I am really perplexed here.

Ms. STEPHENWOOF. That is a question we would like to have an answer to.

Ms. NORTON. Well, I can understand that in order to get the contract you may have to indicate what your small businesses are.

Are you saying, Mr. Zingesser, that perhaps they won't know at that time that there are other subs that they will be using, or would a good contractor know, by the time she submitted a bid, that kind of information?

Mr. ZINGESER. No, I think it is two different things you are asking. When a job is bid is one thing, but when the job is underway there were these forms that were paper forms that have now been replaced by an electronic system. The potential of that electronic system is that it will not be that difficult to flush out and report up where those dollars are flowing below the first tier.

Ms. NORTON. Mr. Zingesser, I am asking you a question. I don't know enough about the business. Should the contractor know or should be required to indicate that she will be using subs beyond

the contractor or the subcontractor that is reported initially to the Government, the first tier, as you call them? Would the contractor already know that information?

Mr. ZINGESER. The contractor will know, at the time of award of a subcontract, generally where the dollars are going, and can report that information. Your question is why isn't the Government seeking that, and the answer is I believe that they are not allowed to score that. They only are allowed to get the information—

Ms. NORTON. That is not the why; that is the what.

Mr. ZINGESER. Okay.

Ms. NORTON. And, you know, these figures become controversial and they are really better than we know, then, again, that is something that I will have to try to find out.

Before I do more questions, I want to ask Mr. Graves whether he—so that is one of the things I am going to have to find out, because if they are better than we know, we want to know it.

Ms. Giordano, you have got to make me understand this new rule, the narrowness of the rule and the choosing of cabinet—identified four codes, cabinetmaking, engraving, motor vehicle dealers, and national security and international affairs—and these are codes to improve—

Ms. GIORDANO. That there are—

Ms. NORTON.—to help to meet the 5 percent goal that they have habitually—

Ms. GIORDANO. That is the narrowest—

Ms. NORTON. What do you think is at work here choosing these particular sectors or areas?

Ms. GIORDANO. My belief is that they chose the narrowest form for the reluctance to implement the program from the outset, and by selecting—

Ms. NORTON. Well, why these particular areas—cabinetmaking, engraving? Are there a lot of women in that that help you meet the 5 percent goal? That is a lot of work that the Government does there, is that it, and they need these people?

Ms. GIORDANO. That is probably their rationale.

Ms. NORTON. Motor vehicle dealers?

Ms. GIORDANO. Madam Chair, I can't speak to their rationale. Oh, it is other motor vehicle dealers, which means it is ATVs.

Ms. NORTON. All right, well, we will have to try to discern that too.

Ms. GIORDANO. I would appreciate your asking the question to SBA, to be perfectly honest.

Ms. NORTON. I thought maybe in the course of doing business with them, in frustration with them—

Ms. GIORDANO. We are a certified—

Ms. NORTON. Or that they had perhaps come forward at the time of the rule with a rationale, since they are not before us today.

Ms. GIORDANO. We have yet to see that rationale in an explainable way.

Ms. NORTON. Okay.

Mr. Smith, you indicate that 80 to 90 percent of the Missile Defense contracts went to five companies. Couldn't this be the nature of the work? I mean, it is pretty specialized work, isn't it?

Mr. SMITH. Oh, yes, it is specialized work, but 80—

Ms. NORTON. Those were major companies. That doesn't go to small—you are not speaking about small businesses, are you?

Mr. SMITH. No. Major companies: Northrop Grumman, Boeing, Lockheed.

Ms. NORTON. Well, that is the nature of the work. How about their record in small businesses, minority- and women-owned businesses and the like? Once they get this, once these five companies have the work, do they show, in your experience, were they able, then, to have—

Mr. SMITH. Subcontracting?

Ms. NORTON. Yes, to meet subcontracting responsibilities.

Mr. SMITH. Under DoD they have a comprehensive subcontracting plan. It is a test program that DoD has that is managed by DCMA, and under that particular plan it is very difficult to decipher whether or not they have in fact met some subcontracting codes.

Ms. NORTON. Part of this is, you know, it is hard to even find out what is happening, it seems to me, but let me ask you about the AOC contract. That is pretty easy to figure out.

Mr. SMITH. Yes, it is.

Ms. NORTON. Now, here we have this new Visitors Center, right? We are talking about the new Visitors Center, I suspect. And they are looking for various support services. I got some of them down: pest control. What else?

Mr. SMITH. Housekeeping, landscaping, elevator, lift maintenance. These are all under one contract. And they are asking for a company to come in to manage the building and to, in fact, have all of these services under their umbrella.

Ms. NORTON. So you believe that the overall company that is managing the business is going to have all of these services. Do you believe these services, in turn, will be subcontracted to small businesses?

Mr. SMITH. No. I mean, the thing is—

Ms. NORTON. Or do you think this is just a case of massive bundling?

Mr. SMITH. This is a case of massive bundling. I mean, the thing is, ideally, I would not want to be a subcontractor. If I am a landscape company, I want to come in and I want to have a direct contract with you as the prime.

Ms. NORTON. Why?

Mr. SMITH. Why? Because I would rather negotiate with the owner directly. That way I will have my 15 percent markup with the owner. If I go in and negotiate with the prime contractor, my markup is going to be brought down because he wants his markup as well.

Ms. NORTON. And, of course, that is the whole bundling issue. Well, let me put it this way. One would assume that the rationale for bundling would have been that the Government thought it was going to save money by putting all these contracts together. You know, the whole notion of putting things together is always about the more you can put them together, the less the cost in overhead to the Government, perhaps; the less in the cost in the kind of bookkeeping that the Government would have to do dealing

landscaper by landscaper, housekeeper by housekeeper. These things seem to me to be very much unrelated.

Mr. SMITH. Very much so.

Ms. NORTON. Whether or not the Government could save a few cents by putting them together, my question really goes to the good faith of wanting to do contracting with the kinds of businesses who would do this kind of business. Let's look at the kind of business who would do it. Pest control. These are small businesses. Sometimes they are minority-owned and women-owned businesses, but we know that they are small businesses of various kinds, unless you get some great big company that does it. But you already have the big company because that is who the prime is. In your view, does the bundling law contemplate that the services will be related?

Mr. SMITH. No, it does not. No. In this particular, the Architect of the Capitol is seeking a building management company that has experience in managing a facility itself, and they have a particular software that they want this company to in fact use. I am just suggesting that, fine, find your building management company and the software, but you, AOC, submit solicitations out for your landscape, for snow removal, for housekeeping, janitorial service, for elevator and lift maintenance service. Do that separately and place those companies in under the general management of the facilities management company. Don't have the facilities management company go out and get these people and bring them in.

If I am going to negotiate, I would rather negotiate with you, the Government. I know I can get paid in a relatively reasonable time period. I know who I am working with. That is who I want to go to.

Ms. NORTON. What kinds of people are likely to end up, you think, getting these pest control, housekeeping, etc.?

Mr. SMITH. Well, the thing is what you wind up doing is in terms of this resulting firm, firm fixed price will be awarded to one contractor. This particular contractor is a large property management firm that oftentimes they themselves may perform some of this work themselves on some other private facilities that they have. They have relationships with firms in the private sector where they do this.

I have attempted, at one time—I think it was the Thurgood Marshall Building, and they had a very similar solicitation last year or the year before last, when it came out bundled as such—to pull a team together to respond to this, where I went to one of the large property management firms and said can I pull a team together with you, and the property management firm said, oh, we have looked at that before. And AOC uses a particular firm that they generally use and they weren't interested in putting forth the effort to go after solicitations. But the small business firms then have to team or find themselves with a large building management firm.

Ms. NORTON. Ms. Giordano, your description of the Multiple Award Schedule made me wonder the advantage of being on the schedule in the first place. How has being on the schedule helped you?

Ms. GIORDANO. Madam Chair, it is a license to hunt.

Ms. NORTON. Well, it must save you something. You know, you don't have to start from scratch, do you?

Ms. GIORDANO. It is a vehicle that the Government agencies can utilize. Unfortunately, a number of DoD agencies will not utilize the GSA schedule.

Ms. NORTON. What do they use, then?

Ms. GIORDANO. They have their own. And I had to compete for those as well, which are the exact same categories as all of the IT schedules, or information technology products and services schedules within GSA.

Ms. NORTON. The Multiple Award Schedule should at least limit the competition.

Ms. GIORDANO. It limits the competition to those schedule holders. However, when a task—

Ms. NORTON. And what number would that usually be?

Ms. GIORDANO. Thousands. And then what happens is those thousands or multiples of thousands compete with that RFP that has been issued under that particular Multiple Award Schedule, so you are constantly doing bid and proposal preparation.

Ms. NORTON. Ms. Stephenwoof, on page 2 of your testimony you indicated what you say is a great disparity of the average gross receipts of minority firms, \$162,000, compared to \$448,000 of the average of non-minority firms. Would this have something to do with the areas where minority firms are doing business? What are the areas in which these minority firms chiefly do business? Are they broad enough so that they could be fairly compared to the non-minority firms? And what would enable them to perhaps be broader?

Ms. STEPHENWOOF. Well, these statistics were reported by the Department of Commerce's Minority Business Development Agency, and I do have here the statistical breakdown by trade and by jurisdiction. I do have that available.

Ms. NORTON. What are the major trades or areas in which these firms operate?

And for Ms. Giordano I would ask the same question. Are the women-owned firms operating in a fairly narrow sphere or how across-the-board have they become? When you see this huge disparity between the 3.4 or whatever it is, they never even come close to making the goal in the 5 percent.

Ms. GIORDANO. Our membership, Madam Chair, runs the gamut from people who manufacture products for commercial and Government use to the manufacturing of a nuclear fuse or nuclear batteries to be utilized in sending missiles off, ignition of missiles. There are a number of us who are information technology-related corporations and, of course, professional services. We run the gamut.

Now, if I may, the Rand study said that—that was the study that was done for the SBA—that you could cut the data in any way they chose from 87 percent of under-represented industries or women-owned to zero, and they could be found under-represented, so the SBA chose the four categories that were the narrowest. They gave them options of how they would utilize their information.

Ms. NORTON. Could I know from you whether or not your experience has been that the Federal Government has been generally timely in processing and paying out invoices?

Ms. GIORDANO. I am 120 days in arrears with several agencies within the Federal Government as we speak, Madam Chair, which means—

Ms. NORTON. I think the law says you people have to be paid in 30 days, doesn't it?

Ms. GIORDANO. Yes, ma'am, that is correct. I am limited to interest payment and—

Ms. NORTON. What do you mean you are limited to interest payment?

Ms. GIORDANO. Well, there is one, I believe it is 1.5 percent that I am only allowed to charge for late fee. We usually charge 3 percent in the commercial environment. That is the Federal late fee. I rarely get paid a late fee.

Ms. NORTON. So you don't get the late fee.

Ms. GIORDANO. No, ma'am. It has been very, very rare. At one point, three years ago, the Federal Government owed me—in particular, the Department of Navy owed me—\$4.3 million. It took me nine months to collect. Being a small business in business, providing services and products to the Government, my products were deployed into the war zone, being utilized by the military and, in fact, nine months later I got paid for it.

Mr. GRAVES. Owed you that in late fees or in products?

Ms. GIORDANO. Product delivered being utilized, whether it was on ships or on the war fighters themselves. I was carrying the payment for the Government; therefore, they were utilizing the products that I had to pay for on my back.

Mr. GRAVES. How late was it?

Ms. GIORDANO. Nine months.

Mr. GRAVES. Nine months.

Ms. STEPHENWOOF. Okay, I do have the response available now.

Ms. NORTON. This is close to criminal. I don't know how people stay in business. How do people stay in business? You can understand how large companies. What do you do, borrow because if you have a contract, they know that somehow the Federal Government will one day pay it? How does that work?

Ms. GIORDANO. I am fortunate enough that I have a commercial business sector that has been capable of sustaining us, and we have very good customers—

Ms. NORTON. But I thought you said 80 percent of your contracts were Federal contracts.

Ms. GIORDANO. That is correct. I also have a banker who believes in my company, and my home has been utilized as collateral more than once and has secured the loan requirements.

Ms. NORTON. That is not a good thing these days, is it?

Ms. GIORDANO. But I still pay my employees.

Ms. NORTON. Ms. Stephenwoof?

Ms. STEPHENWOOF. Yes. The first note that I wanted to make sure that was made on the record is that I just found that there is no current information about the report. It was amazing to me that a Federal Government agency is still using data from a 2002 survey and published the results in 2006, and there is no new information that we can use as minority and small businesses in terms of tracking and forecasting and planning for our economic development initiatives. But in this report it stated—you asked

about the locations. The ranking areas where there is a high percentage of minority firms. Our Washington Metropolitan Area is not included.

Ms. NORTON. No, I wasn't interested in, sorry, areas of the Country; I was just trying to find sectors. These figures don't mean much across the board. They will give us a starting point, but unless we know that we are gradually seeing small businesses in a number of areas where the Federal Government does business, which, by the way, is a whole lot of areas—it is almost every area, I guess, that the private sector does business—then it is hard to know how to hold the particular agency accountable.

Ms. STEPHENWOOF. But it is also reported by sector. But as you are experiencing your frustration, we also experience our frustration with getting information from the Government sector in terms of, number one, their goals and the deliverables. We can't find data that measures the success of the small business contracting plan. They always talk about the goals, but the data that gives you the statistical reporting of the success of the goals and the listing of those companies that participated is also our frustration, because, again, this report also reports by sector, by trade, and where the minorities across the board are participating and flourishing, and construction, again, is one of the highest trades that is in the competitive marketplace statistically, and the second being second only by real estate, rental leasing, and the retail trade.

So the concern that we experience is the same thing that you experience. We try to grasp where is the market, where are the jobs, where is the business opportunity, and then it is like quick silver; they say we have a 51 percent goal on this project. And then you say, how do you propose to achieve it, what is your measure of success. And they will say, well, we try. And then you say, well, tell me what companies are you using that have satisfied your requirements, and they say, well, we don't have to report that. But then how do you measure your success? You know, you can't be a stated measurement. They can't be a statistical chart. It has to be some compliance. Follow the dollars. Like he said, how many dollars are actually paid to those businesses that have been identified as fitting within those categories—small, disadvantaged, women-owned, HubZone—those requirements. And those are the data that we try to capture so, if there is a hole in that process, then we can help to fill that void by creating some new opportunities or some new measures for fitting those businesses within that area. That is the frustration that we—

Ms. NORTON. Thank you. I think the hole is not that they don't know how to get it—

Ms. STEPHENWOOF. They don't want to report the activities that they do when they don't—

Ms. NORTON. Well, again, I don't think that the way in which—if I could sort of close this panel, unless Mr. Graves, our Ranking Member has—it is apparent to me that you can't leave it to the Small Business Administration alone to look agency-by-agency; it is too many agencies. It is too much difference with agencies. The agencies under our jurisdiction certainly engage in construction, on the one hand; and if you look at FEMA, those contract are across the board in very diverse areas of life.

But unless the Subcommittee takes an interest in the area, I don't see how any umbrella Committee, which has overall responsibility is going to keep track of—I don't know how many Federal agencies there are who do work contract with small businesses, but virtually every Federal agency does. So what we are going to do is to take what we have heard from you and try to use it to enable us to deal with the agencies over whom we have some oversight.

I want to thank each of you for being our lead witnesses so that we would have some understanding of how to move forward and question the witnesses who come after you who are the agency witnesses. Thank you very much for coming.

Panel two is Michael Rigas, Deputy Associate Administrator of the General Services Administration Office of Small Business Utilization; Al Sligh, who is the Director of the Office of Management at FEMA. We will be pleased to hear your testimony at this time.

Welcome to both of you. Mr. Sligh, am I pronouncing your name right?

Mr. SLIGH. Yes, you are.

Ms. NORTON. From GSA. Would you like to go first?

Mr. SLIGH. Chairwoman Norton, Members of the Subcommittee, thank you for the opportunity to appear before you today. My written statement goes into great detail on how FEMA is incorporating small, minority, and disadvantaged businesses in its acquisition strategy, meeting its social economic contracting goals, and engaging in the private sector across FEMA'S critical mission areas: preparedness, protection, response, recovery, and mitigation.

As you know, the first priority of FEMA during the initial phase of a major disaster is and has always been to provide relief to the victims in the most efficient and effective way possible in order to save lives and property. FEMA'S goal is to use competitive strategies while also providing local and social economic businesses contracting opportunities whenever possible.

I am proud to report that FEMA competed 81 percent of its procurement dollars in fiscal year 2007. FEMA went from last place within DHS for its competitive dollars in fiscal year 2006 to first place in fiscal year 2007.

Now let me address some our achievements in meeting social economic goals. First and foremost, FEMA has recently dedicated a full-time small business specialist whose primary responsibility is to increase contracting opportunities for small, minority, and disadvantaged businesses. This assignment will further help institutionalize our small and minority contracting efforts and help maintain a level playing field.

To date, FEMA has achieved exceptional results in meeting and exceeding most of its social economic goals. From 2006 to the present, FEMA has awarded \$2.4 billion to small businesses. In fiscal year 2006, FEMA awarded \$1.8 billion to small businesses. This amount represents approximately 27 percent of the total procurement dollars awarded. In fiscal year 2007, FEMA awarded \$485 million to small businesses. This amount represents approximately 33 percent of the agency's total procurement dollar awarded that fiscal year, thus exceeding our small business goal of 30 percent. Additionally, in fiscal year 2007, the agency exceeded the small, disadvantaged business goal by approximately 12 percent, the 8(a)

goal by approximately 7 percent, and the HubZone goal by approximately 4 percent. During the same fiscal period, FEMA also exceeded the women-owned business goal of 5 percent.

So far, in fiscal year 2008, FEMA is on target and has awarded \$83 million to small businesses. This represents approximately 29 percent of the total procurement dollars awarded so far this fiscal year.

The only category where FEMA needs improvement is service-disabled veteran-owned small businesses. In fiscal year 2007, FEMA was 1.1 percent below its goal. This shortfall is not unique to the agency, but, rather, a common challenge that runs across the Federal Government. The service-disabled veterans-owned small business program is relatively new and is not yet well known.

Nonetheless, it is worth noting that the small, minority, and disadvantaged business investments made in fiscal year 2007, approximately 14 percent were for professional, administrative, and management support services; approximately 13 percent were for utility and housekeeping services; and approximately 10 percent were for information technology services. Another 18 percent covers both maintenance, repair, and alterations to real property, and the lease or rental of facilities.

