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CAN DOD IMPROVE INNOVATION AND COMPETITION IN ACQUISITION BY BETTER UTILIZING SMALL BUSINESS?

HEARING

BEFORE THE

PANEL ON DEFENSE ACQUISITION REFORM

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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PANEL ON DEFENSE ACQUISITION REFORM

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CONTENTS

CHRONOLOGICAL LIST OF HEARINGS

2009

Page

HEARING:

Thursday, October 29, 2009, Can DOD Improve Innovation and Competition in Acquisition by Better Utilizing Small Business? 1

APPENDIX:

Thursday, October 29, 2009 21

THURSDAY, OCTOBER 29, 2009

CAN DOD IMPROVE INNOVATION AND COMPETITION IN ACQUISITION BY BETTER UTILIZING SMALL BUSINESS?

STATEMENTS PRESENTED BY MEMBERS OF CONGRESS

Andrews, Hon. Robert, a Representative from New Jersey, Chairman, Panel on Defense Acquisition Reform 1

Conaway, Hon. K. Michael, a Representative from Texas, Ranking Member, Panel on Defense Acquisition Reform 2

WITNESSES

Jenkins, Calvin, Deputy Associate Administrator, Government Contracting and Business Development, U.S. Small Business Administration 5

Oliver, Linda, Acting Director, Office of Small Business Programs, U.S. Department of Defense 4

APPENDIX

PREPARED STATEMENTS:

Andrews, Hon. Robert 25

Conaway, Hon. K. Michael 27

Jenkins, Calvin 37

Oliver, Linda 29

DOCUMENTS SUBMITTED FOR THE RECORD:

Letter from Calvin Jenkins to Hon. Robert Andrews Regarding Online Courses Related to Government Contracting Offered by the Small Business Administration 45

WITNESS RESPONSES TO QUESTIONS ASKED DURING THE HEARING:

Mr. Andrews 49

Mr. Cooper 49

QUESTIONS SUBMITTED BY MEMBERS POST HEARING:

Mr. Conaway 53

CAN DOD IMPROVE INNOVATION AND COMPETITION IN ACQUISITION BY BETTER UTILIZING SMALL BUSINESS?

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
DEFENSE ACQUISITION REFORM PANEL,
Washington, DC, Thursday, October 29, 2009.

The panel met, pursuant to call, at 8:00 a.m., in room 1310, Longworth House Office Building, Hon. Robert Andrews (chairman of the panel) presiding.

OPENING STATEMENT OF HON. ROBERT ANDREWS, A REPRESENTATIVE FROM NEW JERSEY, CHAIRMAN, PANEL ON DEFENSE ACQUISITION REFORM

Mr. ANDREWS. Good morning ladies and gentlemen. Thank you very much for your attendance. We thank our colleagues on the panel for their attendance, and especially the witnesses for giving us their time this morning.

Yesterday, the President signed the fiscal 2010 defense authorization bill. Let me say for the record we express our appreciation to the professional staff and all the support staff on both the minority and majority side for the excellent work that these ladies and gentlemen did on that bill.

And the President highlighted in his remarks before he signed the bill the need to achieve more efficiency in defense procurement. As you know, he signed some provisions in that bill which we believe will lead us to that result and enjoy broad bipartisan support.

And of course earlier this year, the President signed a major weapons system acquisition reform bill that the members of this panel, both sides of the aisle, worked very hard on and were pleased to be a part of.

One of the points the President made in arguing for the need for efficiency was the principle that enhanced competition enhances taxpayer value and warfighter value. One of the ways that we have attempted to enhance competition is to engender more small business participation in the procurement process.

And as this panel has continued our work, we have looked at a series of hypotheses as to why the warfighters and taxpayers do not get full value for the dollars that are provided, and we have examined a number of hypotheses along that path.

The one we are looking at this morning would be the implicit hypothesis that one of the reasons that we don't get full value is we don't have robust competition.

And one of the reasons that we don't have robust competition is we have, in some instances, inadequate small business opportunities for small businesses to join the competition, which not only en-

hances their commercial position, but we believe would also enhance the value-added for the taxpayer.

So this morning we are going to examine a number of questions that revolve around the role of small businesses in defense procurement competition. The data show that in fiscal 2007, of the $269.3 billion in prime contract awards for procurement, small business awards totaled $55 billion of that or 20.44 percent of the total.

By our standards that are in the law, that is a success. The agencies responsible for enhancing small business opportunities have targets to shoot at, and that 20 percent total is very much in the range of the target that they are supposed to shoot at.

This would on its face appear to be good news. There are, however, questions that we want to explore in relation to these data. The first is, to what extent do the data truly reflect small business participation in the competition, and to what extent are the data flawed by situations where the small businesses are mislabeled and are not, in fact, operating as small businesses? To what extent are the data accurate?

The second question is, to what extent is our premise correct? Does small business competition in fact enhance taxpayer value in quality or not? Superficially, it would appear the answer is yes, but the panel has a responsibility and an interest in going beyond superficiality to examine the actual record.