As the Committee considers how FEMA is working with small, minority, and disadvantaged businesses in procurement, we urge you to also take note of how we are engaging the private sector, small and large, across the homeland security landscape. With FEMA'S new structure and vision now in place, the agency is aggressively pursuing new inroads with the private sector and business community on various fronts to build a stronger emergency management system such as: one, standing up a new FEMA Private Sector Office; two, building new and enhancing existing preparedness partnerships; three, soliciting private sector participation in the development and refinement of the National Response Framework and national preparedness systems; four, creating stronger and more vibrant public-private partnerships through programs and initiatives, namely, Citizen Corps, Ready Business, and FEMA Aid Matrix, and other national, regional, State, and local planning exercises and training efforts. These efforts help to foster open lines of communication with our homeland security partners in the business and non-profit communities.

Increasingly, we are leveraging the resources and expertise of our partners in the private and non-profit sectors, even above and beyond the important roles they have always played in the past. It is important, however, to give perspective on the opportunity and challenge involved in effectively engaging the private sector in emergency management. The magnitude and complexity of business opportunities—with its varying needs, capabilities, capacity—make coordination a daunting challenge and will require a long-term effort.

FEMA, in any event, is up to the challenge. Through its Private Sector Office, the agency is building a network with non-government organizations, business and trade associations, local, regional, and national chambers of commerce, and looking to make significant progress in integrating the private sector as a full partner in incident management.

We know the worst time to build relationships is during a disaster. We are building them today. We are committed to making the vision a reality. Thank you for the opportunity you have afforded us today to speak about the new FEMA.

Ms. NORTON. Thank you very much, Mr. Sligh.

Mr. Rigas, am I—Rigas?

Mr. RIGAS. Rigas, yes.

Ms. NORTON. Of GSA.

Mr. RIGAS. Good morning. Thank you for the opportunity to appear before you today to discuss doing business with the Government and the General Services Administration's record and goals for small, minority, and disadvantaged businesses. I am Michael Rigas, Deputy Associate Administrator for Small Business Utilization at the General Services Administration, and I am pleased to be here this morning.

As the premier acquisition agency of the Federal Government, GSA's mission is to help Federal agencies better serve the public by offering, at best value, superior workplaces, expert solutions, acquisition services, and management policies.

GSA works hard to ensure that small businesses have ample opportunities to compete in GSA procurements. We know that small businesses are the engine of our national economy and that they bring new and innovative solutions to Government challenges, and that a successful and strong small business community is integral to job creation, community empowerment, and economic revitalization.

GSA works hard so that small businesses—including disadvantaged, women-owned, HubZone, veteran-owned, and service-disabled veteran-owned small businesses—have every opportunity to participate in the Federal procurement process. And as an agency we actually exceed the goals Congress has set.

The Small Business Act establishes, for Federal executive agencies, an annual goal of awarding 23 percent of prime contract dollars to small businesses. For GSA, this equated to \$1.25 billion in fiscal year 2006. In fiscal year 2006, GSA spent over \$1.7 billion, or 32 percent, of all prime contract procurement dollars on small business. That impressive result is 40 percent higher than the statutory goal and an increase of 13 percent over fiscal year 2005 level of \$1.5 billion. We are proud that we have surpassed the statutory goal.

Washington, D.C., being the home of our Federal Government, is also home to many Federal buildings, of which GSA is the steward. Our Public Building Service contracts for a wide variety of services to support their mission of providing superior workplaces for Federal customer agencies at good economies to the American taxpayer. In fiscal year 2007, of the more than \$1.8 billion spent in these areas, over \$692 million, or 38 percent, were spent on contracts with small businesses. In the National Capital Region of Washington, D.C., over \$244 million has been spent by the Public Building Service on small business, equaling a percentage of over 45 percent of all procurement dollars spent by the Public Building Service going to small businesses.

GSA has developed a number of outreach programs to heighten awareness within the small business community of GSA con-

tracting opportunities. This includes small business fairs, trade group seminars, targeted informational and educational seminars, pre-award and post-award small business opportunity fairs. These efforts have helped GSA to exceed its statutory small business goals.

But the story of GSA's support for small business doesn't end with our direct GSA contracting. GSA has a strong record of supporting small business contracting through the Government-wide acquisition contracts and through GSA's Multiple Award Schedules Program.

The Schedules Program provides ordering activities with a simplified procurement process whereby GSA establishes contracts with firms for commercial products and services. It offers Federal agencies a broad range of products and services from private sector vendors and suppliers at fair and reasonable prices that have been negotiated by GSA.

And I am happy to report that 80 percent of the companies which hold GSA Schedules contracts are small businesses. In fiscal year 2005, through the GSA Schedules Program, Federal agencies awarded over \$12 billion in Schedule orders to small businesses. That amount increased to over \$13 billion for fiscal year 2006, which is approximately 37 percent of all prime contracting Schedule spending Government-wide going to small businesses.

The ordering procedures applicable to the Schedules Program encourage ordering activities to consider and, where applicable, give preference to small businesses. GSA's online buying tool promotes increased access to the small business community by allowing customers to tailor their searches specifically for products and services provided by small, minority, veteran-, and women-owned businesses. Contracting officers ordering via the Schedules may make socioeconomic status a primary evaluation factor when making a best value determination.

Madam Chairwoman, as an agency, GSA's focus on small business starts at the top. As one of the few Government agency heads who was an entrepreneur, a former small and minority business owner, and a Federal Government contractor, Administrator Doan is our agency's biggest advocate for small business. She knows from experience that starting a business is hard, and that sustaining and growing a business is even harder. She is the agency's biggest advocate for ensuring that doing business with GSA is not one of those hardships.

Our Office of Small Business Utilization conducts hundreds of outreach events a year across the Country for small businesses to open doors to Federal contracting opportunities for them. We conduct one-on-one counseling sessions to help companies in understanding and participating in the Federal procurement process; we attend procurement conferences to conduct workshops that provide important information to small business owners on how to do business with GSA; and we consult with small businesses in person, over the phone, and by answering the many questions that are submitted in e-mail and letters.

Madam Chairwoman, GSA has a strong record of supporting small businesses and small business contracting, and we pledge to continually work to improve on our already impressive performance

record with regard to small business contracting. I thank you for the opportunity to appear before you today, and I would be happy to answer any questions you and other Members of the Committee may have. Thank you.

Ms. NORTON. Thank you very much.

Mr. Rigas, you or Mr. Sligh can perhaps clear up this issue that I asked the panel about when it was alleged that there were contractors who weren't being counted because you can't count below the first tier. I am sure there must be a good reason for that. And apparently the Post-Katrina Emergency Management Act of 2006 places limitations on tiering on subcontracts. What is the Government getting at there, please?

Mr. RIGAS. Well, it is my understanding that, for subcontracting, SBA rates the agencies on their prime contracting small business dollars and on their subcontracting dollars—

Ms. NORTON. Say that again. I am sorry.

Mr. RIGAS. SBA rates agencies on their prime contracting dollars that go to small business, as well as the subcontracting dollars that they spend on small business. And with regards to subcontracting, they only allow agencies to count first tier.

Ms. NORTON. Yes, that I know.

Mr. Sligh is, I guess, who has this in his statute, which apparently explicitly places a limit on tiering beyond the tiering of subcontractors? I am simply trying to find out what is the policy goal here, what is the reason, if there is a complaint from some that some are not being counted. That, of course, came from a contractor that said some of the subcontractors were in fact not being counted and, therefore, the figures are not accurate.

Mr. SLIGH. It is my understanding that the requirement is that we report to the first tier level and that, at FEMA, we have been doing that. And the difficulty for us may be a systems issue, that our systems may not be, at this point, robust enough to collect the data for below the first level.

Ms. NORTON. Well, I can understand that, but at least if they say—and each of you will have to explain to me how the Government can justify, in construction contracts, monitoring twice a year, going in twice a year. But at least at that time you would think that you would know whether or not there were small business contractors, minority, women-owned, disadvantaged business contractors. Do you monitor these contracts?

Mr. SLIGH. Yes, we monitor the performance under our contracts, yes.

Mr. RIGAS. Yes, we conduct subcontract—

Ms. NORTON. What is your response to Mr. Smith's criticism that twice a year monitoring of a construction contract misapprehends the construction business, that the business proceeds rapidly, is done, and, therefore, your monitoring misses the point? What is your response to that?

Mr. RIGAS. There is a difference between knowing and reporting. The electronic subcontracting reporting system can capture subcontracting levels down to the second, third, and fourth levels. However—

Ms. NORTON. Was that reported? Do you get credit for that in your report?

Mr. RIGAS. No, we don't. And you might want to ask SBA about that, because we would love to be able to—

Ms. NORTON. You don't have any idea? Is it possible to abuse it? There has got to be a reason why nobody wants to even know whether or not a sub-sub, or whatever the sector calls it, may involve one of the very groups that you are trying to target. You don't have any idea? I mean, I just can't believe that each Government agency carries out whatever SBA says without reading and understanding the policy reason for a particular goal. So I am left here knowing—see, when I hear something like that, my first response is these people are crazy. It's never my response. Far more analytical about it. I am saying they had something in mind. Our goal is to find out what they had in mind before I can criticize it. And if you don't know, but you are carrying it out—indeed, we put it in a statute and I don't know, because it looks like FEMA may not have been absorbing these tiers. So obviously there is something at work here; it may be abuses of one kind or the other. But even if that is the case, if in fact contractors and subs below the small business reported are being used, one would wonder why—since you say that it does show up—why that isn't reported.

Let me ask you both about bundling. You heard the criticism of bundling. That is the kind of criticism we hear constantly, that essentially what you are doing is crippling opportunities for small businesses by grabbing up in a bundle services that would otherwise be available to small businesses, thus virtually at odds with the policy of increasing representation of these various—has either of you, would you give me the number of contracts that you bundle in each agency, whether it increases or not?

Mr. SLIGH. At FEMA, we have a competition advocate who has a specific responsibility of looking at contractual actions to identify and eliminate bundling where it occurs.

Ms. NORTON. Say that again.

Mr. SLIGH. Within FEMA, we have a designated competition advocate who has a responsibility to look at procurement actions specifically for bundling type activity and look for alternatives to bundling procurement actions so that procurements—

Ms. NORTON. And what has been the result of having a special advocate of that kind?

Mr. SLIGH. We get another look, other than the contracting officer, other than the normal process of putting together an acquisition strategy and moving forward with the procurement. We have someone going in looking specifically for any type bundling type activity. In addition to that, our small business specialist is looking for bundling type activity on behalf of the small business community.

Ms. NORTON. So are you saying that your agencies in fact are not doing much bundling, because you have got somebody there monitoring, saying you can't bundle this; these things are not related, there is no reason to bundle them? So you are just not doing it, you are not one of the agencies that are doing it?

Mr. SLIGH. I can only speak for FEMA currently. Currently—

Ms. NORTON. How long have you had this advocate trying to keep bundling from occurring at FEMA?

Mr. SLIGH. At least a year, maybe two.

Ms. NORTON. Would you repeat to this Subcommittee how many contracts have been bundled in each of your agencies over the last five years?

Mr. RIGAS, what are you all doing about bundling?

Mr. RIGAS. We have a similar process in place where our procurement plans are reviewed by our small business technical advisors in each region, and I know in Central Office, where we are located, in Washington, D.C., we have not had any bundled contracts. But there are 11 regions throughout the Country, and I would be happy to question each of them as to any—

Ms. NORTON. I want agency-wide, obviously. I would like to know for the last five years how many contracts have been bundled. We would like that in 30 days, please.

I am informed by staff that the tiering prohibition is related to liability because only the prime contractor can sue or be sued by the Government. That doesn't answer my question about why you wouldn't get credit for it if in fact, in the course of doing business, you did—unless you are not even supposed to do sub-subs. But I can't believe that is the case.

Mr. RIGAS. I don't know. If I could build on that. Perhaps it may be that because the contract is between the prime contractor and the Federal Government, and within that contract is a subcontracting plan for them to subcontract out so much of their work to small businesses, and it could be that because the contractual agreement does not go beyond the Government and the prime, that we can't hold—

Ms. NORTON. Well, but even if you couldn't hold, you could get credit for it if in fact that occurred. I am only going by one contract, so I am not here to day that this is happening government-wide, but apparently it is the case that it is not being reported. You say the information is captured, though. Is it?

Mr. RIGAS. Yes. Actually, I just had someone send me some information here that it is not—apparently, the acquisition counsel has not approved the electronic subcontracting reporting system to collect any data below the first tier, although presumably it is capable of collecting such data.

Ms. NORTON. Well, we will just have to find out.

Constant complaints ever since there have been goals about not meeting women-owned goals. Have your agencies been meeting its goal for women-owned businesses?

Mr. SLIGH. Madam Chairman, FEMA has met its goal for women.

Ms. NORTON. Typically or recently or what?

Mr. SLIGH. Typically.

Ms. NORTON. Congratulations.

Mr. RIGAS. Yes, we have actually—GSA has exceeded its women-owned goal for the last fiscal year 2005 and fiscal year 2006.

Ms. NORTON. Your statistics were very impressive, but I do note that the National Small Business Association says that up to a third of SBA's list of top 100 small business contractors in 2005 were actually large businesses. The National Small Business Association is recommending that the size of the business be re-certified every three years, using a rolling average during this time. They say that this approach would not overburden small business. But

this is quite an accusation. They don't report who they are, but I would—this was reported by the Eagle Eye Publishers, objective observers here, and I would like to ask each of you to look at the size of the small businesses you are reporting in these statistics and to look at them in the way SBA recommend over the last three years.

Mr. RIGAS. I know a lot has been done to address the issue that was raised by Eagle Eye, and I believe OFPP Administrator Dennett sent a memo to all chief acquisition officers to review their data because some of those businesses had either been acquired, they were small businesses that were acquired by large businesses or had simply outgrown their size standard. But that had not been reflected because I guess the period of time that folks went back to look back to review size standards had not been—

Ms. NORTON. That is a pretty large number. You know, the women-owned and minority-owned businesses have to graduate once they reach a certain level. I can't understand why it wouldn't apply across the board to small businesses. We are trying to help small businesses, really small businesses.

What about this late payment? That was very distressing. I had, Mr. Sligh, a very distressing experience with FEMA where Federal Protective Service contractors were not paid on time, and scandalous results of not being paid on time. These are people who are security officers. I worked very closely, though, with Federal Protective Service and with ICE, and we were able to get those payments in fact done. They set up a whole system for making sure that they did not in fact encounter this problem, and, yet, the Small Business Association reports 30 percent of those that they surveyed reported experiencing extreme delays. Do you each pay within 30 days, as the law requires? And if not, do you pay the 3 percent, I think it is? Well, that is the private sector. We go cheap on that and say a percent and a half, apparently. Do you pay on time these small businesses?

Mr. SLIGH. As a rule, we pay on time. There are those rare occasions where we don't pay on time, and when those occasions occur, we pay the interest payments in accordance with the law.

Mr. RIGAS. I am not aware of any instances where GSA has been late paying, but I would be happy to—

Ms. NORTON. I wish you would check that. It seems almost criminal. Small businesses have a very hard time staying in business. The Federal Protective Service experience involved somebody who, because he had a Federal contract, he could borrow in order to pay his people, and that is what he did, just kept borrowing to pay his people in order to keep the contract. You might expect that of some failing business; you wouldn't expect it of the—so I really would like to make certain. We are, I alert you, we are going to be following very significantly this work. We don't believe, as you heard me say to the prior panel, we don't believe that SBA can take all of these agencies and do the kind of work we are trying to do here today. Therefore, we are going to be doing this work. Your statistics are impressive to us. We don't know whether or not the problems we heard about even apply to you, but we will know simply by the way we are going to keep in touch with you.

What savings do you believe the Government is getting from bundling? Make me understand why the Government would bundle. What are the savings, overhead savings? What does the Government seek?

Mr. RIGAS. Well, as a small business advocate, we take a very critical look at proposed contracts that are bundled and as far as I know, in our office, we have not approved any. I believe the threshold standard—and I don't know if it is regulatory or if it is just a rule of thumb, that the savings to the Government have to be 10 percent or greater in order to justify a contract being bundled.

Ms. NORTON. And you believe you are complying with that, of course?

Mr. RIGAS. Yes.

Ms. NORTON. Well, the wholesale bundling that is going on leads us to believe that if not you, somebody is not. Could I ask what kind of small business contracts do your agencies have? Are they completely across the board? For example, there is concern that services can easily get stereotyped, by minority, by women. Do you perform small business—what are the major areas of small business contracts you perform?

Mr. SLIGH. Within FEMA, it pretty much runs the gamut: IT services, building maintenance, professional support services. I think generally in all areas we look for opportunities for small business participation and with that, once we identify an area where we have sufficient number of small business interests, then we target that as a small business opportunity.

Ms. NORTON. Now, GSA, you are just everywhere; you are all across the board. You do it for all these agencies.

Could I ask you, Mr. Rigas, you heard the testimony of Ms. Giordano about the cost of getting on and staying on the Schedule, which made me wonder what in the world is the point, and I said, well, maybe you have limited competition, and she said, yeah, by the thousands, apparently. She also described the cost of getting on, spending the amounts of money one spends afterwards. One understands that for large contractors. It seems out of keeping with the Government policy of encouraging small business contracting. I say that to both of you, but particular GSA. Is there any way to cut down the cost of the GSA Schedule, which people die to get on and then find they are still spending lots of money to get on and stay one?

Mr. RIGAS. Well, I mean, there is no charge to get on to the GSA Schedule—

Ms. NORTON. We are not talking about a fee to get on.

Mr. RIGAS. Right.

Ms. NORTON. Mr. Rigas, give me a break. We are talking about what an agency has to do in order to, shall I say, qualify to get on the Schedule, which is supposedly the gold standard.

Mr. RIGAS. Right. I mean, getting on Schedule, I guess you can say it is akin to doing your taxes. You can do them yourself at some investment of time and energy, or you can hire an accountant to do your taxes for you, in which case it costs you money to do your taxes. But our office and our regional offices across the Country conduct regular sessions, training seminars on how to get on

GSA Schedule, and once on GSA Schedule, how to market your Schedule, because as Ms. Giordano correctly said, it is a license to hunt, it is your ability to go out and generate—

Ms. NORTON. And I can speak specifically to your very helpful forums that help people get on. I think you may even do them weekly here. You do a lot of work that way. Again, it is a license to hunt. I am now speaking to the expense. Have you cut down what looked to be a kind of very difficult technical processes to get on in the first place, just the technical underpinning of what it takes to get on, then the costs related to that, and then the costs of staying on? And what would you say are the advantages to being on?