And then finally, as a corollary to the second point, indisputably there are administrative costs associated with compliance with these kinds of small business goals and targets. And I do think it is a fair question to ask, whether the benefits of enhanced competition, in fact, substantially outweigh the costs of administrative compliance.

I happen to believe that there is a happy middle ground where we can expand and enhance competition, but we can do so in a way that is efficient, that does not involve an overly cumbersome process, and can serve the twin goals of enhancing competition while minimizing additional administrative burden and responsibility.

The way we will proceed this morning is that I am going to ask my friend, the senior Republican on the panel, Mr. Conaway, to make an opening statement, and when he has finished, without objection, we will take opening statements from our other members on the record.

We will then introduce the two witnesses. We have had a chance to review your written testimony, so we would ask you to orally summarize in about five minutes your written testimony so we can maximize the opportunity for interchange with the members of the panel.

So at this time, I am pleased to recognize Mr. Conaway for his opening statement.

[The prepared statement of Mr. Andrews can be found in the Appendix on page 25.]

STATEMENT OF HON. K. MICHAEL CONAWAY, A REPRESENTATIVE FROM TEXAS, RANKING MEMBER, PANEL ON DEFENSE ACQUISITION REFORM

Mr. CONAWAY. Well, thank you, Mr. Chairman. I appreciate you calling this hearing, and Mr. Oliver—excuse me, Mr. Jenkins and

Ms. Oliver, thank you for both being here. Our panel has held hearings on everything from the Department of Defense's (DOD) role in tackling the challenges facing the industrial base to information technology contracting, to last week's hearing where we looked at auditing.

I find it very appropriate that with today's subject we are going from Wall Street to Main Street. Very few members of Congress have multinational corporate companies in their districts but every one of us have some form of small business in our district.

I realize that today's hearing will focus on the Department of Defense utilization of small business to improve innovation and competition in defense acquisition. It is no secret that it can be very challenging for small businesses to participate in the defense acquisition process.

We are very fortunate to have a couple of expert witnesses in front of us today to help us understand how we can continue to help small businesses to successfully participate in the system.

One question that I get asked from small business is in regards to the small business set-asides, and I hope to learn more about that today. But are there specific metrics, which lead to the inclusion or exclusion of small business set-asides in a request for proposal, and are set-asides more prevalent in product development type contracts or maintenance and repair contracts?

I also think that the news report this week of a scam, at least the alleged scamming of the system, by a group of small businesses in California speaks clearly to the chairman's comments about the need to make sure that it is being policed properly and that the right folks are in the competition. So I look forward to our witnesses' testimony. Thank you for both being here.

[The prepared statement of Mr. Conaway can be found in the Appendix on page 27.]

Mr. ANDREWS. Thank you. Without objection, opening statements from all panel members will be included in the record. I am now going to proceed to introduce this morning's witnesses. Ms. Linda B. Oliver is the Acting Director of the Office of Small Business Programs for the United States Department of Defense.

She assumed that position on January 21, 2009, the second time that she has served in this capacity. She began her tenure at the office as Deputy Director in December 2001. Her office is responsible for establishing and enforcing DOD policies so as to provide maximum practicable opportunities for small businesses to successfully compete for DOD contracts.

Linda previously served in the Office of Management and Budget (OMB) where she was Associate Administrator for Procurement Law, Legislation and Innovation in the Office of Federal Procurement Policy. I love these names that we have created for these agencies.

Ms. Oliver began her federal government career as an attorney with the U.S. Department of the Navy. During most of her Navy service she specialized in federal procurement law. While at the Pentagon, she was assistant general counsel at the Office of the General Counsel, advising on contract claims resolutions and has a tour at the Naval Air Systems Command where she provided contracting advice to program managers.

Prior to joining the United States Government, she was in private practice in Honolulu, Hawaii and Bremerton, Washington. She has been a member of the Senior Executive Service since 1998. Her honors include Presidential Rank Award of Meritorious Executive and U.S. Department of Navy Superior Civil Service Medal.

Ms. Oliver, thank you for your service, and welcome to the panel.

Mr. Calvin Jenkins is the Deputy Associate Administrator for Government Contracting and Business Development. He was appointed to that position by the Administrator of the U.S. Small Business Administration (SBA) in October 2005.

Mr. Jenkins is the SBA's top career senior executive for government contracting and business development programs. He is responsible for overseeing the administration of the umbrella office with jurisdiction over the agency's offices of technology, size standards, government contracting, business development Section 8(a), and small disadvantaged businesses certification.

Other management positions held by Mr. Jenkins include the Deputy Associate Deputy Administrator for Capital Access at the SBA, Associate Administrator for Field Operations, District Director of the agency's Washington district office and a number of other positions.