Mr. RIGAS. Right. Well, since Administrator Doan came to GSA, one of her top priorities was reducing the amount of time it took to get on GSA's Schedule, and within a year of her being here we reduced the amount of time through the MAS express program, the Multiple Award Schedule Express Program from 152 days to 30 days.

Ms. NORTON. I think that is the one Ms. Giordano was on.

Mr. RIGAS. Well, she was on, I think she mentioned, the IT Schedule 70, which is our IT hardware/software, and I am sure probably a few other Schedules as well. But the benefit to being on the GSA Schedule is for the investment of time and energy into getting this one contract vehicle, you are able to sell to every agency in the Federal Government. You are able to sell to the City of Washington, D.C. and certain other non-profits. So you have access to the entire Federal Government.

And as for other contract vehicles that are out there, that is actually something Ms. Doan has also spoken out against, the proliferation of other agencies developing their own contract vehicles, and it goes against what the purpose of GSA—GSA is here to take care of that work for the rest of the Government.

Ms. NORTON. Do most agencies use your Schedule?

Do you use it, Mr. Sligh?

Mr. SLIGH. Yes, ma'am, we do.

Ms. NORTON. Okay.

Mr. SLIGH. And when we use them, one of the advantages I see to us is that we have a—I would call it a set of vendors that have already signed up to typical Government terms and conditions that will allow us to expedite the procurement, as opposed to someone who may not have dealt with—

Ms. NORTON. I would think everybody would want to have these kind of pre-screened folks. How many agencies don't use it, or do they use it sometimes and not other times? And why wouldn't an agency use it all the time?

Mr. RIGAS. It is my understanding every—

Ms. NORTON. Well, you said—no, I am responding to your own testimony.

Mr. RIGAS. Right. Yes. What I mean is some agencies make, in addition to GSA contract vehicles, create their own contract vehicles.

Ms. NORTON. And why would they do that is my question.

Mr. RIGAS. That is a good question.

Ms. NORTON. Well, maybe because everybody can't get on the GSA Schedule.

Mr. RIGAS. One example I know the Administrator has spoken about has been the NASA SEWP contract, which is a contract vehicle that NASA has to sell high-tech computers, hardware, software to the Federal Government, which is something which is in direct competition and provides the same kinds of goods and services that IT Schedule 70, which Ms. Giordano is on, GSA's contract vehicle sells and provides the same kinds of goods and services to the Federal Government that you can get from NASA SEWP. So all of the time and energy and Federal taxpayer dollars that are put into creating and maintaining this separate contract vehicle, in our opinion, doesn't need to be done.

Ms. NORTON. The staff said that if they are commercially available, generally commercially available, the law requires them to use a GSA schedule, and what you just described are what are commercially available, I believe. These are not specialized products.

Mr. RIGAS. Right.

Ms. NORTON. Well, that is something we have to enquire about.

I want to thank both of you. You are the largest agencies among those that come under our jurisdiction and we want to keep in touch with you and encourage you on what is working, and particularly encourage you to have—and I noticed that both of you were here when the small business participants were here—to encourage you to take their testimony to heart. Thank you both for appearing.

Now I want to call our last witnesses.

Oh, excuse me, I am sorry. The Ranking Member.

Mr. Sligh, would you come back? The last thing I want to do is the Ranking Member rattled on, but he had a very good question that I would like to hear the answer to.

Mr. GRAVES. During a natural disaster, I am just curious how you reach out to small business, because there are a lot of opportunities and, obviously, with what happened down in New Orleans and Hurricane Katrina and Rita, there was a lot of small businesses participated, but it was as a result of the tiering and everything else. But I am just curious, when you have a disaster, if you have a tornado that comes in, or hurricane or whatever the case may be, a flood, what do you do? How does FEMA reach out and try to find those small businesses to do the actual work that is involved, or do you just leave that to someone else?

Mr. SLIGH. Actually, our outreach starts long before—

Mr. GRAVES. You mentioned that in your testimony and I am curious about that.

Mr. SLIGH. We have undertaken a fairly extensive program to put pre-positioned contracts in place. What I am saying is we are putting contracts in place that we would use during a disaster situation. We are putting them in place in a competitive environment long before any disasters actually occur. When the disasters occur, we use the contracts that we need to use that are in our portfolio of contracts that are in place already. During the course of a disaster, we would start to look for small local businesses that might be able to support us as we start to get the disaster under control, and we would pull some contracts out and bring in other small local companies that could do this work. We are starting to build our arsenal for being able to do this through what we call a dis-

aster registry. We are actually going out seeking, identifying small contractors in areas that are prone for floods, disasters, and pre-registering them so that, should a disaster occur, we can reach out and start to utilize those immediately.

Mr. GRAVES. How do you determine where—I mean, it has got to be an awful tough job to try to pre-determine where disasters are going to be, but my question is, too—and it has got to be a horrendous task trying to update that, because, as was pointed out, companies get bought out, they get absorbed, they no longer meet the criteria of what a small business is, whatever the case may be.

Mr. SLIGH. We started to create this database and it will be a challenge to keep it up to date. It will be a challenge to definitely keep it current. And what we are looking at is basically, across the Country, identifying sources that could possibly help us in a disaster type situation.

Mr. GRAVES. I know in Missouri, with the possibility of the new Madrid Fault and the earthquake there, I know you guys, or I assume you are pre-positioning. Kansas City is supposed to be one of the refuge cities, whatever the case may be. So what opportunities are out there right now? What sort of thing are you doing, for instance, in Kansas City to get ready for that?

Mr. SLIGH. I am not prepared to speak to those specific initiatives that we have in place, but I can get that information and provide it back.

Mr. GRAVES. If you would, yes.

Ms. NORTON. Thank you very much, Mr. Sligh.

Could I ask the last four witnesses from Architect of the Capitol, Capitol Visitor Center, John F. Kennedy Center, and Smithsonian to come forward now?

I have this note that they are saying we could have Committee as a whole votes around 1:30. Even I vote in Committee as a whole. I vote on the House Floor in Committee as a whole, so I would have to go.

I am going to ask you each to summarize your testimony, therefore, in about five minutes, if you can, because we want to hear from everyone. And if that bell rings, I don't have control over that. Let's start with Ms. Marshall of the Office of Equal Employment and Minority Affairs at the Smithsonian. Summarize your testimony, please.

Ms. MARSHALL. Good afternoon, Madam Chair. I am the Director of the Smithsonian's Office of Equal Employment and Minority Affairs, and we really appreciate having this opportunity to testify this afternoon so we can tell you a little bit about our program and what we are doing to promote and utilize small and disadvantaged businesses.

To summarize our efforts, I just want to say that the Smithsonian has a very effective and successful Supply Diversity Program. Our record, if you had an opportunity to look at it, would show that we have done a lot of things to support small businesses. Particularly, over the past two years, we have actually achieve double the Government-wide small business goals and quadrupled the disadvantaged business goals. We do this and we are very successful, and the reason we are so successful is that we have a cooperative working relationship among the Supply Diversity Program, the Of-

fice of Contracting, and procurement officials in our unit, and everyone enthusiastically supports it.

Supplier Diversity at the Smithsonian is the way we do business at the Smithsonian. It is outlined in two of our Smithsonian directives; it is a part of our management excellence goals; it is in the Smithsonian strategic and annual performance goals. It really is the way we do business, and Supplier Diversity is a requirement in every manager's and procurement official's performance plan.

I report to the head of the agency, so I think that speaks volumes about the commitment that the Smithsonian has for this program. I am responsible for providing leadership, direction, and management for the Supply Diversity Program, as well as the Equal Employment Opportunity program.

Let me speak quickly, because I understand you do have to move quickly and leave here. So here are some practices that we employ to promote Supplier Diversity.

At the beginning of each fiscal year, we work with the procurement officials in our top 10 spending units to identify projects that are suitable for small business. We require prime contractors to develop subcontracting plans, to identify opportunities for small businesses, and we have a cadre of Supplier Diversity zones in our museums, our research centers, and offices who advocate for the use of small business along with us. We provide diversity training; we participate in conferences, procurement fairs, and meetings; and we conduct vendor fairs and on-site capability assessments for firms who would work with us for our facility related projects.

In the past year we provided advice and assistance to more than 650 small businesses. We create and operate a Supplier Diversity online database that allows businesses to set register, and we now have more than 1500 small businesses registered on that database. And that database is used by our managers and our procurement officials to look for the small businesses to meet their procurement needs.

Finally, we are using information technology in a way that we feel is most effective. It helps us to ensure procurement information. Procurement officials enter their data into the Federal procurement data system Next Generation and our contractors are now registering themselves on the Central Contract Registration System. These practices have increased our ability to promote and use small business in our contracting and procurement activities.

I want to close my remarks by saying once again that the Smithsonian is committed to Supplier Diversity and that contracting with small business and small disadvantaged business is not only our policy, it is the way we do business.

Ms. NORTON. Thank you very much. I am sorry to rush you like this, but you certainly gave us a lot of information. We have your chart, which is very impressive. May I ask you and all of the witnesses to look to make sure that your small businesses that you report are not on the top 100, the list of the Small Business Association which reports that one-third of those small businesses are in fact not small businesses? Would you please to do a three-year look at whether or not these are in fact small businesses? Because some of this reporting could be inadvertent.

May I go to Roger Mosier, Vice President, John F. Kennedy Center for the Performing Arts? Would you summarize your testimony in five minutes, please?

Mr. MOSIER. Thank you. My name is Roger Mosier. I am the Vice President of Facilities for the Kennedy Center. Michael Kaiser, the President of the Kennedy Center, is out of the Country right now, so he has asked me to appear to read his testimony.

We appreciate the Committee's interest in the promotion of small businesses, and I will provide an overview of the Center's efforts to promote the use of small, minority, and disadvantaged businesses in its contracting process.

In fiscal year 2007, the Center received direct Federal funding of \$17.5 million for the operations and maintenance of the presidential memorial and \$12.8 million for capital repair. While our contracting activities are quite small in comparison with the other agencies appearing today, the Center is committed to awarding a fair portion of its Government purchases to small, minority, and disadvantaged business enterprises.

The Center continually looks for opportunities to offer contracts to small businesses. Given the Center's relatively small budget, the opportunities for such awards are limited; however, each contracting action is evaluated as to its suitability for a small, minority, and disadvantaged business opportunity. In general, the Center's Chief of Contracting serves as our small business advocate. In addition, project managers and other contracting officer's representatives are also advocates for the program due to our track record of successful work with small businesses.

Many basic services and minor repair contracts are awarded to small, minority, and disadvantaged firms. These operations and maintenance contracts range in size from around \$2,000 for power lift repair services to just under \$2 million for housekeeping services. On an ongoing basis, the Center utilizes small businesses for services as varied as fire extinguisher maintenance; elevator inspections; door repair; asbestos abatement; chiller and other equipment inspection, repair, and maintenance; pest control; moving services; and brass and bronze maintenance. Additionally, supplies such as carpet and flooring, lighting fixtures, safety shoes, uniforms, and condenser pumps are regularly purchased from small businesses.

For construction projects, from capital projects to major maintenance, the Center utilizes small businesses for both consulting and contracted services. In the realm of professional services, the Center has contracted with small businesses for architectural and engineering services, cost estimating, and construction scheduling review.

For general construction work, the Center has awarded a number of mid-sized contracts to small businesses. These have included the recently completed Roof Terrace Doors Replacement project, Motor Lobby Life Safety Upgrades project as well. Both of these projects were successfully completed within budget and on schedule by small businesses. Most recently, the Center awarded its Roof Terrace Life Safety project to a small business. This contract award was just under \$3 million. In fact, in August 2005, the Center established a pre-qualified bidders list that includes six small busi-

nesses for general construction services and the Center solicited qualifications exclusively from small businesses to form this list.

Beyond this arrangement, which typically provides a contracting vehicle for mid-sized projects that are often over \$1 million, the Center has also established open contracts with small, disadvantaged general contracting businesses participating in the 8(a) program. These contracts are utilized for minor repair and significant maintenance projects that typically cost less than \$250,000. The Center has worked with 8(a) firms for many years and currently has four 8(a) firms under Indefinite Delivery Indefinite Quality contracts, with one set to graduate from the program after working with the Center for their entire 8-year tenure in the program.

Based on the size and scope of the contract to be awarded, the contracting office will avail itself of the option to go directly to the Small Business Administration for set aside or may limit competition to only small, minority, and disadvantaged businesses. This method proved successful in the award of our housekeeping contract, which is in the third year of a four-year contract.

While not every contract can be awarded utilizing these small business vehicles, many of the capital projects outlined in the Center's five-year comprehensive building plan will be of a size and complexity that will fit well with services we obtain through our small business relationships. In fact, with the majority of our large construction projects nearing completion and the focus of the Center's capital plan shifting to relatively smaller infrastructure projects, the Center expects to be able to further award contracts to small businesses in the future.

In summary, our experiences with small, minority, and disadvantaged businesses have proven to deliver a successful outcome in a variety of areas, including services, supplies, consulting, and construction. As a result, we are proactive in seeking out opportunities for the appropriate award of small business contracts.

We appreciate the Subcommittee's interest in this program and for including the Kennedy Center in this discussion this morning. Thank you.

Ms. NORTON. Thank you very much, Mr. Mosier.

We will move to the Acting Architect of the Capitol, Mr. Stephen Ayers. Please summarize in five minutes your testimony.

Mr. AYERS. Madam Chair, Congressman Graves, thank you for inviting me here today to discuss AOC's efforts to increase procurement opportunities for small businesses.

I am happy to report that AOC is actively committed and making great strides in developing a program that enables and encourages small, disadvantaged, and women-owned businesses to effectively compete for contracts. As you know, the Legislative Branch agencies are not subject to the Small Business Act and, therefore, do not have authority to set aside procurements for small businesses. AOC procurement statutes require that all of our procurements over \$100,000 be competed on a full and open basis.

Nonetheless, we recognize the importance of encouraging and working with small businesses, and are implementing the following initiatives: first, the Small Business Subcontracting Program for construction contracts greater than \$1 million; second, a Small

Business Outreach Program; and, third, a Small Business set-aside program for procurements between \$5,000 and \$100,000.

Last August, we launched our Small Business Subcontracting Program, requiring large businesses that are awarded construction contracts exceeding \$1 million to submit and adhere to a small business subcontracting plan. This plan includes goals for the prime contractor for recruiting small businesses as subcontractors.

The AOC awarded its first contract under this new program—worth nearly \$4 million—in late 2007. We require each large business to submit a semi-annual progress report detailing how well they are achieving the proscribed goals.

A small business outreach program also has been launched to identify small businesses that are currently working with the AOC or interested in competing for work. As we expand our current vendor database to include small business information, our procurement staff continues to communicate business opportunities with diverse audiences through workshops, business fairs, and small business conferences.

For example, last September, our staff participated in the Minority Procurement Workshop sponsored by the Committee On House Administration. We also plan to participate in the Small Business Administration's National Small Business Week in April of this year. In addition, we will soon enter into negotiations with SBA to solicit their assistance in establishing our small business program.

Although our small business outreach program is relatively new, we can identify several contracts that were awarded in fiscal years 2007 and 2008 to small businesses that successfully competed against large businesses. Eleven contracts were identified totaling more than \$10 million.

In addition to the two earlier initiatives, we have begun implementation of a Small Business Set-Aside Program for our small business purchases between \$5,000 and \$100,000, when adequate competition exists.

Recently, I formalized the AOC's Small Business Program by issuing a policy memo directing our staff to fully implement the directives I outlined previously. We have a strong interest in encouraging small and disadvantaged businesses to successfully compete for AOC contracts. This increased competition ensures we receive the best value for taxpayers' dollars while supporting employment opportunities and businesses in our community.

Madam Chair, that concludes my statement, and I would be happy to answer any questions you may have.

Ms. NORTON. Thank you, Mr. Ayers.

And, of course, we now hear the bell you were alerted would go off, and I am going to have to go to the Floor, as, of course, will the Ranking Member.

Our final witness is Terrie Rouse, CEO for the Visitor Center.

Ms. ROUSE. Thank you. Thank you, Madam Chair and Congressman Graves for inviting me to participate in today's hearing. I would like to begin by thanking the Architect of the Capitol and Congress for giving me the opportunity to be part of history: in opening the doors to the largest expansion of the Capitol that is devoted to the citizens of the United States. I believe that the Capitol Visitor Center, CVC, is a symbolic door to Congress, a portal that

will become an inviting place to remind visitors of their roles as citizens. As an extension of the Capitol, it will provide a fitting welcome and introduction to the People's House so all may witness the workings of our legislative process. Our mission is to inform, involve, and inspire generations of Americans.

To provide the Subcommittee with a bit of background about myself, I am originally from—

Ms. NORTON. I would appreciate, Ms. Rouse, if you would go on.

Ms. ROUSE. I will skip that.

Ms. NORTON. We have that. Go on to your operations, because even though I don't have to go to the Floor, I do have to move out of here shortly.

Ms. ROUSE. Okay.

Ms. NORTON. So would you go to what you are doing on the subject matter of this hearing?

Ms. ROUSE. Sure. I have been serving as the AOC's Chief Executive Officer for Visitor Services for six months, and one of my top priorities has been to hire a diverse and professional staff to help prepare the CVC to receive visitors. We are planning a job fair in April and we are actively reaching out to Members of Congressional caucuses, including the Congressional Black Caucus, Congressional Asian Pacific American Caucus, Congressional Hispanic Caucus, and Congressional Native American Caucus to help inform potential candidates of job opportunities with the CVC.

My goals for the CVC mirror those of the AOC: to aggressively work to hire personnel and award contracts to individuals and companies that reflect the diversity of our Country. I believe such efforts enhance our ability to serve Congress and all who will visit our Nation's Capitol.

For our procurements, the Capitol Visitor Center team follows the same statutes and policies as the AOC. Over the past several months, three contracts of note have been awarded to support the new Office of Visitor Services. The first one awarded last spring provides food services in the CVC restaurant; another was awarded last fall to a small business to develop an advanced reservation system; and a third was awarded to a woman-owned small business for designing the CVC Web site.

As we move forward, we are following the same small business program which Mr. Ayers discussed in his testimony. For example, we will soon be seeking small business suppliers for our gift shop to provide materials that are related to our mission. We agree that we have a vested interest in supporting small businesses because the use of small businesses helps facilitate competition and lowers prices by providing additional sources for our requirements and improves our relationship with the local community.

Madam Chair, you have my commitment as CEO for Visitor Services for the CVC to work on ensuring that we continue to do business with small, minority, and disadvantaged businesses. Thank you.

Ms. NORTON. Thank you very much, Ms. Rouse.