He has been the recipient of several government service awards including the SBA's Distinguished Service Award and the 1998 and 2004 Presidential Rank Award of Meritorious Executive. He is a native of New York and holds a bachelor's degree in economics and urban geography from the City College of New York.

Mr. Jenkins, welcome.

Ms. Oliver, you are up. We ask you to, as I said earlier, your written testimony without objection is included in the record, and we would ask if you could synopsize it so we can get to questions. Good morning.

STATEMENT OF LINDA OLIVER, ACTING DIRECTOR, OFFICE OF SMALL BUSINESS PROGRAMS, U.S. DEPARTMENT OF DEFENSE

Ms. OLIVER. Good morning, thank you. Good morning, Chairman Andrews, Ranking Member Conaway, members of the panel. I thank you truly for the work you have done on this panel. I have spent most of my professional career concerned about procurement and most of that procurement was in the Department of Defense.

So I am grateful to have a distinguished group of people focused with such good staff also focusing on procurement in the Department of Defense. It is really important. And of course, I am always pleased to be able to talk about small business and how small business fits in to helping us provide the best possible products and services for our warfighters at the best possible cost to the taxpayers.

Last night when I was reviewing my written statement, and particularly since Chairman Andrews has just said you have all read what I had to say, it occurred to me that probably although you know a lot about procurement, you are like a lot of other people who know a lot about the big picture but not about really very much about the small business specialist role with the Department of Defense, and what small business specialists do.

Well, it seems to me like you might want to know that because as a response to Chairman Andrew's question, does small business enhance competition? Yes of course. It seems like a given to me, and I have addressed that in my remarks, my written comments.

So I want to go on to talking briefly about what small business specialists do, how they fit in to the whole process. Most small business specialists in the Department of Defense are contracting officers who have, I always think, sort of gotten a master's in small business, although, of course, it is not a formal thing, but they are specialists, specialists beyond being contracting officers.

They work in the organization with contracting officers but they actually report to the head of the organization, whatever the head of the organization is, and their function is actually to provide, to make sure that the Department of Defense provides maximum practicable opportunity to the small businesses.

But they do it by focusing within the Department of Defense on the acquisition team, and so a small business specialist in a well-run situation will be one of the early members on a product integration team for example.

A small business specialist will help as the team does a sort of a final refinement of the requirements. The small business specialist works with the team to think about, all right, now we have the requirement. What do we do to fill this requirement?

It is important that small business specialists be involved at that very early stage so that the small business specialist can use their particular skills to devise the procurement which provides the maximum practicable opportunity in that direction you have given us.

The small business specialist will work with the team throughout the entire procurement, and of course there is a role for the small business specialist. There is an enforcement role at the end of the contract.

I delve briefly into this so that you have a fuller understanding that a small business specialist, it is not their function, it is one of the things they do, but it is not their primary function to do outreach and give speeches, to shake hands. It is to understand and fit small business into the Department of Defense procurement system.

Thank you very much. I will be happy to answer any questions for you.

[The prepared statement of Ms. Oliver can be found in the Appendix on page 29.]

Mr. ANDREWS. Ms. Oliver, thank you very much for your preparation and your testimony this morning.

Mr. Jenkins, welcome to the committee. We are happy to have you with us.

STATEMENT OF CALVIN JENKINS, DEPUTY ASSOCIATE ADMINISTRATOR, GOVERNMENT CONTRACTING AND BUSINESS DEVELOPMENT, U.S. SMALL BUSINESS ADMINISTRATION

Mr. JENKINS. Thank you, Chairman. Chairman Andrews and other distinguished members of the committee, I want to thank you for inviting me today to testify about the Small Business Administration and its small business procurement-related programs.

A key part of SBA's mission is to ensure that small businesses receive a fair share of federal procurements. We also include in that small businesses that are women-owned, small businesses that are owned by individuals who are socially and economically disadvantaged, small businesses that are owned by service-disabled veterans and small business located in Historically Underutilized Business Zones (HUBZone).

This mission is important because federal procurement is a significant market for small businesses to sell their products and services, and they contribute as a driver to the economy. Earlier you mentioned some of the statistics regarding small business share within the Department of Defense, but overall in 2008, federal procurement accounted for about $434 billion.

Of that, small businesses in general received about $93 billion. Small disadvantaged businesses received about $29 billion, women-owned small businesses $14 billion and HUBZone-certified firms $10.1 billion, and also firms owned by service-disabled veterans $6.4 billion.

Clearly, these are significant numbers. However, when we look back at the procurement goals, consistently the federal government has only met one goal, and that is the goal for small disadvantaged businesses. We have yet to achieve the goal for women-owned small businesses, service-disabled veterans as well as HUBZones, and have not on a consistent basis even met the goal for small businesses.

SBA's role in the procurement process, SBA helps agencies try to meet these goals by working with them through our network of procurement center representatives. These are individuals assigned to major procurement buying activities throughout the country. Their job is to, one, review procurements in which the contracting activity feels that they wish not to set-aside for small business.

We review those contracts and review the effort that the contracting official put forth to try to identify small businesses. Our first aim is to set those contracts aside for small business, and then we look at whether or not those contracts can then flow down to some of the socioeconomic groups that I mentioned earlier.

SBA is also responsible for establishing size standards. And one of the initiatives that we are currently embarking on now is to re-evaluate all of the size standards. This is a process which we just recently issued three of the next sectors for public comment in which we are going to adjust those. A number of agencies, including the Department of Defense, has indicated that our size standards are at a level that are too low, in order for them to continue to use small businesses in federal procurements.

Based on the types of procurements that they are procuring, the size of procurements that they are procuring, they need more small business with more capacity and capability to perform. So we are currently looking at that process.

We also just yesterday released regulations to streamline and improve the 8(a) Business Development Program. Out of the $29 billion in 2008, that program accounted for $16 billion. However, the program is a Business Development Program not a contracts program.

Contracts is just one of the tools we use over a nine year period to assist those businesses, and so we are looking to ensure that the program is streamlined and that the benefits of the program truly goes to those that are eligible.

We are also looking to reduce risk and streamline the HUBZone Program. We believe that program, unlike the 8(a) Program, is more of a place-based program where the leveraging of the federal contracts are used to improve distressed communities.

Our concerns there is to ensure that that program has the integrity built into it, and so we have undertaken a business process reengineering effort to ensure that it works consistent with congressional intent.

Two other programs that help to contribute innovation are the Small Business Innovative Research Program, SBIR and the Small Business Technology Transfer, STTR. We are currently waiting for reauthorization for both of those programs. Certainly the Administration supports reauthorization, as well as the business community there.

Thank you for the opportunity to speak with you this morning. I would be happy to answer any questions you have.

[The prepared statement of Mr. Jenkins can be found in the Appendix on page 37.]

Mr. ANDREWS. Well, thank you to each of you. We appreciate your time and efforts.

Ms. Oliver, I would like to begin with you. When small businesses win Department of Defense procurement contracts, is the typical situation that they are competing against only other small businesses or are they competing on a larger playing field?

Ms. OLIVER. I asked somebody to look up the numbers on this, on the possibility that you would want to know that. As I mention in my testimony, the amount that small business—the amount of competition—when you look at the contracts that are awarded to small business, and you say how much of this business is competed——

Mr. ANDREWS. Right.

Ms. OLIVER [continuing]. And you compare that to competition in general in the Department of Defense, there is much more competition where small businesses are awarded contracts than the number overall. Those numbers are about—competition rate for the Department of Defense is about 64 percent.

Mr. ANDREWS. Meaning that 64 percent of the contracts have more than one bidder?

Ms. OLIVER. The dollars, yes. For small business, it is about 77 percent.

Mr. ANDREWS. So I think—that was my second question, which I am glad you anticipated. My first one, though, is when a small business is in a competitive situation, is its competition other small businesses exclusively or is it the entire range of competitors?

Ms. OLIVER. That 77 percent is composed of full and open competition. Let us see, I have a summary of this. I broke it down. I had them break it down by the special categories.

Mr. ANDREWS. Right.

Ms. OLIVER. That 77 percent is full and open competition and full and open competition after exclusion of sources. Full and open com-

petition after exclusion of sources means a set-aside, most frequently——

Mr. ANDREWS. Right.

Ms. OLIVER [continuing]. A set-aside for small businesses.

Mr. ANDREWS. Right. So what share of that 77 percent is the set-aside environment—I don't mean as the pejorative either. I mean, in a, you know, limited market——

Ms. OLIVER. No.

Mr. ANDREWS [continuing]. And what portion of it is not a set-aside environment? You know, you don't have to be—just roughly.

Ms. OLIVER. It is——

Mr. ANDREWS. You can submit for the record.

Ms. OLIVER. Let me submit it for the record because I——

[The information referred to can be found in the Appendix on page 49.]

Mr. Andrews. Yes. But is it half and half, is it two-thirds, one-third, about what is it?

Ms. OLIVER. I would rather that—let us see—40, about 40 percent is full and open competition and about 37 percent is full and open competition after exclusion of sources.

Mr. ANDREWS. Okay, that is good.

Ms. OLIVER. So it went a little bit more——

Mr. ANDREWS. Yes.

Ms. OLIVER [continuing]. Full and open, one on full and open and one on——

Mr. ANDREWS. So when a small business gets a contract, 40 percent of the time that is after they have competed in full and open competition.

Ms. OLIVER. Yes. That is right.

Mr. ANDREWS. Thirty-seven percent of the time, it is when they have competed only against other small businesses, and the remaining, which would be 16 percent, if my math is right, is where it is sole source? Would that be right?

Ms. OLIVER. Yes, yes.

Mr. ANDREWS. Or 23—no 23 percent, I am sorry. At any rate that is about the distribution.

Ms. OLIVER. Well, there is one other category.

Mr. ANDREWS. Yes, what is that?