In all fairness, I think I should go to Mr. Ayers first, because, if he was in the room, he heard his agency called out, as they say, as a kind of textbook case in bundling that could perhaps have gone to small businesses, bundling of landscaping, housekeeping,

and the like. If one is serious about small, minority, women-owned business, even though we are trying to make sure that they don't get stereotyped and that we also are mindful of professional and other services, I will have to ask you to explain why such services would have been funded.

Mr. AYERS. I am happy to answer that, Madam Chair. I think there is a little confusion. I did hear an RFP number quoted and, with the great use of technology, was able to track down that RFP number, which was 060085, I believe I heard. And that 06 means it is a fiscal year 2006 procurement, so it is not something that could be advertised today.

Ms. NORTON. So, in other words, it didn't happen today, but it did happen in 2006. So I have to ask why.

Mr. AYERS. No, I don't think so. I looked up that 06 procurement. It is for professional landscape services and it was awarded to a small business.

I do believe that the one we are speaking of now is—and I think the gentleman brought up two examples. There was one that we did a few years ago for Thurgood Marshall Federal Judiciary Building. In a building like that, a standalone building, we will typically go out and award a contract to a single building management company to do all of the building management services in that building. They will then potentially sub out construction work, architect/engineer work, pest services, custodial, and the like.

Ms. NORTON. Do you then monitor to see whether or not small and disadvantaged businesses are subcontractors in such buildings? I mean, you say it is because it is a single building. Does that mean—

Mr. AYERS. That particular example it is. I can give you another example. We have recently competed for facilities management services for our police buildings, and we have maybe 20 police kiosks throughout the campus. We are going to bundle all of those little police kiosks together.

Ms. NORTON. What do you mean police buildings?

Mr. AYERS. Police guard stations where you would see—

Ms. NORTON. Oh my goodness. Nobody would expect those each little guard station—please, Mr. Ayers, we are talking about—I am not sure anybody would—

Mr. AYERS. That is out on the street.

Ms. NORTON. Well, but I don't think anybody would bid to do one of the guard stations as you come into the house and somebody else do another guard—

Mr. AYERS. That is exactly why we pooled them all together.

Ms. NORTON. We recognize that—you know what we are talking about. I shouldn't have to talk about whether a 2-by-4 guard station is what we are talking about, Mr. Ayers. Do you do bundling in the general course of business? At the Visitors Center, for example, would any of those services—because here is a clean slate to write on—be bundled, or would the services provided there be open to small business contractors?

Mr. AYERS. That particular building we are managing ourselves. We are not turning that over to a building management company. So we are going out individually to purchase custodial services and purchase some building repair services.

Ms. NORTON. And are you using small businesses on that? Are you able to use small businesses?

Mr. AYERS. We are able to use small businesses between \$5,000 and \$100,000. We are able to set aside for small businesses. Above \$100,000, our procurement statutes require us to have full and open competition.

Ms. NORTON. With full and open competition, are you able to use small businesses?

Mr. AYERS. Oh, absolutely.

Ms. NORTON. Because those things are not necessarily inconsistent or inimitable.

I think it is you, Mr. Mosier, gave us no statistics, no overall statistics for the Kennedy Center. I recognize you are smaller than others. For that reason, it should be easy to know what your overall small business utilization, minority-owned, etc.

Mr. MOSIER. Well, we receive our appropriation in two basic categories, O&M and capital, and the O&M is fairly steady. In fiscal year 2007, it was about 25 percent utilization of small businesses, and in fiscal year 2008, so far, it is about 22 percent. If you take utilities out of that, the numbers go up significantly, to 40 and 36 percent.

Ms. NORTON. So you are fairly small agencies. I have a very specific rundown for the Smithsonian, thank you. Does the Smithsonian use bundling?

Ms. MARSHALL. We have had no problems with bundling, but a couple of years ago we did bundle, I believe,—well, not a couple, it has been about five years—we were bundling for supplies, and that no longer is being done. The way we are doing it now is since we have been able to go to the people soft system and what have you, we really aren't doing bundling.

Ms. NORTON. It occurs to me that precisely because of your size, there are many opportunities for smaller business contracts, because you don't let these mammoth contracts the way GSA does. I applaud the fact that the Legislative Branch agencies are using the same methodology. If you weren't, then, of course, it would be incumbent upon me to make sure that you were legislated into using it. But I think that you have understood that the difference is purely technical, the separation of powers branch not in fact intended to draw a distinction between you and Executive Branch agencies

If I may so, I think, if anything, we in the Legislative Branch should be held to a higher standard. As I say, we are policing all those contractors in the private sector out there; we are telling all these agencies that are Executive agencies that we are monitoring you and what you should do. Well, I just want to say here for the record that I think that the Legislative Branch agencies should be held to an even higher standard, should set the example. I am not saying you aren't, but I am putting you on notice that this Subcommittee does intend to follow this issue. You heard me say that the SBA just can't possibly do it all. They can't do it at all for you because you are a Legislative Branch agency, so I want to say how much I appreciate your testimony, your work, and, with that, with the bell ringing in my ears, I think I should let you go and I should probably run to the Floor. Thank you very much.

[Whereupon, at 1:33 p.m., the Subcommittee was adjourned.]

**Subcommittee on Economic Development, Public
Buildings and Emergency Management**

**Hearing on “Doing Business with the Government: The Record and Goals
for Small, Minority, and Disadvantaged Businesses”
Thursday, March 6, 2008**

Statement – Congressman Jason Altmire (PA-04)

Thank you, Chairwoman Norton, for calling today’s hearing to discuss the relationship between our nation’s small, minority, and disadvantaged businesses and the federal government. As a member of both the House Committee on Small Business and this subcommittee, I have a unique position that affords me the opportunity to truly understand issues related to our nation’s small businesses, especially their interactions with the federal government.

Over the past 50 years, it has been the policy of the federal government to ensure that small businesses have access to a fair portion of government contracting and procurement. Unfortunately, as we are all aware, this policy has not always resulted in small businesses receiving a truly fair portion of contracting. As the Chairwoman mentioned in her opening statement, although small businesses account for a full half of our nation’s private, non-farm gross national product, they continue to receive only a small fraction of total federal contracts. It will be the job of this committee to examine this situation, and I look forward to hearing from today’s witnesses on what steps they believe can be taken to address it.

Madam Chair, thank you again for holding this hearing.

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STATEMENT OF
THE HONORABLE JAMES L. OBERSTAR
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS,
AND EMERGENCY MANAGEMENT
HEARING ON "DOING BUSINESS WITH THE GOVERNMENT THE RECORD AND GOALS FOR SMALL,
MINORITY AND DISADVANTAGED BUSINESSES

I am very pleased to welcome the witnesses to today's hearing. It is not often that we get an opportunity to hear from the entire range of agencies that come under the jurisdiction of the Subcommittee on Economic Development, Public Buildings and Emergency Management at the same hearing.

The timing of today's hearing is not random. Our country faces troubling economic times. One of the most effective ways to help stimulate the economy is through government contracting and procurement. The Federal Government can stimulate the economy not only with its programs but also with its day to day procurements and its contracting clout. The programs we will hear about today will highlight not just how to stimulate economic activity but how to target that spending in areas where it is most needed and will provide the greatest public benefit.

I look forward to hearing from the witnesses today and extend my warm welcome to all witnesses.

**STATEMENT OF STEPHEN T. AYERS, AIA
ACTING ARCHITECT OF THE CAPITOL**

**Regarding “Doing Business with the Government: The Record and Goals for
Small, Minority, and Disadvantaged Businesses”**

**Subcommittee on Economic Development, Public Buildings,
and Emergency Management, Committee on Transportation and Infrastructure
U.S. House of Representatives**

March 6, 2008

Madam Chair, Congressman Graves, and members of the Subcommittee, thank you for inviting me here today to discuss the Office of the Architect of the Capitol's (AOC's) efforts to increase AOC procurement opportunities for small businesses.

I am happy to report that the AOC is leading the way in the Legislative Branch in developing a program that enables and encourages small-disadvantaged and women-owned businesses to effectively compete for AOC contracts. As you know, Legislative Branch agencies are not subject to the Small Business Act, and therefore, do not have authority to set aside its procurements for small businesses. AOC procurement statutes, for example, require that all our procurements over \$100,000 be competed on a full and open basis.

Nonetheless, we recognize the importance of encouraging and working with small businesses and the AOC is implementing the following initiatives.

- Small Business Subcontracting Program for construction contracts greater than \$1 million.
- Small Business Outreach Program.
- Small Business set-aside for procurements between \$5,000 and \$100,000.

In August 2007, we launched our Small Business Subcontracting Program, requiring large businesses that are awarded construction contracts or task orders exceeding \$1 million to submit and adhere to a small business subcontracting plan. This plan includes goals for the prime contractor for recruiting small businesses as subcontractors.

The minimum subcontracting goals we set for the large businesses include:

- Small Business: 28%
- Small Disadvantaged Business: 8%
- Women-owned Small Business: 5%
- HUBZone Small Business: 3%
- Service-disabled Veteran-owned Small Business: 3%

These goals meet or exceed the Small Business Administration's statutory goals for Federal executive agencies. The AOC awarded its first contract under this new program, worth \$3.9 million, in 2007. We require each large business to submit a semi-annual progress report detailing how well they are achieving the prescribed goals.

A small business outreach program also has been launched to identify small businesses that are currently working with the AOC or are interested in competing for work with the AOC. In 2005, the AOC's Procurement Division began a large-scale mailing to all vendors in our vendor database requesting that they provide information on their business type, e.g. large, small, non-profit, et cetera.

We continue to reach out to vendors for this information and the data received is used to identify small businesses that can receive requests for quotations for Agency requirements. Vendors not used by the AOC can submit company literature, which is added to a source list posted on our Internet site and available AOC-wide. The AOC modifies this source list to note the type of contractor so that when new sources are needed, they can be identified by type of contractor.

As we continue to expand our current vendor database to include small business information, our procurement staff continues to communicate business opportunities with diverse audiences through workshops, business fairs, and small business conferences.

For example, last September our staff attended the Minority Procurement Workshop sponsored by the Committee on House Administration. In addition, we will continue participating in future Committee on House Administration Procurement Workshops, as well as attending other relevant conferences and/or workshops that may be available through other government agencies including the Small Business Administration's National Small Business Week in April 2008.

In addition, we will soon enter into negotiations with the Small Business Administration to solicit their support and assistance in establishing a small business program. We also are training Agency staff, creating internal policies, and publishing policies for review and comment by the small business community.

Lastly, the Chief of our Procurement Policy Branch has been designated to fulfill the equivalent functions of an Executive Branch Agency's Office of Small and Disadvantaged Business Utilization. These functions include coordinating outreach activities to small business concerns, providing training to the appropriate AOC staff, writing proposed policies for small business activities, and developing reporting mechanisms for measuring accomplishments in awards to small business concerns.

Although our Small Business Outreach program is relatively new, we can identify several contracts that were awarded in FY 2007 and FY 2008 to small business that successfully competed against large businesses. Eleven contracts were identified totaling more than \$10.5 million. These contracts ranged from \$121,000 to \$2.9 million and provide services ranging from janitorial services to Web site development.

In addition to the two earlier initiatives, we have begun implementation of a Small Business Set-aside Program for our small purchases between \$5,000 and \$100,000 when adequate competition exists among small businesses on such small purchase acquisitions. Within our Small Business Set-aside Program we will establish additional sub-goals of eight percent for small disadvantaged businesses and five percent women-owned businesses.

Recently, I formalized the AOC's Small Business Program by issuing a policy memo directing our Agency staff to fully implement the three initiatives I have outlined. We have a strong interest in encouraging small and disadvantaged businesses to successfully compete for AOC contracts. This increased competition ensures we receive the best value for taxpayers' dollars while supporting employment opportunities and businesses in our community.

Madam Chair, the AOC is dedicated to encouraging small business participation in our procurement process and we look forward to our continued work with this Subcommittee and Congress to ensure that our efforts result in strong small business participation in future AOC contract solicitations.

This concludes my statement. I would be happy to answer any questions you may have.



1615 L Street, NW, Suite 650 Washington, DC 20036
202-626-8528

**Statement of Catherine Giordano on Behalf of
Women Impacting Public Policy**

**Before The
U.S. House of Representatives Subcommittee on
Economic Development, Public Buildings, and
Emergency Management
Committee on Transportation and Infrastructure**

**"Doing Business with the Government: The
Record and Goals for Small, Minority, and
Disadvantaged Businesses"**

March 6, 2008

Good morning. Chair Holmes Norton, Ranking Member Graves, and Members of the Subcommittee, my name is Catherine Giordano. I am the CEO of Knowledge Information Solutions, located in Virginia Beach, Virginia, a value added network integrator with a full range of products and services to create, manage and secure networks. We are an 8(a), woman- owned firm. I am appearing today on behalf of Women Impacting Public Policy (WIPP), a national bi-partisan public policy organization representing well over a half million women and minorities in business including 45 associations that partner with us. Thank you for holding this hearing and for inviting me to testify.

I would like to spend some time this morning talking about my own experience with federal contracting and then touch on policies that affect all small businesses as they seek federal contracts. Let me say at the outset that while I have been very successful in the federal contracting arena, it has not come without its challenges.

In 2002, when I bought this business, its revenue was roughly \$9 million and almost all of it was commercial. I made a conscious decision to expand my business by making a major component of the revenue government business. Since that time, my business has grown 20% each year with 90% of the revenue attributable to government contracting.

One of the first steps we took was to get a GSA IT 70 schedule contract. We submitted our paperwork in October 2002 and were awarded the contract in December 2003. This year long delay cost KIS millions of dollars in lost revenue. We spent approximately \$50,000 to get on the IT 70 schedule, on internal and external resources. This is not just a problem specific to my company, many small businesses spend

significant dollars preparing the paperwork for getting on Schedule. KIS also holds an 8(a) STARS contract and is a subcontractor on the Alliant contract, which regrettably is under protest. I know Administrator Doan has made a big push to get contracts awarded 30 days after businesses submit their paperwork and I applaud that effort.

It is important to note that a small business must also maintain their Schedule contract. We have spent about \$20,000 for contract updates for each Multiple Award Schedule (MAS) we hold. On that note, the time and effort small businesses spend on implementing changes to their Schedule contract can be long and laborious—in some cases over a year.

KIS has found GSA Multiple Award Schedules redundant and overlapping in categories of information technology delivery services. Each Multiple Award Schedule holder, such as KIS, must bid for each contract opportunity under that Schedule which adds to the cost of bidding and proposal costs. In other words, if you are awarded an 8(a) STARS contract it only means you can bid on opportunities that are assigned to that contract—no business comes with the award. We estimate that we have spent \$850,000 on competitive bids on these Schedules. Needless to say, that is out of the reach of most small businesses.

On a positive note, the 8(a) STARS contract has been good for KIS. It is run by a professional team in Kansas City, Missouri that practices rapid response and skilled contract officers. My only regret is that it is not utilized as the preferred GSA Multiple Award Schedule for small businesses. Redundant GSA Schedules offering the same services and products force small businesses to participate in a number of Schedules

rather than just one. Redundancy is not exclusive to GSA— every agency has its own information technology and services contracts, for which we also compete.

Now, let me turn to some policy issues which affect small, women- owned companies. The most pressing issue is the SBA's proposed rule on the women's procurement program whose comment period ends on March 31, 2008. Public Law 106-554, passed in 2000, established a women's procurement program because federal agencies did not meet their 5% woman-owned contracting goal. In fact, the federal government has never met this goal – the highest number it has ever achieved is 3.4%.

The law charged the Small Business Administration (SBA) with the responsibility of conducting a study to determine which industries were underrepresented by women with respect to federal contracting. The SBA studied the data for seven long years only to publish on December 27, 2007 an unsatisfactory proposed rule --Women-Owned Small Business Federal Contract Assistance Procedures (72 FR 73285).

WIPP believes that the practical effect of this proposed rule, as currently structured, is that virtually no contracts will ever be successfully set aside under this program. The SBA chose the narrowest method of data analysis and identified only four NAICS codes that will be subject to restricted competition: cabinetmaking, engraving, other motor vehicle dealers, and national security and international affairs.

But there is another hurdle to clear before these limited four categories can be eligible for set asides. An agency must perform an internal audit of its past contracting actions to show that it is rectifying past discriminatory contracting practices before any contract can qualify for a set aside. By requiring this additional finding of past discriminatory practices by the agency, we believe this proposed rule sets forth a new

legal standard which will be damaging not only to this program but potentially every women business enterprise (WBE) program in the country. WIPP and its coalition partners are asking that the SBA withdraw its rule. In addition, many Members of the House and Senate have urged the SBA to withdraw the rule and we are grateful for their support.

There are other policies which affect the ability of women-owned businesses to do business with the government. Consolidated contracts (also known as bundled contracts) hurt small businesses. The OMB reported in 2002 that for every \$100 awarded on a bundled contract, there is a \$33 decrease to small businesses. Despite strong evidence that bundling is not good for small business or the government, a 2004 Government Accountability Office (GAO) Report No. 04-454 titled, "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. We urge the Subcommittee to clear up the confusion for the agencies.

WIPP continues to believe that "if you list us, use us" is an important principle in subcontracting. Small businesses spend thousands of dollars in staff resources to be a part of the subcontracting plan on a prime contractor's bid. WIPP members tells us that all too often the prime contractor, after winning the contract, takes their portion of the work "inside" or simply reverts to using the same old subcontractors they have used in other bids. We believe prime contractors should utilize the small businesses they include in their subcontracting plans unless the small business could no longer meet the requirements. There should be penalties assessed for violating the subcontracting plans.

The federal government's ability to meet small business goals is far from impressive. According to the Small Business Administration (SBA), FY 2006 federal contracting numbers show that only seven of 24 federal agencies met the 23 percent small business goal. Additionally, only ten major agencies met the five percent women-owned contracting goal of five percent.

In conclusion, it is not impossible for small, women-owned businesses to be successful in federal contracting. But our success does not rest solely on the quality of our products and services – federal acquisition policy largely dictates if and when we will be successful. The Congress and the federal agencies must work together to ensure that the policies they enact and the paperwork they create do not shut out the ability of women-owned businesses to succeed in the federal marketplace.

Statement of Michael Kaiser
President, The John F. Kennedy Center for the Performing Arts
Washington, DC 20566 (202) 416-8721
Before the House Committee on Transportation and Infrastructure
Subcommittee on Economic Development, Public Buildings
and Emergency Management
March 6, 2008

Good morning, my name is Michael Kaiser and I have the honor of serving as the President of the John F. Kennedy Center for the Performing Arts.