Ms. OLIVER. Earmarks, earmarks do not count as competed.

Mr. ANDREWS. Nor should they. Nor should they. I agree with you. And I assume earmarks bear a very small portion to the overall universe.

Ms. OLIVER. I don't have it broken out into subcategories, but it looks to me, among my figures, that it is a little bit over 12 percent.

Mr. ANDREWS. That is interesting. That is interesting. Now, are there any—now, given these four categories, right, once your small business wins a contract sole source, small business gets an earmark, small business competes against all comers, and small business competes against other small businesses.

Are there any data that compare the price that the taxpayers pay for that product or service versus a competition where there is no small business involved? Do you understand what I mean?

Let us say that in the full and open competition segment, the product that is being purchased is a sheet metal produced product for a refrigeration unit, okay? And we have a similar product where there is no small business competition, and then we have the marketplace where there is small business competition.

Are there any data on, comparing apples to apples, are there any data on the price differential results from that competition difference?

Ms. OLIVER. There are none that I have. However, I will be happy to go back. I do have some people who are just astounding at being able to figure out what it might be, and I will surely——

[The information referred to can be found in the Appendix on page 49.]

Mr. ANDREWS. Yes, we would be very interested, and I will tell you why, because as I said, at the outset of the hearing, to me it is intuitively true that broader competition produces a better result, but I don't want to rest on my intuition.

I would actually like to see the data which leads to the second point that I made. To play devil's advocate for a minute, there are people who would argue that the incremental gain that we get from the increased competition is more than offset by the administrative cost of qualifying people and figuring that all out. I don't think that is true, but again I would like empirical evidence that would demonstrate that.

Let me just move on to Mr. Jenkins, if I may, because I want to make sure our colleagues get time. Mr. Jenkins, I want to describe to you a concern that I think the members would say is heard throughout the country in all districts and see if I can get an answer as to how I would help my constituents.

I had a constituent who came in, runs a business with very small, like 45 employees, and they make a floor coating product that helps in industrial situations to keep the floor clean and protected. And they are near an Air Force base in New Jersey.

No, they actually came in and they said, "Look, like everybody else, we are hurting in this economy, we are looking for some contracting opportunities. How do we get involved in the defense field? We are near an Air Force base, airplane hangars use the kind of product that we make. We would like to compete for the right to sell this product to the Air Force base."

And we went about trying to help them, but what is the best answer I could give them is to say here is how you do it. Here is how you can get yourself on the list to compete for the right to sell this floor sealant to the Air Force base, and maybe pick them up with as a customer. How do they do that?

Mr. JENKINS. Sure. There is a number of ways and various strategies that we present to small businesses and try to help them.

How do you get into the federal procurement arena? One, you have to do your homework. For example, the federal procurement data system, which is all of the federal procurement data, is just packed with information as——

Mr. ANDREWS. It has too much——

Mr. JENKINS. Well——

Mr. ANDREWS [continuing]. As far as they are concerned.

Mr. JENKINS. Well, I think if, you know, there is help that can kind of help them weed through that.

Mr. ANDREWS. I don't want to cut you short, but I want to focus the question this way——

Mr. JENKINS. Yes.

Mr. ANDREWS [continuing]. And you understand this, because you work with these businesses all the time. You know, they may have 3 or 4 administrative people out of those 45. And if they guess wrong and go after the wrong contract because it is just way out of their league to get, they have just wasted an enormous amount of time and money and taken a big step backward.

So how do they deal with this information flow? How do they figure out more surgically which is the right contract for them to go after and how to do it?

Mr. JENKINS. Well, once again, I really have to point you to the federal procurement data system. And the only reason why I do that is it is the eyes for all of federal procurement as to what happens.

Let us say that company sells about less than $1 million of product. They can go into the system, and see what agency actually purchased the item and what volumes had previously been purchased.

Mr. ANDREWS. Right, that would be important.

Mr. JENKINS. If they look and all of a sudden see that that Air Force buys in huge quantities that they can't actually supply, then they need to shift their strategy a little bit.

Mr. ANDREWS. Got it.

Mr. JENKINS. They also have access to our procurement center representatives. SBA has cognizance over all federal procuring and buying activities. We have individuals stationed at the major ones, but we can go in and sort of introduce that individual to the small business office at that buying activity. One of the strategies we talk about is don't necessarily spend a lot of time with the contracting officer. Spend time with the actual user.

Mr. ANDREWS. Right. Is there an online tutorial as to how to use that data system you referenced a few minutes ago?

Mr. JENKINS. There are a few online. SBA recently introduced How to Win Federal Contracts, an online course, offered toward small businesses, women-owned small businesses and——

Mr. ANDREWS. Because I think you gave a great example, that if I were running that floor coating business, and I saw that the Air Force never bought in quantities of less than two million gallons and that is my entire output for the year, I am crossing that one off the list.