For the benefit of all subcommittee members, I would like to take a minute to describe briefly the breadth of the Center's activities. The Kennedy Center is unique in that it serves the dual purpose of being the national cultural center *and* the memorial to President John F. Kennedy. Each year, the Kennedy Center reaches over two million people with more than 2,000 performances in all performing arts disciplines. Every season, our focus is on developing programming that achieves national and international acclaim as is befitting our role as the national cultural center.

The Center is committed to making arts accessible to everyone and presents free performances every day of the year on its Millennium Stage. These performances are available free to every American via live Internet broadcasts. The Kennedy Center is also committed to arts education and has created one of the most extensive arts education programs in the world spending \$125 million over five years on this effort and serving 11 million people nationwide.

The Center's extensive programming is supported by a mix of private contributions, government grants, and earned income from ticket sales, parking fees and food service. As a presidential memorial, however, the Center receives an annual federal appropriation of approximately \$35 million for the operation, maintenance, and capital repair of the building, consisting of 1.5 million square feet of useable floor space on 17 acres of land.

We appreciate the committee's interest in the promotion of small businesses and I hereby provide you with an overview of the Center's efforts to promote the use of small, minority and disadvantaged businesses in its contracting processes. In Fiscal Year 2007, the Center received direct federal funding of \$17.5 million for the operations and maintenance of the presidential monument and \$12.8 million for capital repair. While our contracting activities are quite small in comparison to the agencies appearing with me this morning, the Center is committed to awarding a fair portion of its Government purchases to small, minority and disadvantaged business enterprises.

The Center continually looks for opportunities to offer contracts to small businesses. Given the Center's relatively small budget, the opportunities for such awards are limited; however, each contracting action is evaluated as to its suitability for a small,

minority and disadvantaged business opportunity. In general, the Center's Chief of Contracting serves as our small business advocate; in addition, project managers and other Contracting Officer's Representatives are also advocates for this program due to our track record of successful work with small businesses.

Many basic services and minor repair contracts are awarded to small, minority and disadvantaged firms. These operations and maintenance contracts range in size from around \$2,000 for power lift repair services, to just under \$2 million for housekeeping services. On an ongoing basis, the Center utilizes small businesses for services as varied as fire extinguisher maintenance, elevator inspections, door repair, asbestos abatement, chiller and other equipment inspection, repair and maintenance, pest control, moving services and brass and bronze maintenance. Additionally, supplies such as carpet and flooring, lighting fixtures, safety shoes, uniforms and condenser pumps are regularly purchased from small businesses.

For construction projects, from capital projects to major maintenance, the Center utilizes small businesses for both consulting and contracted services. In the realm of professional services, the Center has contracted with small businesses for architectural and engineering services, cost estimating, and construction scheduling review.

For general construction work, the Center has awarded a number of mid-sized contracts to small businesses. These have included the recently completed Roof Terrace Doors replacement project and the Motor Lobby Life Safety Upgrades project. Both of these projects were successfully completed within budget and on schedule. Most recently, the Center awarded its Roof Terrace Life Safety project to a small business. This contract award was just under \$3 million. In fact, in August 2005, the Center established a prequalified bidders list that includes six small businesses for general construction services. The Center solicited proposals exclusively from small businesses to form this list.

Beyond this arrangement, which typically provides a contracting vehicle for mid-size projects that are often over a million dollars, the Center also has established open contracts with small disadvantaged general contracting businesses participating in the 8(a) program. These contracts are utilized for minor repair and significant maintenance projects that typically cost less than \$250,000. The Center has worked with 8(a) firms for many years, and currently has four 8(a) firms under Indefinite Delivery Indefinite Quantity contracts, with one set to graduate from the program after working with the Center for their entire 8-year tenure in the 8(a) program.

The Center has achieved success in working within the 8(a) program by actively pursuing opportunities to promote the use of small, minority and disadvantaged businesses, including annual meetings with a marketing firm representing 8(a) firms. This allows us to remain current on the breadth of companies participating in the program and their capabilities.

Based on the size and scope of the contract to be awarded, the contracting office will avail itself of the option to go directly to the Small Business Administration for a set aside or may limit competition to only small, minority and disadvantaged businesses. This method proved successful in the award of our housekeeping contract, which is in the third year of a four-year contract.

While not every contract can be awarded utilizing these small business vehicles, many of the capital projects outlined in the Center's five-year comprehensive building plan will be of a size and complexity that will fit with the services we obtain through our small business relationships. In fact, with the majority of our large construction projects completed and the focus of the Center's capital plan shifting to relatively smaller infrastructure projects, the Center expects to be able to further award contracts to small businesses in the future.

In summary, our experiences with small, minority and disadvantaged businesses have proven to deliver a successful outcome in a variety of areas, including services, supplies, consulting, and construction. As a result, we are proactive in seeking out opportunities for the appropriate award of small business contracts.

We appreciate the subcommittee's interest in this program and for including the Kennedy Center in this discussion this morning. Thank you.

**House Subcommittee on
Economic Development, Public Buildings, and Emergency Management
Testimony
Era Marshall, Director of the Office of Equal Employment and Minority Affairs,
Smithsonian Institution
6 March 2008**

I'm Era Marshall, Director of the Smithsonian Institution's Office of Equal Employment and Minority Affairs (OEEMA).

Thank you for this opportunity to testify before the House Subcommittee on Economic Development, Public Buildings, and Emergency Management.

The Smithsonian is a trust instrumentality of the U.S. Congress, and has been in a public-private partnership since its establishment 162 years ago, with the mission being "the increase and diffusion of knowledge among men." The support of the Administration and the Congress is essential to that mission. With 19 museums, nine research centers and the National Zoo, the Smithsonian is the world's largest museum and research complex and as such stands out as a unique entity and leader in science, history, art, and culture.

The requirements of the Small Business Administration (SBA) Act and small and small disadvantaged business (SDB) utilization goals established by the SBA do not apply to the Smithsonian. However, we are voluntarily committed to diversity across the Institution in recruitment, hiring, procurement and contracting. I will briefly outline our services and then I'd be happy to answer any questions.

My office, the Office of Equal Employment and Minority Affairs, (OEEMA), is responsible for advocating for Institution-wide compliance with Institutional policies as they relate to diversity and equal opportunity. My office directs, oversees, facilitates, and reports on all aspects of equal opportunity in the Smithsonian Institution's employment and business relationships. The Supplier Diversity Program (SDP) component of my office works closely with staff in the Smithsonian's Office of Contracting to ensure compliance with policies and procedures established to ensure SDBs are accorded maximum opportunity, consistent with the Institution's contracting requirements, to compete for and be awarded contracts for which they are qualified and capable of meeting the terms and conditions.

The managers and staffs at the Smithsonian's museums, research centers, and offices take very seriously their responsibilities to attract a diverse array of SDBs to help us fulfill our mission, and strongly adhere to a policy of equal opportunity in all aspects of our business relationships. Through a variety of means, including brochures, web sites, procurement fairs and more, we urge all small, minority, socially and economically disadvantaged 8(a), woman-owned, historically underutilized business zone (HUBZone), and service-disabled veteran-owned businesses to inform the Smithsonian about their

products and services available so that we can provide them with opportunities to compete for Smithsonian contract awards.

As a result of our outreach efforts, I am pleased to report that in the last five years we have done very well on contract awards to SDBs. We have submitted a chart that documents our success over the past 5 fiscal years. In fact, in the last two fiscal years, we more than doubled the SBA's government-wide small business set-aside goals.

Our success is attributed to our Supplier Diversity Program, conscientious Contracting Office staffs and committed project and program staffs at our museums, research centers and offices who are devoted to providing advocacy and direction to SDBs. The Supplier Diversity Program and Smithsonian Contracting Office strive to ensure that SDBs receive equal opportunity and appropriate consideration to receive contract awards to provide the Smithsonian's required goods and services whenever they are qualified. Smithsonian successes in SDB utilization are attributable to:

1. Implementing a Supplier Diversity Program policy (SD 216) and Contracting policy (SD 314, currently being revised) with procedures that clearly cite the Smithsonian's position for maximizing utilization of SDBs and manager's' and staffs' responsibilities for compliance with the policies;
2. Instituting in all senior managers' annual performance plans an element and standards for ensuring support of the Institution's SDB utilization goals and establishing initiatives for increasing SDB utilization at their organizations;
3. Conducting outreach to heighten SDBs' awareness of the contracting opportunities at the Smithsonian;
4. Encouraging development and implementation of creative initiatives that encourage increased utilization of SDBs through "win-win" strategies;
5. Establishing realistic goals, and monitoring achievement against those goals, for the participation of SDBs in Smithsonian contracting opportunities;
6. Maintaining a network of "SDP Liaison" staff that assists with promoting initiatives at the museums, research centers, and offices for increasing utilization of SDBs;
7. Arranging and conducting routine training to educate Smithsonian buyers on the benefits of utilizing SDBs;
8. Requiring subcontracting plans from large prime contractors, evaluating plans for adequate small business participation levels and negotiating goals for SDB participation, and monitoring prime contractors' achievements of goals during contract performance;

9. Maintaining a database of qualified SDBs that is accessible to buyers Smithsonian-wide; and
10. Publishing and distributing informational materials that assist SDBs in their marketing efforts to the Smithsonian.

To recap, the Smithsonian's commitment to diversity across the entire Institution is dynamic and strong and will remain so. Thank you for this opportunity. I'd be happy to answer any questions.

Smithsonian Institution
Contract Awards to Small and Small Disadvantaged Business
Fiscal Years 2003 - 2007

	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	Government- Wide Goals
	SI Award Dollars					
	% of SI Award Dollars					
Prime Contracts	\$156,060	\$165,234	\$237,785	\$203,585	\$198,388	N/A
Small Business	\$68,421	\$37,486	\$51,962	\$114,608	\$102,818	N/A
	43.84%	22.69%	21.85%	56.29%	51.83%	23.00%
Section 8(a)	\$10,937	\$5,838	\$3,714	\$7,602	\$13,201	N/A
	7.01%	3.53%	1.56%	3.73%	6.65%	3.00%
Small Disadvantage Business	\$22,872	\$11,884	\$22,526	\$31,634	\$43,911	N/A
	14.66%	7.19%	9.47%	15.54%	22.13%	5.00%
Women-owned Business	\$9,367	\$8,116	\$12,641	\$12,822	\$27,341	N/A
	6.00%	4.91%	5.32%	6.30%	13.78%	5.00%
HUBZone Small Business	\$1,843	\$1,340	\$7,258	\$3,630	\$7,258	N/A
	1.18%	81.00%	3.05%	1.78%	3.66%	3.00%
Service Disabled Veteran-owned Small Business	\$0	\$0	\$0	\$1,102	\$2,317	N/A
	0.00%	0.00%	0.00%	0.54%	1.17%	3.00%

**FY 2007 Outreach Efforts to Promote Smithsonian Institution's
Commitment to Small and Disadvantaged Business Utilization**

Represented the Smithsonian Institution at national and local outreach initiatives including:

- Five SBA Procurement Advisory Council Federal Policy meetings,
- Nine Federal Interagency OSDBU Directors Council meetings and hosted the August 16, 2006 meeting at SAAM
- OSDBU Directors Council Procurement Outreach, (along with staff from NMNH, OFEO, MCI, AM, and NZP), April 18, 2007
- Two SBA Match Making events,
- Five GovConnectx outreach events to SDVOSB and women owned business,
- Congressman Albert Wynn's March 26, 2007 Procurement Fair and Expo,
- Nuclear Regulatory Commission HUB-Zone SDVOSB Outreach, May 16, 2007
- National Association of Black Veteran Procurement Expo, May 25, 2007
- Maryland DC Minority Supplier Development Council Minority Business Expo, June 1, 2007
- Department of Energy Small Business HUB-Zone Outreach, June 28, 2007
- National Federal Small Business Contracting Summit, August 2, 2007
- Minority Enterprise Development week, September 13 – 14, 2007
- US Hispanic Chamber of Commerce, and the September 19 – 22, 2007
- Congressional Black Caucus, September 29 - 30, 2007
- Discussed the requirements for doing business with the Smithsonian Institution with over six hundred fifty small businesses.

**STATEMENT OF
MICHAEL J. RIGAS
DEPUTY ASSOCIATE ADMINISTRATOR
OFFICE OF SMALL BUSINESS UTILIZATION
U.S. GENERAL SERVICES ADMINISTRATION
BEFORE THE
COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT
U.S. HOUSE OF REPRESENTATIVES
MARCH 6, 2008**



Good morning, thank you for the opportunity to appear before you today to discuss doing business with the government, and the General Service Administration's (GSA's) record and goals for Small, Minority and Disadvantaged Businesses. I am Michael Rigas, Deputy Associate Administrator for Small Business Utilization at the General Services Administration, and I am pleased to be here this morning.

As the premier acquisition agency of the Federal Government, GSA's mission is to help Federal agencies better serve the public by offering, at best value, superior workplaces, expert solutions, acquisition services, and management policies.

GSA works hard to ensure that small businesses have ample opportunities to compete in GSA procurements. We know that small businesses are the engine of our national economy and that they bring new and innovative solutions to Government challenges. A successful and strong small business community is integral to job creation, community empowerment and economic revitalization.

GSA works hard so that small businesses, including disadvantaged, women-owned, HubZone, veteran-owned, and service-disabled veteran-owned small businesses, have every opportunity to participate in the Federal procurement process. GSA has significantly increased its spending with small businesses, and as an agency, we actually exceed the goals Congress has set.

The Small Business Act establishes, for Federal executive agencies, an annual goal of awarding 23 percent of prime contract dollars to small businesses. This equated to \$1.25 billion in Fiscal Year (FY) 2006. At GSA, in FY 2006, over \$1.7 billion, or 32 percent, of all prime contract procurement dollars spent went to small business. That impressive result is 40 percent higher than the statutory goal and an increase of 13 percent over the FY 2005 level of \$1.5 billion. We are proud that we have surpassed the statutory goal.

Our Public Buildings Service (PBS) contracts for a wide variety of services to support their mission of providing superior workplaces for federal customer agencies at good economies to the American taxpayer. The largest contracting areas are maintenance, repair and alteration of buildings; construction of buildings; and housekeeping services. In FY 07, of the more than \$1.8 billion spent in these areas, over \$692 million (nearly 38%) were spent on contracts with small businesses.

PBS developed a number of regional outreach programs to heighten awareness within the small business community of PBS contracting opportunities. This includes small business fairs, trade group seminars, targeted informational/educational seminars, pre-award and post-award small business opportunity fairs. Since 2006, the Public Buildings Service has consistently exceeded its goals for contracting with small disadvantaged businesses, 8(a)

procedure businesses, women-owned small businesses, and certified HUBZone small businesses. In the first quarter of 2008, we are making great strides and have increased the percentage of contracts with small businesses in all goal categories.

But the story of GSA's support for small business doesn't end with our direct GSA contracting. GSA has a strong record of supporting small business contracting throughout the Government through the GSA Multiple Award Schedules Program (MAS Program) and Government-wide Acquisition Contracts (GWACs).

The MAS Program provides ordering activities with a simplified procurement process whereby GSA establishes contracts with firms for commercial products and services. The MAS Program offers Federal agencies a broad range of products and services from private sector vendors and suppliers at fair and reasonable prices that have been negotiated by GSA.

For Federal agencies, this program offers a much more streamlined procurement process. Federal agencies turn to MAS contracts to fulfill agency requirements, knowing that they can depend on the quality of the products or services these companies provide.

The MAS program, in short, offers small businesses an expansive avenue of potential work with the Federal Government. And I am happy to report that 80 percent of the companies which hold GSA Schedules contracts are small businesses. In FY 2005, through the GSA's Schedules program, Federal agencies awarded over \$12 billion in schedule orders to small business. That amount increased to over \$13 billion for FY 2006, which is approximately 37% of all prime contracting Schedules spending government wide going to small business.

The ordering procedures applicable to the Schedules Program encourage ordering activities to consider and, where applicable, give preference to small businesses, thus making it easier for GSA and other agencies to reach small businesses. GSA Advantage!®, one of the MAS programs' e-Tools, is the online shopping and ordering system that provides access to thousands of contractors and their supplies (products) and services. This e-Tool promotes increased access to the small business community by allowing customers to tailor their searches specifically for products and services provided by small, minority, veteran, and women owned businesses. Contracting officers ordering via GSA's Schedules may make socioeconomic status a primary evaluation factor when making a best value determination

We at GSA pledge to continue to improve, and to keep striving to make sure that any small company with a commercial product or service will have a much easier path in regards to negotiating a GSA Schedule than ever before, and to make sure that GSA does a good job of tracking that participation.

In addition to the Schedules program, which is comprised of over 80% small businesses, GSA offers a range of small business acquisition vehicles and solutions.

Through our Small Business GWAC Center, GSA offers a number of set aside acquisition vehicles and solutions.

The 8(a) STARS (Streamlined Technology Acquisition Resources for Services) is a GWAC that is set aside exclusively for small, disadvantaged, 8(a) firms. The companies on this contract vehicle provide a full range of IT solutions—including application development, computer facilities management services, and information assurance.

As an 8(a) set-aside, this contract vehicle provides small businesses which have been historically left out of the procurement process, a chance to compete in the federal marketplace. GSA customers benefit by having access to a portfolio of over 200 industry partners distributed across eight areas of expertise. Federal agencies also receive 8(a) and other small business credits toward their procurement preference goals through the use of these contracts.

Alliant Small Business (SB), a small business set-aside GWAC, is designed to provide worldwide information technology solutions to Federal agencies, while strengthening federal contracting opportunities for small business concerns. Alliant SB is assisting agencies in reaching their small business utilization goals, while providing small business concerns opportunities for prime contracts in the information technology arena and to develop their business skills before moving into unrestricted acquisition environments.

VETS (Veterans Technology Services), a service-disabled veteran-owned small business set-aside GWAC, encompasses the functional areas of systems operation and maintenance, and information systems engineering. VETS is designed to provide worldwide information technology solutions to federal agencies, while strengthening federal contracting opportunities for service-disabled veteran-owned small businesses.

The VETS GWAC assists agencies in meeting their 3 percent service-disabled veteran-owned small business goals, by providing pre-qualified industry partners in one easy-to-use contract vehicle. Service-disabled veteran-owned small businesses will, in turn, be provided with opportunities to compete within a

smaller group of contract holders, allowing self-marketing opportunities, and a chance to develop their businesses before moving into larger acquisition environments.

Madame Chairwoman, as an agency, GSA's focus on small business starts at the top. As one of the few Government agency heads who was an entrepreneur, a former small and minority business owner, and a Federal Government contractor, Administrator Doan is our agency's biggest advocate for small business. She knows from experience that starting a business is hard, and that sustaining and growing a business is even harder. She is a strong advocate for ensuring that doing business with GSA is not one of those hardships.