But knowing where to look for that, and how to slice the data to find it is something I wouldn't know how to do. So I would think—I would like to take a look at those online courses, if I could——

[The information referred to can be found in the Appendix on page 45.]

Mr. JENKINS. Sure.

Mr. ANDREWS [continuing]. And thank you. That is very helpful.

Mr. JENKINS. Yes.

Mr. ANDREWS. Mr. Coffman.

Mr. COFFMAN. Thank you, Mr. Chairman. I think your point is very interesting about simply the volume of some of these contracts and has there been a thought to, I mean, for those that produce products probably more than services, such as the one that the chairman mentioned, has there been a thought to breaking it down a little bit more for small business, in terms of quantities?

I know that is probably inefficient in terms of costs, in terms of economies of scale, but has there been consideration for that?

Mr. JENKINS. From SBA's standpoint, it is certainly one of our key strategies. When we send our procurement center representative into a buying agency and we look at a procurement, one of the things we try to go through with the buying activity is different strategies to increase small business participation.

So if we do see a procurement where it is structured in a certain way that precludes small business participation, we try to work with that agency to structure it in such a way that we could increase small business participation.

Mr. COFFMAN. Okay.

To Ms. Oliver, you mentioned the earmark issue, and is that when—I mean, I am new to Congress—and so it is when you would just, I mean, trying—where it would impact a specific small business.

Where you would earmark and say I have got a small business in my district that produces a very specific product that—let us say it is ceramic plates for the bulletproof vests, for the protective body armor.

And so what I want to do is put an earmark in for that small business to produce that particular product, and that is generally how it is done. Is that correct?

Ms. OLIVER. That is correct. I believe, currently, the requirement is that they—don't rely on this—ask somebody on the legal staff. I believe the current requirement is that the congressperson have passed into law legislation that says this amount of money for this purpose to this organization. I think that is the format it takes.

Mr. COFFMAN. Yes, I see. And in your view, in terms of the cost effectiveness of that, could you respond to that?

Ms. OLIVER. Of earmarks?

Mr. COFFMAN. Related to a specific firm to produce a specific product or service. Am I——

Ms. OLIVER. That is sort of slightly outside my area of competence, but——

Mr. COFFMAN. Okay.

Ms. OLIVER [continuing]. But you know it depends on who knows what. In terms of is it actually it efficient, it depends on who knows about it. And I mean by that I am not too quick to say that a Congressman sometimes doesn't have special insights about the capabilities of people in their district.

Now, I understand all the problems with earmarks, and I definitely am in favor of competition and I speak only for Linda Oliver, not for the Department of Defense—but I don't discount that the—I don't just automatically discount, in my mind, about whether the Congressman is—whether this is an uneconomic thing to do. I think sometimes it is.

Mr. COFFMAN. Thank you.

Mr. Jenkins, on the notion of set-asides, I mean, all categories, can you define to me the different categories that there are? I know it is women-owned and minority-owned small businesses, but what are the other set-aside areas that we use right now?

Ms. OLIVER. Sure, the first one and probably most noticed is the small business set-aside. Then you have the set-aside for service-disabled veterans. The women-owned set-aside program has not been put in place yet. SBA has regulations over to the Office of Management and Budget to establish that set-aside program. You also have a set-asides within the HUBZone Program itself.

And in terms of how we have set-aside procurements or how SBA requests set-asides from the agencies, we look for at least two or more small businesses that can provide the product or services to the agency to meet their needs.

The companies have to also be competitive, meaning their price has to be competitive because every procurement that is issued, the contracting officer has to attest that the price is fair and reasonable.

And so we look at that area first and that becomes the basis for the market research, are there two or more small businesses out there? Can they provide a competitive price to meet the needs of the agency?

Mr. COFFMAN. Mr. Jenkins, I have seen so many different definitions of small business. Is there, for purposes of DOD procurement, is there one definition for a small business and is that by the number of employees?

Mr. JENKINS. Unfortunately, there are not. There are probably common standards but there are various industries and because of the number of industries, there are different size standards that go with each of those industries.

Commonly, you would see maybe 500 or less in terms of number of employees would define a small business where it is a manufactured item. So, on the manufacturing side it is number of employees. On the service-based side, it is the end of the revenues of the business over a three-year period of time.

Mr. COFFMAN. Thank you, Mr. Chairman. I yield back.

Mr. ANDREWS. Thank you very much.

The chair recognizes Mr. Ellsworth.

Mr. ELLSWORTH. Thank you, Mr. Chair, for calling this timely meeting. I just had some gentlemen in my office this week. They were talking about the system, I guess I will call it a system, where a small—or a large business would subcontract, create a small business in order to bring even more in.

And I was curious—I know that there is occurrences in the HUBZones where large businesses rent a storefront somewhere in a downtrodden area to get those benefits. But I was curious how large of a problem both of you see this is where—how pervasive it is?

And then how many people do you all have dedicated to that, to weed that out? You know, let us say, we used to call them in Indiana "hogs at the trough."