Our Office of Small Business Utilization assists small businesses by answering the many questions that are submitted by phone, e-mail, letters, and in person. We consult with most companies over the phone; however, we also conduct one-on-one counseling sessions to help companies in understanding and participating in the Federal procurement process. We also attend procurement conferences to conduct workshops that provide important information to small business owners on how to do business with GSA.

GSA has many resources available to help small businesses and provide them with useful information. One such resource is our *Doing Business with GSA* booklet, which is geared toward new and prospective contractors. It explains the process, offers practical advice, and lists helpful websites, including www.gsa.gov/sbu.

Our website also provides links to resources that will help small businesses better understand how to submit an offer for a Government contract. It provides them with points of contact and keeps them informed of upcoming conferences in which we will be participating.

GSA has a strong record of supporting small businesses and small business contracting. We conduct hundreds of outreach events a year across the country for small businesses, to open doors to Federal contracting opportunities to them, and continually work to improve on our already impressive performance record with regards to small business contracting. We share the Administration's view that small businesses are the backbone of our economy.

Madame Chairwoman, I thank you for the opportunity to appear before you today. I will be happy to answer any questions you and other members of the Committee may have.

**STATEMENT OF TERRIE S. ROUSE
Chief Executive Officer for Visitor Services
for the Capitol Visitor Center, Office of the Architect of the Capitol**

**Regarding “Doing Business with the Government: The Record and Goals for
Small, Minority, and Disadvantaged Businesses”**

**Subcommittee on Economic Development, Public Buildings,
and Emergency Management, Committee on Transportation and Infrastructure
U.S. House of Representatives**

March 6, 2008

Thank you, Madam Chair, for inviting me to participate in today's hearing. I'd like to begin by thanking the Architect of the Capitol (AOC) and Congress for giving me the opportunity to be a part of history — opening the doors to the largest expansion of the Capitol that is devoted to the citizens of the United States. I believe that the Capitol Visitor Center (CVC) is the symbolic door to Congress — a portal — that will become an inviting place to remind visitors of their roles as citizens. As an extension of the Capitol, it will provide a fitting welcome and introduction to the People's House so all may witness the workings of our legislative process. Our mission is to inform, involve, and inspire generations of Americans.

To provide the Subcommittee with a bit of background about myself: I am originally from Youngstown, Ohio. I received my Bachelor of Arts degree in Intercultural Studies from Trinity College, a Masters of Professional Studies from Cornell University, and a Master of Arts degree in African History from Columbia University. Over the years, I have been an educator, serving as an adjunct professor or instructor at a number of universities across the country.

I have also spent a number of years in the museum world, most recently as Executive Vice President and Director of Museums for Kansas City's (Missouri) Union Station, a 900,000-square-foot historic landmark. I have also provided consultant services to a number of cultural, non-profit organizations across the United States including a joint project between the City of Philadelphia, the National Park Service, and Independence National Historic Park (The President's House: Freedom

and Slavery in Making a New Nation), and worked with the City of Charleston on the development of the International African American Museum.

I have been serving as the AOC's Chief Executive Officer for Visitor Services for the CVC for six months now, and one of my top priorities has been to hire a diverse and professional staff to help prepare the CVC to receive visitors. We are planning a job fair in April and are actively reaching out to a number of Congressional caucuses, including the Congressional Black Caucus, the Congressional Asian Pacific American Caucus, Congressional Hispanic Caucus, and Congressional Native American Caucus, to help inform potential candidates of job opportunities with the CVC.

My goals for the CVC mirror those of the AOC, to aggressively work to hire personnel and award contracts to individuals and companies that reflect the diversity of our country. I believe such effort enhances our ability to serve Congress and all who visit our nation's Capitol.

For our procurements, the Capitol Visitor Center team follows the same statutes and policies as the AOC. Over the past several months, three contracts of note have been awarded to support the new Office of Visitor Services. The first one awarded last spring provides food service in the CVC restaurant; another was awarded last fall to a small business to develop the advanced reservation system, and a third was awarded to a woman-owned, small business for designing the CVC Web site.

As we move forward, we will be following the Small Business Program which Mr. Ayers discussed in his testimony. For example, we will soon be seeking small business suppliers for our gift shops to provide materials that are related to our mission. We agree that we have a vested interest in supporting small businesses because the use of small businesses helps facilitate competition and lower prices by providing additional sources for our requirements and improves our relationship with the local community.

Madam Chair, you have my commitment as CEO for Visitor Services for the CVC to working to ensure that we continue to do business with small, minority, and disadvantaged businesses.

Thank you.

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Statement for the Record

Al Sligh

**Director, Office of Management
Federal Emergency Management Agency
Department of Homeland Security**

Before the

Committee on Transportation and Infrastructure

**Subcommittee on Emergency Economic Development, Public Buildings, and
Emergency Management**

United States House of Representatives

**“Doing Business with the Government: The Record and Goals for Small, Minority,
and Disadvantaged Business”**

March 6, 2008

11:00 A.M., 2253 Rayburn House Office Building

Introduction

Chairwoman Norton and Members of the Committee.

I am Al Sligh, Director of the Office of Management, at the Department of Homeland Security's (DHS), Federal Emergency Management Agency (FEMA). I appreciate the opportunity to appear before the Committee today to discuss how FEMA engages the private sector, in particular, the small, minority and disadvantaged business sector in contracting, as well as across all FEMA's critical mission areas: preparedness, prevention, protection, response, recovery and mitigation.

FEMA Administrator David Paulison is committed to building an engaged emergency management partnership that integrates a culture of preparedness in all levels of government, non-governmental organizations, and the private sector. Just as important, Administrator Paulison fully embraces the value and economy of injecting commerce back into a disaster ridden area through consistent and fluent investment with the small and disadvantaged business community, the backbone of our U.S. economy.

I would like to spend a few moments addressing FEMA's achievements in meeting its socioeconomic goals, and in addition, I would like to tell you about the new Private Sector Office established with the FEMA organization

To this end, I will highlight our achievements as well as the areas in which FEMA still needs to improve as well as our efforts to engage the private sector on the other critical fronts of our homeland security landscape. In this regard, I will address the role and function of FEMA's new Office of the Private Sector, private sector engagement in the development of the national response and preparedness policies; the value of establishing solid preparedness partnerships; and how FEMA is helping citizens and businesses become active participants in emergency management and outlets for disaster related good will offerings and volunteerism.

Contracting

Now, let me address our achievements in meeting socioeconomic goals. FEMA has a dedicated full-time Small Business Specialist whose responsibility it is to promote contracting opportunities for small businesses.

I am proud to report that FEMA has achieved exceptional results in meeting and exceeding most of its socioeconomic contracting goals. From 2006 to the present FEMA has awarded \$2.4 billion to small businesses. In FY 2006, FEMA awarded \$1.8 billion to small businesses. This amount represented approximately 27 percent of the total procurement dollars awarded. In FY 2007, FEMA awarded \$485 million to small businesses. This amount represented approximately 33 percent of the total procurement dollars awarded that FY. So far in FY 2008, FEMA has awarded \$83 million to small

businesses. This represents approximately 29 percent of the total procurement dollars awarded so far this FY.

The attached graph provides a visual illustration of the percentages of the procurement dollars awarded in each socioeconomic business grouping for each period identified previously.

As you will note, we have yet to achieve our goal for service disabled veteran-owned small businesses. FEMA is not alone in not meeting this particular socioeconomic goal and, unfortunately it is a problem confronting many Federal Agencies. This is not offered as an excuse but as glimpse into the reality of the present contracting environment. I will describe later in my presentation all of FEMA's efforts to increase contracting opportunities for small businesses.

Competition

The first priority of FEMA during the initial phase of a major disaster is and has always been to provide relief to victims in the most efficient and effective way possible in order to save lives and property. FEMA's goal is to use competitive strategies while also providing local and socioeconomic businesses a competitive advantage whenever possible. I am also proud to report that FEMA competed 81 percent of its procurement dollars in FY 2007. FEMA went from last place within DHS for its competed dollars in FY06 to first place in FY07. FEMA is proud of this accomplishment, and we will strive to uphold our commitment to competitive contracting in FY08 and beyond.

FEMA had some pre-negotiated contracts in place before Hurricane Katrina; however, the extreme circumstances of storms like Hurricanes Katrina and Rita demonstrated that these few contingency contracts could not sufficiently meet mission requirements. As a result, many non-competitive contracts were needed in order to effectively and efficiently save lives and property. FEMA will, to the greatest extent possible, pursue competitive contracts in the future and establish pre-negotiated contracts to ensure effective and efficient response.

Due to the magnitude and length of recovery time of Hurricanes Katrina and Rita, FEMA has recognized the need for more robust, well-planned contingency contracts and a thorough understanding of the qualifications and capabilities of the private sector in areas related to the Agency's mission. Since Katrina and Rita, FEMA has worked to aggressively award pre-negotiated competitive contracts, and these were in place and ready for the 2007 hurricane season. Contract agreements were in place covering all aspects of FEMA disaster management including logistics, mitigation, individual assistance, recovery, management, and integration center support.

By having advance contracts or similar agreements in place, FEMA as well as State and local first responders are more organized and efficient. Additionally, coordination is made easier among the Federal, State and local governments, as each entity is aware of the goods and services for which FEMA has already contracted in the event of disaster. This increased coordination makes for a more effective and efficient response.

FEMA's New Private Sector Office

With the lessons learned from Hurricanes Katrina and Rita, and other major disasters in recent years, it has become clear that the vision of the new FEMA must include a dedicated private sector outreach program to build a bridge to businesses and other organizations that are not part of Federal, State, tribal, territorial, or local government. In October 2007, FEMA established a Private Sector Office to be a facilitator for private sector innovation and networking across the agency. The office works closely with DHS' Private Sector Office, Office of Infrastructure Protection, and the DHS *Ready* Campaign.

FEMA's Private Sector Office is in the process of establishing systems to support a two-way exchange with for profit and not for profit businesses, associations and other non-governmental organizations, with a focus on three primary goals:

- First, to engage the private sector (including businesses) in all aspects of emergency management – including preparedness, protection, mitigation, response, recovery and resiliency, such as through participation in exercises, engaging in catastrophic planning efforts, or supporting the transformation of our approach to logistics.
- Second, to engage established businesses and non-profit organizations to help FEMA improve its performance, capacity and capability. For example, FEMA has started implementing a loaned executive program to help improve specific key processes, such as logistics.
- And third, to leverage the private sector as a partner to increase our ability to reach and inform more businesses, nonprofits, and employees about FEMA resources and tools to help them prepare for and recover from disasters.

A sample of the Private Sector Office's efforts already underway or planned for 2008 includes:

- In-person meetings with key stakeholders to assess their needs and develop partnerships
- Participation in conferences and speaking engagements targeting both large businesses and small and independently owned businesses
- Identifying and sharing best practices in business preparedness, response and recovery
- A FEMA private sector working group representing programs and offices agency-wide, to better integrate and coordinate existing efforts
- A portal on the FEMA website which will centralize information most relevant to business and nonprofit organizations
- Working with State, tribal, territorial, and local governments and emergency management to encourage them to engage local businesses in plans, training, and exercises.

Small Business Community Outreach

It's important to give perspective on the opportunity – and challenge – involved in effectively engaging the private sector in emergency management. According to the Small Business Administration, small businesses represent 99.9 percent of the 26.8 million businesses in America, and they employ over one-half of Americans. Of these, approximately 19.5 million businesses are single proprietorships with no employees. There are more than 17,000 large businesses in 2004.

Source: Office of Advocacy estimates based on data from the U.S. Dept. of Commerce, Bureau of the Census, and U.S. Dept. of Labor, Employment and Training Administration.

Due to the magnitude and complexity of the small business community, with its varying needs, capability and capacity, coordination is a daunting challenge and requires a long-term effort. However, through effective outreach and collaboration with non-governmental organizations, business and trade associations, and local, regional and national chambers of commerce, the Department and FEMA have made significant inroads into integrating the private sector as a full partner in incident management.

The Agency is accomplishing its goal of benefiting these businesses through numerous initiatives, including:

- Participating in outreach forums to meet with the Small Business Community;
- Conducting personal meetings with interested vendors/contractors to present company capabilities and performance;
- Developing goals and acquisition strategies which are increasingly structured for maximizing the number of awards to small businesses;
- Networking with representatives of the U.S. Small Business Administration and local small business development centers;
- Participating in local, State and national conferences, seminars, and exhibits to gain access to current small business issues and interface with business and industry; and
- Enhancing the Central Contractor Registration, also referred to as "CCR" in order to capture local company information interested in debris removal and/or to support disaster response and recovery requirements, as needs arise.
- Partnering in to ensure that the private sector has continued visibility of Federal, State, local, tribal activities related to a catastrophic disasters.
- Exploring opportunities for the private sector to be represented in our national response and coordination center. Currently, we are working to establish protocols engage a private sector representative in the Joint Field Office at the site of a major disaster or emergency to assist with the economic aspects of rebuilding and to inform the leadership at the site about available private sector assets to assist in response and recovery.
- Private Sector participation in the Regional Emergency Communications Coordination Workgroup.

- Memorandum of Understanding (MOU) with Stadium Owners/Operators.
- Pilot program with InfraGard in Denver, Colorado. InfraGard is an information sharing and analysis effort serving the interests and combining the knowledge base of a wide range of members. At its most basic level, InfraGard is a partnership between the Federal Bureau of Investigation and the private sector. InfraGard is an association of businesses, academic institutions, State and local law enforcement agencies, and other participants dedicated to sharing information and intelligence to prevent hostile acts against the United States. Region one is working closely with InfraGard.
- Mutual Aid for businesses.
- Mutual Aid Training for businesses.
- Developing Pilot Website to serve as a repository for posting information about the above activities, training opportunities, business continuity, as well as referrals to founding organizations.
- Establishing a working group within FEMA for developing and integrating credentialing requirements and programs such as the FEMA First Responder Authentication Card and Common Credential projects with wider government credentialing efforts of the DHS Screening Coordination Office.

FEMA is also designated to lead the implementation of Title IX of Pub. L. 110-53 the "Implementing Recommendations of the 9/11 Commission Act of 2007." Title IX requires the Department of Homeland Security to develop a voluntary private sector preparedness accreditation and certification program. The Secretary of Homeland Security selected the FEMA Administrator as the Designated Officer for Title IX, and program efforts are conducted in close collaboration with the DHS Offices of Infrastructure Protection and Science and Technology.

The National Response Framework and the Private Sector

Through the National Incident Management System (NIMS) and the National Response Framework (NRF), DHS/FEMA worked with industry representatives to include language in NIMS that integrates the private sector as a full partner in incident management. DHS recently made available the National Response Framework (NRF), a revision of the National Response Plan, which establishes a comprehensive, national all-hazards approach to domestic incident response. As opposed to being a Federal-centric plan, the NRF is truly a national plan and describes in detail, both in the base plan and partner guides, how the NRF starts at the local level using NIMS principles to build a unified approach.

Private Sector organizations play a key role before, during and after an incident. In many facets of incident response, the government works directly with the private sector groups. The NRF describes how the private sector interfaces with other response organizations during an incident and acknowledges the private sectors unique roles from an impacted organization to a response provider. In addition to the existing Private Sector Support Annex and Volunteer and Donations Management Support Annex, the NRF includes

supplemental material including a private sector partner guide to further detail roles and responsibilities.

Integrating the Private Sector into the National Preparedness System

On February 12, 2008, Administrator Paulison spoke at the second meeting of the newly established National Advisory Council (NAC) about outreach to the private sector. The Council includes representatives from State, local, and tribal government, and those from the private sector, all of whom provide input to FEMA in the development and revision of the national preparedness guidelines and the national preparedness system.

Administrator Paulison asked for the Council's input on building relationships with the private sector and strategies for effective public-private partnerships. To move toward this practice, the Council has formed a subcommittee that will identify and share best practices on engaging the private sector as well as address information sharing before, during and after an incident and make recommendations as to how we can encourage the private sector to participate in training and exercises at the local, State and national levels.

Catastrophic Disaster Planning

FEMA's Disaster Operations Directorate has collaborated closely with the DHS Private Sector Office, Office of Operations Coordination's Incident Management Planning Team and Office of Infrastructure Protection (OIP) to ensure that the private sector has continued visibility of Federal, State, local, tribal, and critical infrastructure coordination and activities related to responding to catastrophic disasters and overall awareness of FEMA's Catastrophic Disaster Planning Initiative. As part of the U.S. Chamber of Commerce's Business Civic Leadership Center and its Homeland Security Division's Annual Workshop, the Chamber sponsored a session on June 7-8, 2007, in conjunction with the Private Sector Office to discuss response to and recovery from a New Madrid Seismic Zone Earthquake. One of the primary topics of discussion was how the private sector develops partnerships in planning to meet the challenge of responding to such an event and integrate planning between the public and private sector. A report detailing the results of the workshop, recommendations, and how the business community can partner with Federal, State, local, and tribal governments and critical infrastructure owners will be prepared and used as we move forward with the Catastrophic Disaster Planning Initiative not only for the New Madrid Seismic Zone, but also for the Florida (Category 5 Hurricane impacting Southern Florida), and California initiatives. The Chamber workshop served as a catalyst to begin the private sector participation in these initiatives. Important components needed to make the Catastrophic Disaster Planning Initiative a success include involving the private sector and business community to the maximum extent possible; establishing solid partnerships between the public and private sectors and non-governmental agencies; and highlighting the critical role the private sector can play in providing supplemental resources and assistance in catastrophic disaster events.

Preparedness Partnerships

Citizen Corps

More than ever, we at FEMA are building stronger and more vibrant community coalitions and engaging with the private sector to ensure that they have a more prevalent role in emergency response through FEMA's Citizen Corps Program. Citizen Corps' primary mission is to bring community and government leaders together in an all-hazards emergency preparedness, planning, mitigation, response, and recovery framework. The Citizen Corps nationwide network includes more than 2,200 Citizen Corps Councils located in all 56 states and territories. Councils are encouraged to include business representation and to work with businesses to integrate business resources with community preparedness and response plans. An important priority for Councils at all levels is to educate and inform Americans in all sectors—including the private sector—about steps they can take to be prepared. The Citizen Corps program works closely with the Department of Homeland Security's Ready Campaign, making Ready Business and other Ready materials widely available. Furthermore, Citizen Corps encourages its Councils to work with local emergency management and to incorporate work continuity plans and planning in specific community context.