So how much effort, how pervasive is the problem where large companies are creating these small companies, and I know that, you know, I know back at home I hear this where you would see

someone where the requirement is for minority-owned and female-owned and all of a sudden you see somebody start a business whether it was laundry cleaning or linen service, somebody who never had a business in that, no storefront, and all of a sudden they got the contract whether—you know.

Can you explore that a little bit and how big of a problem that is and how far you go and how many resources do you have dedicated to weeding that out and stopping that?

Ms. OLIVER. That is fine. We will do a tag team here.

Mr. JENKINS. There you go.

Ms. OLIVER. I think that the extent of the problem is exaggerated. And this is in part because it is very hard for a small business—it is very hard for any business to—when they don't win to contract to attribute the problem to themselves, and this is just hard.

So people are quick to look for other reasons; reasons external. And that is the reason that fairly frequently, when we pull a string on one of these, it turns out not to be quite what the small business owner thought was happening.

There are two—well, at least two sources of—the most, let me say, put it this way—the most frequent sources of small business credit being taken when it is a large business performing the contract, there are two primary sources, in my opinion, and we spend a lot of time trying to get the record right.

One is when a big business buys a small business, but the small business had a contract. That contract continues to be performed even though it is now no longer—the Department of Defense no longer gets credit for it being a small business for example. So that is one legitimate way.

Another way, to be honest with you, is data input is a huge problem, and it is especially a huge problem if the system is set up and it is the sensible way of having lower-level people do the data input. Now, we are working hard on that at the Department of Defense.

But the biggest reason—every time I try and track one of these things down, what has really happened is somebody has a stack of papers they want to get through. They have no idea that the numbers are even used by anybody. They just know they need to get through it. So they put in whatever will make the program move forward to the next thing, and they kind of learn how to do that.

If they don't think the data is valuable, I can surely understand why they are putting in inaccurate data, and that happens really frequently. This doesn't happen hugely frequently, but when there are problems, that is very frequently the source of it, as opposed to some sort of conspiracy to have the data show something which it isn't showing. We are not clever enough to be good conspiracists to be honest with you. Anyway, that is the way that I say the problem is exaggerated.

Mr. JENKINS. Yes, I have to tend to agree with Linda. We have looked at the data, for example, in the 2005 small business procurement data, and when we went back to the various federal agencies we had to reduce the amount of achievements by about $5 billion. The large amount of that was due to, as Linda said, data entry errors.

We have found just minimum amount of cases where someone deliberately said, "I am a large business, and I am going to certify myself as small." We also had to change the entire process. In years past, prior to 2007, if you were a large business, and you purchased a small business, that contract was hardwired forever to still show up as a small business contract.

We changed that rule in 2007 to say within 30 days of a large business purchasing a small business, that entity has to recertify to the contract and also that they are still small or that they are other than small. Then the contracting officer can no longer get credit as small business.

We also have some mechanisms in place, if a small business believed that someone won a contract on a small business set-aside and they are not small, they can protest that to SBA, and we have staff throughout the country that process those protests.

We also do ongoing certification reviews of firms within the 8(a) Program. We are required to do annual reviews to ensure that they are continuing to be eligible. As I mentioned earlier, we are revitalizing or changing the entire HUBZone Program to put more integrity in that program and minimize the risk of someone setting up a storefront in an underutilized area and really don't qualify for the program.

Also in the service disabled veterans program, there is a protest mechanism as well. So we have staff in place that are reviewing those and certainly, if any small businesses have some concerns or we can identify a firm they have concerns, we will certainly look at those.

Mr. ANDREWS. Thank you, Mr. Ellsworth.

Chair recognizes Mr. Cooper.

Mr. COOPER. Thank you, Mr. Chairman. I would like to explore with Ms. Oliver the earmark situation.

Ms. OLIVER. Okay.

Mr. COOPER. You mentioned a figure of 12 percent, what is that 12 percent of?

Ms. OLIVER. I need to get you, probably, a better figure.

[The information referred to can be found in the Appendix on page 49.]

Ms. OLIVER. The number is probably accurate, but the composition of the number may be not completely accurate. Under not available for competition, we look at not available for competition, the number—and these are the 2008 numbers—the number is 12.69 percent.

I don't know if I can break it out where you can go back to the folks who gave me the numbers and break that specifically, you know, which subcategories that falls into. I know earmarks is——

Mr. COOPER. So this would be a total Pentagon small business procurement?

Ms. OLIVER. Yes.

Mr. COOPER. Or total Pentagon procurement or——

Ms. OLIVER. But small business.

Mr. COOPER. Small business.

Ms. OLIVER. Yes.

Mr. COOPER. Okay. So 12 percent of that universe is not available for competition because it is a congressional earmark?

Ms. OLIVER. It is not available for competition. A good portion of that will be an earmark, but I don't know what the proportion is. I don't know what is in that whole category. I mentioned earmarks to Chairman Andrews because we were going through a list of reasons they might not be competed, and one of the ones that he had not thought about was earmarks.