Citizen Corps' Partner Programs also collaborate with businesses. National Partner Programs include more than 2,600 Community Emergency Response Teams (CERT) and hundreds of Fire Corps, Medical Reserve Corps, Neighborhood Watch, and Volunteers in Police Service programs around the country. Many CERTs already include the business community in their training and exercises. For example, the San Diego County CERT has trained local utility and telecomm employees as part of their partnerships, and many CERTs have adapted the curriculum to business needs, providing Business Emergency Response Training for employees.

In addition, Citizen Corps Councils are encouraged to build strategic partnerships with local governments and businesses to coordinate training activities and exercises.

Ready Business Campaign

The U.S. Department of Homeland Security and the Ad Council launched the *Ready Business* Campaign in September 2004. This extension of Homeland Security's successful *Ready* Campaign, designed to educate and empower Americans to prepare for and respond to emergencies, focuses specifically on business preparedness. *Ready Business* helps owners and managers of small- and medium-sized businesses prepare their employees, operations and assets in the event of an emergency.

Ready Business was developed by Homeland Security and launched in partnership with the U.S. Chamber of Commerce, Small Business Administration, Society of Human Resource Management, The Business Roundtable, The 9/11 Public Discourse Project, ASIS International, Business Executives for National Security, International Safety Equipment Association, International Security Management Association, National Association of Manufacturers, National Federation of Independent Businesses, and Department of Labor's Occupational Safety and Health Administration.

The goal of *Ready Business* is to raise the business community's awareness of the need for emergency planning and motivate businesses to take action. The campaign encourages business owners and managers to discuss the benefits of emergency preparedness measures and the need to plan to stay in business; talk to their employees; and protect their investment.

Ready Business also has a Spanish language companion, *Listo Negocios*, which provides several *Ready Business* tools and resources translated into Spanish.

The campaign's messages are delivered through: television, radio, print, outdoor and Internet public service announcements (PSAs) developed and produced by the Advertising Council; brochures; www.ready.gov and www.listo.gov Web sites; toll-free phone lines 1-800-BE-READY and 1-888-SE-LISTO; and partnerships with a wide variety of public and private sector organizations.

In May 2006, the Ready Campaign launched the *Ready Business* Mentoring Initiative. This initiative is designed specifically to help owners and managers of small and medium-sized businesses prepare for emergencies. Materials were created to assist business and community leaders in hosting and delivering business preparedness workshops and training sessions. These sessions and the *Ready Business* Mentoring Guides outline how businesses can plan to stay in business; talk to employees; and protect assets. Workshop materials were provided through collaboration through the USDA Cooperative Extension Service funded Education Disaster Extension Network (EDEN).

To reach businesses and business organizations across the country, the Department reached out to U.S. Department of Commerce, Small Business Administration, U.S. Department of Agriculture and the nation's leading business organizations to distribute the *Ready Business* Mentoring Guides and provide access to its resources.

In addition to the *Ready Business* Mentoring Initiative, the Department also works with the private sector to encourage the adoption of the NFPA 1600 at the local level. For example the Department collaborated with the U.S. Chamber of Commerce on a pilot initiative to create a Regional Business Preparedness Summit in Charlotte, North Carolina. This event brought together local leaders in emergency management, public health and the private sector. Local businesses learned the importance of creating and exercising their business emergency plan, involving their employees, protecting their assets and coordinating with their local emergency management network.

Training and Exercise Programs

Another significant example of public- private partnering is through FEMA's new Training and Education Division, which has a number of courses being developed or delivered that are available for private sector participation. For example, the new online training relating to the National Infrastructure Protection Plan (IS 860) is designed to be

used by both government and private sector security partners. More than 3000 individuals have taken this course since it was posted this past year.

The National Exercise Division (NED) works closely with the DHS and FEMA Private Sector Offices and Office of Infrastructure Protection (OIP) to develop a systematic means to integrate the private sector into national level exercises as well as taking steps to coordinate future modifications to the Homeland Security Exercise and Evaluation Program that will encourage and guide State and local efforts to construct exercise activities inclusive of the private sector.

For example, on April 30, 2007, FEMA Region I was a key player in the Hurricane Yvette Exercise which was designed to test the Federal government's response capabilities for a large-scale New England disaster. The early results are positive and demonstrate improvements made by implementing the lessons learned after Hurricane Katrina. The Department of Defense, the Department of Homeland Security, FEMA, the U.S. Coast Guard, and State and local officials and the private sector worked closely together responding to the scenario of a hypothetical Hurricane Yvette making landfall in Rhode Island and impacting several northeastern States. This was the largest such exercise ever conducted in New England. Private sector entities continue to be involved in the Hurricane Preparedness Exercise activities that are sponsored by the NED on an annual basis.

Grant Programs

FEMA manages a vast portfolio of grant programs that support implementation of the National Preparedness Guidelines. The Guidelines provide an all-hazards vision that cuts across the four mission areas of preparedness: to prevent, protect against, respond to and recover from major events, including terrorist attacks and catastrophic natural disasters. The Guidelines are truly national in scope, in that successful implementation requires engagement across Federal, State, local, and tribal levels, as well as the private sector and individual citizens.

Also, DHS' grant programs allow a tremendous amount of flexibility for State and local jurisdictions to include private sector entities in planning efforts. Allowable activities include the development of public/private sector partnership emergency response, assessment and resource sharing plans, development or enhancement of plans to engage with the private sector/non-governmental entities working to meet human service response and recovery needs of victims and the development or enhancement of continuity of operations and continuity of government plans.

Although many of FEMA's grant programs award funds to State or local governments to implement projects that support their State or Urban Area Homeland Security Strategies, ongoing coordination with private sector partners - particularly on key issues related to critical infrastructure protection where the private sector owns 85% of the assets - is absolutely necessary. The private sector plays a vital role in the planning process that supports the implementation of preparedness grants in the field. Recognizing this vital

role, FEMA has engaged organizations such as Business Executives for National Security (BENS), the U.S. Chamber of Commerce, and the Council for Excellence in Government to further the dialogue on preparedness.

Donations Management

One of the lessons learned from Hurricanes Katrina and Rita is the need for a secure, user friendly system to efficiently connect Federal and State/Local Governments, the Private Sector and the Voluntary Sector to match the volume of donation offers of product and volunteers with appropriate nonprofit agencies. To fulfill this need, FEMA has partnered with the Aidmatrix Foundation, which has assembled a strong community of for-profit and nonprofit partners to come together and develop the FEMA In-Kind Donations Management Network. Leveraging leading-edge technologies, the information management provides a simple but effective means of connecting potential donors with potential recipients within the disaster relief community.

FEMA provided the Aidmatrix Foundation \$950,000 in 2007 to expand its existing disaster donations network. These funds are used to establish the framework for an integrated and coordinated approach to donations management by connecting private sector, government and leading nonprofit entities in times of disaster. This sponsorship will further enable Federal and State/Local emergency management organizations to better serve voluntary agencies and their private sector partners.

The FEMA/Aidmatrix In-Kind Donations Management Network will streamline the way donations are accepted, processed, tracked, distributed and acknowledged. When offers of donated products are made to FEMA or individual States, these offers will immediately be made available on the online network to participating charities. This, in turn, will allow government and nonprofit users to see in real time what services and goods are most needed and what donations may already be available for immediate distribution.

Under the cooperative agreement, each State will be provided a basic system at no cost. The basic system includes linking or connecting to the National Voluntary Organizations Active in Disaster (National VOAD) member organizations in that particular State. The network also offers States software tools to rapidly set up a call center to meet the demands of an inquiring general public wanting to help in the aftermath of a disaster. Moreover, it enables States the ability to add additional nonprofit organizations, cities, and governmental agencies, if desired at their cost.

Conclusion: A Call for Continued Public-Private Communication and Partnership

We at FEMA will continue to work to ensure that our socio-economic acquisition strategy and goals are in keeping with the larger charge of fair and equitable economic opportunity for small, minority and disadvantaged business. FEMA new vision calls for the Agency to adapt to new conditions, adopt innovative and more effective business

practices and addressing ever changing needs. To do this, we want to hear from and work with all audiences with a stake and a responsibility in preparedness and disaster response.

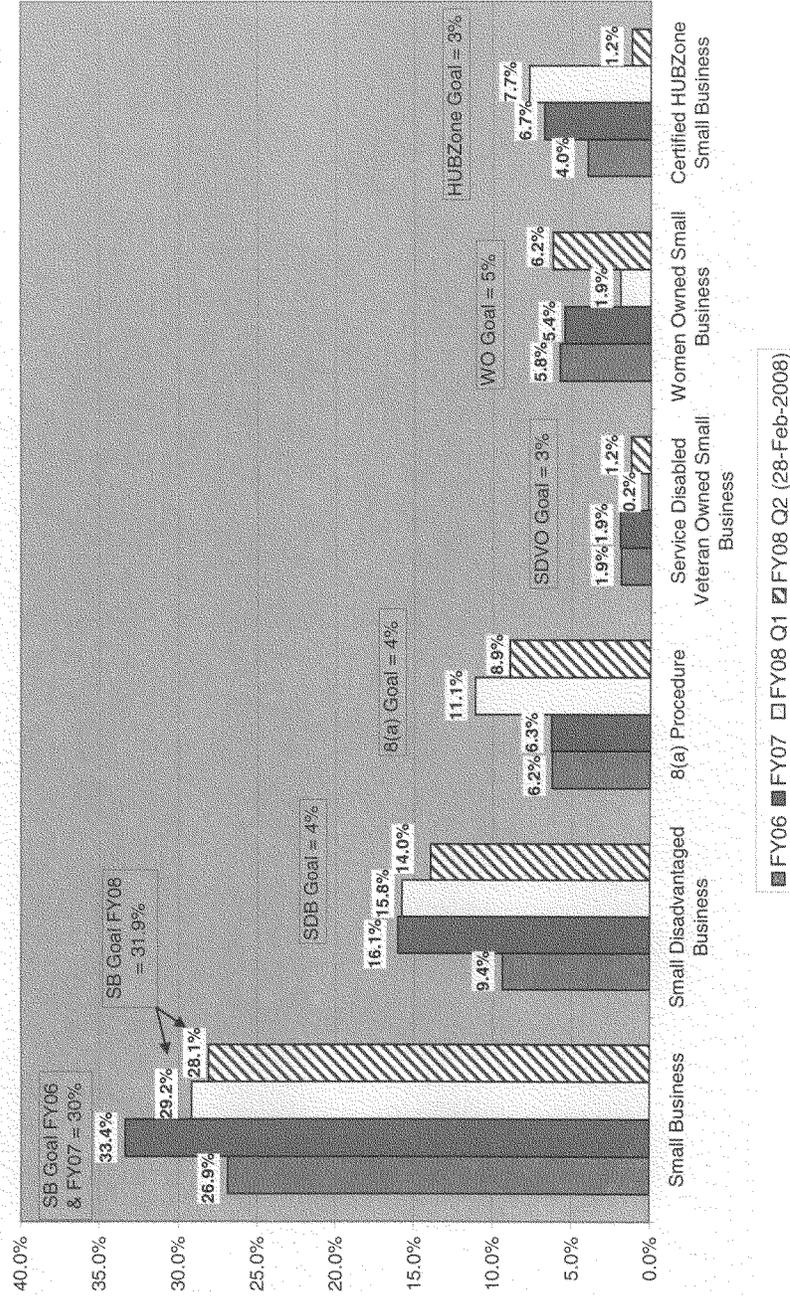
The private sector should continue and build upon efforts in several key areas:

1. Developing strong business continuity plans for all of their locations and critical data centers.
2. Develop employee support plans for when their employees' office locations are damaged or if their employees have lost their homes to disaster. A key element of recovery is getting people back to work as quickly as possible.
3. Engage in prudent risk management practices and have strong health and safety programs.
4. Work closely with their local emergency managers, first responders and elected officials to be involved in disaster planning and to build protocols to assist with recovery efforts, before a disaster strikes.
5. Through business associations continue to work with state emergency management and FEMA to support mitigation activities, preparedness planning, disaster response, donations management, and recovery efforts.
6. Engage private sector partners through planning, training, and exercise activities. The resulting relationships and shared vision can only help to strengthen our Nation's preparedness.

It is the work and resources we expend on this planning now, before a disaster, that will pay dividends later in a faster recovery and a more resilient nation. We cannot wait until a disaster occurs to exchange our business cards and the private sector understands that it cannot just show up on game day and expect to play without coming to the practices.

Thank you for the opportunity you have afforded us today to speak about the new FEMA. I look forward to addressing your questions.

Socioeconomic Contracting % by Category



	FY06	FY07	FY08	
			FY08 Q1	FY08 Q2 (28-Feb-2008)
Total Small Business Eligible Dollars	\$6,819,876,264	\$1,453,625,002	\$214,192,496	\$74,203,654
Small Business Dollars	\$1,833,130,214	\$485,041,863	\$62,458,597	\$20,857,819
Small Disadvantaged Business Dollars	\$640,518,709	\$233,367,130	\$33,825,627	\$10,366,961
8(a) Procedure Dollars	\$425,064,052	\$91,642,621	\$23,824,898	\$6,617,879
Service Disabled Veteran Owned Small Business Dollars	\$128,215,749	\$28,065,565	\$339,542	\$923,397
Women Owned Small Business Dollars	\$392,267,159	\$79,170,761	\$4,083,544	\$4,606,444
Certified HUBZone Small Business Dollars	\$272,118,963	\$97,886,493	\$16,475,846	\$881,380

House T&I March 6, 2008 Hearing Getbacks on Small Business Contracting

1. How has FEMA implemented subcontract tiering reform per P.L. 109-295, Subtitle F, Section 692, Limitations on Tiering of Subcontractors (Fiscal Year 2007 Department Of Homeland Security Appropriations – H.R. 5441)?

FEMA Response: The subcontract tiering reform legislation at Section 692 of Public Law 109-295 requires the Secretary of the Department of Homeland Security to “promulgate regulations applicable to contracts described (within the section) to minimize the excessive use by contractors of subcontractors or tiers of subcontractors to perform the principal work of the contract.” The Department is developing regulations and is expected to issue them as soon as possible. Once issued, FEMA, as a component of the Department of Homeland Security, will abide by all restrictions and prohibitions set forth with the regulations.

2. How many and list of FEMA bundled contracts over the past 5 years?

FEMA Response: Based on available reporting sources and information, we have been unable to identify any bundled FEMA contracts over the last five years.

3. How does FEMA determine a company’s size?

FEMA Response: The process of determining the size of the business is complex and multi-faceted.

First, FEMA contracting officers assign a North American Industry Classification System (NAICS) code to every acquisition. The NAICS categorizes industries and sectors within the industries by a 2-digit to a 6-digit code. There are ninety-nine 2-digit industrial classifications. For example, the 2-digit industrial classification code for “professional, scientific, and technical services” is 54. An acquisition for “computer design services” would be assigned the following 6-digit NAICS code: 541512. Each 6-digit NAICS code is assigned a size standard by the Small Business Administration, which is determined either by the annual revenue of business *or* by the number of employees of the business. For example, the size standard for NAICS code 541512 is \$23 million in annual revenue. In order to be considered a “small business,” the business’ annual revenue must not exceed the annual revenue established by the SBA or the business must employ less than the number of employees established by the SBA. Therefore, if the FEMA acquisition is set-aside for small businesses only, the NAICS code and size standard identified in the synopsis notice and solicitation inform potential vendors of the size standard it must meet to be considered a small business for that particular acquisition. Businesses may be considered large for certain NAICS codes but may be considered small for other NAICS codes.

Second, the SBA permits businesses to self-certify their small business size status. As directed by the Federal Acquisition Regulation (FAR) Part 19.301-1, “the contracting officer shall accept an offeror’s representation in a specific bid or proposal that it is a small business unless: (i) another offeror or interested party challenges the concern’s

small business representation or (ii) the contracting officer has reason to question the representation.” There are only two small business categories that SBA must certify: (i) whether a business is a small disadvantaged business, and (ii) whether a business is primarily doing business in a historically underutilized business empowerment zone or is a HUB Zone small business.

To confirm the size status of a business, FEMA determines whether the vendor (i) is registered in the Central Contractor Registration or CCR and (ii) has represented its small business and other socio-economic status in its “representations and certifications” either through paper submission with its offer or through its on-line submission at www.bpn.gov/orea. If not, the contracting officer requires the vendor to register. The CCR requires vendors to identify the NAICS codes under which it primarily does business and requires vendors to indicate whether it is a “small” business for that NAICS code. In its representations and certifications, a business is also required to identify whether it is a small business.

FAR requires contracting officers to notify all offerors in a small business set-aside competition of the selection of a vendor at least 5 days before award in order to allow the other small businesses an opportunity to challenge the size of the proposed awardee. A challenge to the business size of the proposed awardee is referred to the SBA for resolution.

4. What is the agencies certification process?

FEMA Response: FEMA does not certify the size status of businesses. See the response immediately above.

5. How often is a company recertified by FEMA to ensure that it is a small business?

FEMA Response: FEMA does not certify or recertify the size status of businesses. Nevertheless, effective July 1, 2007, the Federal Acquisition Regulation was modified to require contracting officers to require contractors to verify its continued representations as a small business upon the following occurrences: (i) the execution of a novation agreement; (ii) a merger; (iii) at the end of a long-term contract; and (iv) before the exercise of an option under any long-term contract. (Note: A long term contract is defined a contract of more than five years in duration, including options, but it does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause Option to Extend Services, or other appropriate authority.) If as a result of the contracting officers’ request to verify a contractor’s representation that it is a small business, the vendor is no longer a small business, Federal agencies can no longer continue to count that vendor as a small business.

Unfortunately, FEMA has not kept records of whether it has required any contractor to verify its small business status based on any one or all of the above criteria and whether as a result, the small business was no longer small.

6. How is FEMA identifying small businesses in Kansas City pre- and post-disasters? How many small businesses have been identified in Kansas City?

FEMA Response: FEMA uses and has used the CCR's "Dynamic Small Business Search" (DSBS) as one of the vehicles to identify small businesses in Kansas City, Missouri. The DSBS lists eighty-eight small businesses in Platt County, Missouri, in which Kansas City, Missouri is located. FEMA awarded contracts to two Kansas City vendors (Alpha Pointe Association for the Blind and Midland Radio Corporation) in support of the following disasters:

- KS Severe Winter Storms declared 02/01/2008
- KS Severe Winter Storms declared 12/12/2007
- KS Severe Storms and Flooding declared 07/02/2007
- KS Severe Storms, Tornadoes, and Flooding declared 05/06/2007
- KS Severe Winter Storm declared 01/07/2007

FEMA may also search for small businesses through SBA's *VETBiz* website as well as using the General Services Administration's *e-Schedules Library*, which has the technological capability of sorting vendors, large and small, by city and state.



Testimony submitted to the Subcommittee on Economic Development, Public Buildings and Emergency Management on "Doing Business with the Government"

Thank you for allowing me the opportunity to give testimony before this most prestigious body. A special thanks to the Honorable Congresswoman from the Nation's Capitol, Ms. Eleanor Holmes Norton, for this very special invite to appear before the Subcommittee on Economic Development, Public Buildings and Emergency Management. The topic "Doing Business with the Government: The Record and Goals for Small, Minority and Disadvantaged Businesses" has been a subject matter that I have immersed myself in for the past twenty-five years.

I have studied small business development as a student in Public Administration in both undergraduate and graduate school. I teach government contracting and doing business with the government at the local community college. I have been a government practitioner on the local level and the federal level. I have been an employee of a small business, and an entrepreneur seeking to do business with the government. Currently, on behalf of Capitol City Associates, Inc., I am a small business Outreach Specialist for a major contractor, performing work on a BRAC designated project.

Over the years my experience has allowed me to critically examine the impediments of why small, minority, and disadvantaged businesses were not receiving a larger share of federal contract dollars. The federal government historically has concentrated its acquisition of goods and services with large businesses. This increased trend of spending public dollars with large businesses have increased, despite the Small Business Act of 1953, or the symbolic 1971 Presidential Executive Order 11625, or the substantive legislative enactment of Public Law 95-507.

In 1961, President, Dwight D. Eisenhower, in his farewell speech to the nation coined the phrase, military-industrial complex. He said, that "the potential for the disastrous rise for misplaced power exist and will persist". I suggest to you today that we are witnessing a culture of government spending and government action that is continuing to concentrate spending with large businesses in and outside the military-industrial complex. I just recently left the Department of Defense, Missile Defense Agency's Office of Small Business Programs. There, I was the Program Manager in the Small Business Office. Of the 4.2 billion dollars spent in procurement 85% to 90% went to five companies. This is not atypical; it is symptomatic of a culture that is pervasive in government acquisition.

The above comments are intended to place into context the comments that will be made in the remaining body of this testimony. The above comments set the tone for where the federal procurement process has been and has evolved. The comments below are

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intended to be critical in order to foster a remedy that is practical and enforceable within the frame work of today's laws and regulations. The below examples of "Doing Business with the Government" covers my experience as an entrepreneur, a business consultant, a business development specialist, and a representative of Capitol City Associate, Inc.

Let us start with the Architect of the Capitol. AOC is currently advertising a solicitation notice, number RFP060085, Facilities Support Services. AOC is soliciting for housekeeping, landscaping, snow removal, pest control, elevator and lift maintenance, and other services as necessary. The solicitation says "THE RESULTANT FIRM-FIXED PRICE CONTRACT WILL BE AWARDED TO ONE CONTRACTOR". In FAR 2.101 Bundling is described as the consolidation of two or more requirements previously provided or performed under separate small contracts into a solicitation of offers for a single contract that is unlikely to be suitable for award to a small business concern. There is a need here to challenge the Acquisition Plan. I would be very curious to see the acquisition plan prepared by the Contracting Officer, as outlined in FAR Part 7.105; there should be a written acquisition plan. This is just one example of what we as small businesses are up against. Were there alternative strategies that would reduce or minimize the scope of bundling, or what was the rationale for not choosing alternatives, Federal Acquisition Regulation Part 7.107?

As a business person should I complain? Complain to whom? Complain to the PCR, the Procurement Center Representative. Section 125 of 13CFR: states the Duties of the PCR. The PCR should be coordinating with the Small Business Specialist on anticipated bundled contracts. Are they performing their duties? The PCR should insure that unnecessary and unjustified bundling of contracts is avoided; assess impediments to small business primes. AOC's current acquisition is not an isolated bundled solicitation.

Another small business impediment is subcontracting. One of the procurement vehicles that government personnel recommend to small businesses is to be a subcontractor. In most cases the government personnel has no idea what it takes to get in the door at Boeing, Northrop Grumman or the like, but nevertheless, this is often their remedy to doing business with the government. Being a subcontractor to one of the large contractor is a very challenging task. In the construction arena, where subcontracting is a common practice, the bureaucracy acts as if it has no understanding of how the industry operates and they do a poor job in evaluating the subcontracting plan.

In accordance with FAR 19.7 a solicitation offer that is expected to exceed \$550,000 or \$1,000,000 for construction must present a subcontracting plan. In construction the plan is too often a generic reiteration of a good faith effort. A Prime Contractor when responding to the solicitation often details their team. They submit the names of the mechanical contractor or the electrical contractor or another substantial partner on the team. They should be encouraged, by way of evaluation points, to specifically identify two or more small business partners in the submittal of their solicitation.

Once the plan is submitted the government then tells the Prime Contractor that they should report twice a year. Having the Contractor to report twice a year on how well they

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are performing in accordance with their subcontracting plan with small, minority and woman owned businesses is grossly inadequate. Monthly reporting should be the order of the day in construction. In six months most projects have moved from general requirements, Division 01 work, to Division 04 work, or masonry services.

Reporting twice a year in construction on how you are implementing your plan makes a mockery out of the process.

The Office of Small Disadvantaged Business Utilization offers many remedies to small business concerns in order to "Do Business with the Government". One remedy it offers is to tell small businesses that they must research, and gather intelligence on the agency's mission, needs and requirements. The agency's culture is hostile to small businesses. It is very difficult to receive a return call and even more difficult to set up an appointment with a using agency representative. One of the reasons for this is the impotence of the Small Business Office. Most OSDBU Directors do not have the clout or relationship with the Director of the Agency. In FAR 19.2, it states that the Small Business Director reports directly to the agency head. If the OSDBU Director had clout they would state to the contracting officer that "market research" is as much the C/O responsibility as it is the vendors. FAR Part 10 describes how the contracting officer should be conducting market research. Currently, contracting officers do not document how market research is conducted. In DoD there is a form, DD 2579, Small Business Coordination Record, that details how market research has been conducted in seeking small businesses. Non DoD agencies need to adopt this form. It needs to be an SF form. If the contracting officer would perform due diligence in market research there would be ample opportunities for the small business community to acquire intelligence on what the agency's needs were.

Small businesses have an uphill battle when trying to do business with the federal government even when they are awarded a contract. In January of 2008, an 8a firm won an award, so they thought. There a firm was told by ATEC, the U.S. Army Test and Evaluation Command that they had been awarded, via GSA e-Buy, a contract for 1.1 million dollar. This was an award to establish an asset management system. They were told the next day that they had **not** won the award. They asked for an explanation and were told that it was a mistake and that you should "let it go". The award was made to Hewlett Packard. The small business was intimidated by the tone and reference to what one "should" do. Instead of the government representative inviting the small business in for a debriefing and offering them information on how to file a protest, they attempted the intimidation route.

In summary, it is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small-business concerns in order to preserve free competitive enterprise, to insure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the Government (including but not limited to contracts or subcontracts for maintenance, repair, and construction) be placed with small business enterprises, to insure that a fair proportion of the total sales of Government property be made to such enterprises, and to maintain and strengthen the overall economy of the Nation.

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The enforcement mechanism included in FAR, as well as, seen in best practices in some local and state jurisdictions should be examined, and where appropriate should be adopted. Agency's informational briefings need to be made public. Small Business Representatives in the OSDBU office or PCR's could advertise to small businesses that could benefit from the monthly briefings. If government needs a vendor to manage their building, do not decimate the possibilities of small business participation by placing all the facility management work under the building manager's contract.

PL 95-507 stipulates that it is the policy of the Government to provide maximum practicable opportunities in its acquisitions to small businesses, small disadvantaged businesses and women-owned businesses. This stipulation also extends to having the maximum practicable opportunity to participate as subcontractors in contracts awarded by any executive agency. Let's make this legislation a reality in practice.

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NATIONAL ASSOCIATION OF MINORITY CONTRACTORS

Congresswoman Norton and esteemed members of the Subcommittee on Economic Development, Public Buildings and Emergency Management, I wish to express my sincere appreciation for the opportunity to appear before you today to discuss "Doing Business with the Government: The Record and Goals for Small, Minority and Disadvantaged Businesses." I currently serve as President of the Washington, DC Chapter and member of the Board of Directors of the National Association of Minority Contractors (NAMC). NAMC was established in 1969 to address the needs and concerns of minority contractors and to create parity in the construction industry. We have aggressively pursued equity in contracting for small, minority and disadvantaged businesses and created venues to review the procedures in place with the Federal Government, local governments and the private sector. One of our primary objectives is to continuously seek legislative action of minority business issues; to advocate for change in laws that hinder minority businesses access to, or prevent minority business growth in the nation's \$400+ billion/year construction industry.

In March, 2006, the Washington, DC chapter hosted the "Base Realignment and Closure Tri-Service Industry Outreach Forum" to provide information to small and minority businesses for bidding on the 5-year \$7 Billion Military Construction Workload Contracts for the United States Army Corps of Engineers (USACE) (Baltimore District), NAVY and Air Force. The forum created a venue for small businesses, minority businesses, 8A businesses, HubZone businesses, women-owned businesses and veteran-owned businesses to identify opportunities for joint ventures, partnerships, contracting and subcontracting PRIOR to bidding period. These venues have created opportunities for non-traditional dialog between the Federal Government, prime contractors and subcontractors exclusive for recruiting small and minority businesses for inclusion on teams for bidding. We propose and recommend similar forums to be conducted throughout the Federal Government to increase the level of small and minority business participation.

NAMC-WMAC met with the U. S. Department of Commerce's Minority Business Development Agency whose mission statement indicates that it was designed to empower minority business enterprises for the purpose of wealth creation; to achieve entrepreneurial parity for MBEs by actively promoting their ability to grow and compete in the global economy and address challenges faced by MBEs by developing programs that provide the "keys to entrepreneurial success." However, the measurable success of its programs and services are not available. The State of Minority Business Enterprises Report issued in 2006; an overview of the 2002 survey of business owners indicated a great disparity of the average gross receipts of minority firms which was \$162 thousand, considerably lower than the \$448 thousand average gross receipts of non-minority firms. It also indicated that during the reporting period gross receipts of MBE decreased by 16 percent and over the same time the average gross receipts of non-minority firms remained level. Again, it is imperative that a recent measure of the success of MBE programs should be tantamount to Federal Government's agency dedicated to servicing MBEs and should include economic indicators of MBE business success with the Federal Government agencies itself.

NAMC is also working in partnership with the Associated General Contractors of America and the with the U. S. Department of Transportation to create a Disadvantaged Business Enterprise (DBE) Contractors' Tool Kit which is meant to be a practical guide in establishing a contractor's DBE compliance program as implemented by the states and local governments where they work. The Tool Kit provides information ranging from getting started to assessing one's performance in meeting its own program. NAMC-WM recommends this Committee's review of the model and consideration for expansion to its oversight agencies.

NAMC-WMAC sits on the MBE Advisory Committee established by the Washington Area Sanitation Commission to review proposed legislative by the State of Maryland General Assembly for the establishment of a mandatory minority business utilization program. The Committee prepared and submitted comments on the proposed legislation and the Commissions' proposed Standard Operating Procedures for the MBE Program. Again, NAMC suggests the establishment of a SBE/MBE Advisory Committee which can assist in the assessment of existing

programs and recommendations for improvement and/or implementation of a MBE program within these agencies.

In conclusion, NAMC-WMAC recommends the Subcommittee on Economic Development, Public Buildings and Emergency Management consider the following:

- Establish an MBE Advisory Committee to review the existing MBE program; its effectiveness and measure of its success
- Conduct a study of the existing MBE programs by each Federal agency and its effectiveness
- Host targeted forums created by Federal agencies to reach the small and minority business community; and, follow-up reports of the rate of success.
- Conduct extensive monitoring and reporting of small and minority business participation and publish its finding which include recommendations for penalties for non-compliance

NAMC stands ready to assist with the further pursuit of your desire to increase the level of participation of Small and Minority business with the Federal Government.

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Statement of
Mr. Joel P. Zingesser of Grunley Construction Company, Inc.
on behalf of
The Associated General Contractors of America
to the
**Subcommittee on Economic Development, Public Buildings and
Emergency Management**
Committee on Transportation and Infrastructure
U.S. House of Representatives
For a hearing on
Doing Business With Government
March 6, 2008



Building Your Quality of Life

The Associated General Contractors of America (AGC) is the largest and oldest national construction trade association in the United States. AGC represents more than 33,000 firms, including 7,000 of America's leading general contractors, and over 12,000 specialty-contracting firms. Over 13,000 service providers and suppliers are associated with AGC through a nationwide network of chapters. AGC contractors are engaged in the construction of the nation's commercial buildings, shopping centers, factories, warehouses, highways, bridges, tunnels, airports, waterworks facilities, waste treatment facilities, dams, water conservation projects, defense facilities, multi-family housing projects, site preparation/utilities installation for housing development, and more.

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Statement of Mr. Joel P. Zingesser
Grunley Construction Company, Inc., Rockville, Maryland
Subcommittee on Economic Development, Public Buildings and Emergency Management
Committee on Transportation and Infrastructure
United States House of Representatives
March 6, 2008

My name is Joel Zingesser of Grunley Construction, where I lead the firm's strategic planning, business development, and new technology programs, including our sustainable design/construction efforts and integrated project delivery opportunities. For over 50 years our firm has specialized in renovations, restorations, and modernizations of large-scale government and commercial buildings, including office, laboratory, and educational facilities. In addition we construct new facilities and additions to existing buildings for both public and private sector clients.

On behalf of the Associated General Contractors of America (AGC), we strongly support full and open competition for the many contracts necessary to construct improvements to real property. This includes competition among general contractors, specialty contractors, suppliers and service providers. Over the years, it has been established that such competition energizes and improves the construction industry to the benefit of the industry and the nation as a whole. As the Subcommittee considers the changing Federal procurement landscape, AGC offers the following points for consideration.

Construction Inflation

For the past several years, the cost of construction materials has increased at a rate nearly double that of the overall rate of inflation. Overall, the cost of construction materials has increased a cumulative rate of 30.2 percent since December 2003. This has caused great strain for private owners, public agencies that must budget well in advance for construction activities, and contractors alike. As a result, public owners, including the Federal government, have increasingly had to defer, redesign or cancel projects for which they did not budget enough money in 2003 or 2004. Contractors, for their part, have been frustrated by the disparity between the budgeted amounts and the realities of the market. Some contractors have turned away from bidding on public projects for which they knew the cost expectations were unrealistically low.

According to AGC's Chief Economist, Ken Simonson, given the worldwide competition for materials used in construction and the ongoing dependence on limited supplies of fuel and transport capacity, it appears prudent to expect construction costs to continue to rise 6-8 percent by the end of this year and for the next several years.

To address these concerns, AGC recommends the Subcommittee direct the Office of Management and Budget and the Federal agencies work to incorporate realistic inflation estimates in its budget submissions. Furthermore, the agencies should report to the Subcommittee and to both chambers of Congress on the baseline construction inflation rate incorporated in their construction budgets for fiscal year 2010, including a justification for that

rate, no later than seven days following the submission of that request to Congress. AGC has been in regular contact with all of the Federal agencies that procure construction services about rapidly rising costs of construction materials. We believe the agencies are cognizant of the issue and we look forward to continuing this dialogue.

Reprogramming Authority

Most of the Federal agencies are permitted to reprogram funds in an amount not to exceed 10 percent of the amounts included in an approved budget, unless advance approval is obtained from the Committees on Appropriations. AGC believes that Federal agencies, as the contracting agents, should have primary oversight over the pace of expenditures. Their authority should be based on a variety of factors governing every other type of construction projects, including weather, differing site conditions, and the costs of labor and materials. Significant costs are also incurred when contractors are repeatedly forced to mobilize and demobilize in an inefficient manner. The cost of delaying, shutting down or stretching out the length of a project is far greater than if the project were fully funded up front.

Accordingly, AGC supports granting Federal agencies additional flexibility to meet existing obligations and unforeseen operations and maintenance needs. This additional flexibility is crucial to help the agencies meet the ever-changing needs of project execution, and it is hoped that this Subcommittee will consider extending this courtesy to certain projects in the other accounts as necessary.

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. This confluence of pressure is leaving many firms with no opportunity to grow their business. Ironically, they have been shut out of their own expertise, the Federal market.

Rather than creating additional set-asides or goals, the Congress should instead focus on how the existing programs can be improved to increase opportunities for small firms. We believe 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.

Alaska Native Contracting

Over the last few years the volume of complaints we receive from our members about the growing reliance on the use of Alaskan Native Corporations (ANCs) by Federal agencies as a contracting vehicle to easily attain small business contracting goals continues to increase. The fact of the matter is that in today's Federal contracting market, ANCs have extraordinary special

preferences that significantly reduce federal contracting opportunities for traditional small businesses.

Some ANCs have taken excessive advantage of their special benefits to obtain multi-million dollar sole-source government contracts. In April 2006, the General Accountability Office (GAO) issued a report demonstrating how ANCs have been using the SBA program, reporting that:

- Awards to ANCs went from \$265 million in FY 2000 to \$1.1 billion in FY 2004;
- By 2005, ANC contracting dollars had more than doubled to \$2.4 billion, and;
- Between FY 2000 to FY 2004, 77 percent of ANC contracts were sole source awards.

The SBA must better track the growth of ANCs. While the GAO report states that this program is fulfilling its purpose, it is clear that the Government must improve its management and oversight of the program. Congress should encourage agencies to examine the impact these preferences have had on other disadvantaged groups and the overall effect of these awards to the federal market.

Subcontractor Participation

Another major challenge prime contractors continue to face is the inability to report the “real” total dollar amount of small business participation on contracts. Currently, prime contractors are not allowed to report subcontractor participation beyond the first tier. Allowing prime contractors to report the dollars associated with small business participation below the first tier is critical data not only to demonstrate a full calculation of total subcontractor participation, but also to provide additional incentive to those prime contractors that achieve their subcontracting goals.

Agency Consistency

As a matter of policy, AGC does recommend that agencies with large regional offices continue to work to promote the implementation of uniform agency policies that will provide greater consistency in the construction process. Many of our members have repeatedly found wide variances in regional operations, contract administration and administrative practices. Such can produce serious administrative and communication problems and can discourage contractors from continuing to work in the Federal market.

Conclusion

Thank you for the opportunity to provide our views on working with the Federal market. We believe this market offers tremendous opportunities for both construction contractors and the Federal government. AGC looks forward to working with the Subcommittee on balancing the needs of the Government and creating an environment in which construction contractors can continue to work to improve the quality of construction delivered to the owner – the Federal government and ultimately the American taxpayer.