Mr. COOPER. So this category is not only not available for competition it is also not subject to regular small business rules, right? They can bypass all those rules?

Ms. OLIVER. With an earmark you mean?

Mr. COOPER. Yes.

Ms. OLIVER. Yes, we do whatever you tell us to. I mean, you make the law.

Mr. COOPER. And so it doesn't have to be a small business or a minority business——

Ms. OLIVER. No.

Mr. COOPER [continuing]. Or a disadvantaged business——

Ms. OLIVER. No.

Mr. COOPER [continuing]. Or a woman-owned business or anything like that?

Ms. OLIVER. No.

Mr. COOPER. It doesn't even have to be a small business?

Ms. OLIVER. No.

Mr. COOPER. It can be a large business?

Ms. OLIVER. Absolutely.

Mr. COOPER. And the Pentagon doesn't even necessarily need what they are producing?

Ms. OLIVER. All that is true.

Mr. COOPER. So this is very curious category here. Has that category been growing or shrinking in recent years?

Ms. OLIVER. I don't know but I definitely can——

Mr. COOPER. Find that out for me?

Ms. OLIVER [continuing]. Find that out for you, and I would be happy to.

[The information referred to can be found in the Appendix on page 49.]

Mr. COOPER. Is there any record of the usefulness or the viability of these earmarks and the services they produce? You said you didn't want to assume that Congressmen didn't know what they were doing, but some of us might assume that. [Laughter.]

Ms. OLIVER. It is very hard to—I don't—that is one that I wouldn't know how to help people get at because usefulness is sort of in the eyes of the beholder. If we could think of a way, an indication of what might mean not useful and, you know, some way to tag it to the data system, I can get people to look at those tags.

Mr. COOPER. But these are specific businesses that are mentioned by name in the legislation or in the report language?

Ms. OLIVER. Yes, there is a——

Mr. COOPER. They get the money.

Ms. OLIVER. Yes. There is a—and it isn't even a report. At least last year there was a list that was specific. I mean, it was so that we could clearly understand what Congress wanted us to do and——

Mr. COOPER. And we are talking here——

Ms. OLIVER [continuing]. A version of greater than——

Mr. COOPER [continuing]. Just in the DOD area because earmarks exist in many other areas as well, but now we are just talking about national defense?

Ms. OLIVER. That is, last year, the appropriation I paid attention to. I can't—I don't know for sure about the other areas, the other appropriation acts.

Mr. COOPER. So essentially we have a small business program here in DOD, and then we have this earmark program which may or may not be small business?

Ms. OLIVER. Well, let me tell you how we arrived at those numbers because I have misled you I am afraid. We looked at contracts awarded to small business, and then we put those into pockets, into categories.

Mr. COOPER. Okay.

Ms. OLIVER. And of contracts awarded to small business, about 77 percent of them were competed. If we look at the other—whatever the number is—17—27—whatever the rest of it is, if we break that number down, two of the categories are not available for competition and another category—the two biggest other categories are not available for competition and not competed.

Mr. COOPER. So you were just referring to the earmarks that went to small businesses?

Ms. OLIVER. Yes.

Mr. COOPER. And there is another larger universe of earmarks probably that went to other businesses.

Ms. OLIVER. That is right. I was only focused on small business numbers.

Mr. COOPER. Do you think——

Ms. OLIVER. I don't know whether—from a percentage standpoint, I don't know whether small businesses or other than small businesses get the higher percentage of earmarks. My very partisan in favor of small business guess is that the "bigs" aren't as competitive and get more earmarks, but, I mean, that is maybe just wishful thinking.

Mr. COOPER. I see my time is expiring. If I could have one more question to Mr. Jenkins. He had mentioned that SBA is thinking of raising the size standards for small business so that more capacity could be in that category? Was that——

Mr. JENKINS. Well, I don't want to necessarily say raise it. We were doing a comprehensive review of all of the size standards and some—and in a number of industries we will certainly see that they will go up.

Mr. COOPER. Yes. Is this kind of like the super-size me approach, so no longer we are talking about small business, but you are going to go for medium-sized businesses, too, and we will have a medium-sized business program?

Mr. JENKINS. Well, no. Hopefully—that is not our aim and that has been our challenge is to strike that balance. A lot of our data and a lot of our analysis is dependent on federal procurement. Our size standards also apply to our lending program as well, and so it is a very extensive analysis.

We spent a lot of time developing the methodology, and we have listed the methodology out there for the public to review that as

they submit their comments. And certainly we expect some comments to come in and say, hey, your methodology might be flawed or that you raised these standards too high and here is the reasons why. And certainly we are open to look at those.

Mr. COOPER. I thank the Chair.

Mr. ANDREWS. Thank you, Mr. Cooper. I do have a couple of follow-up questions. Do any other members have, and Mr. Coffman, would you have any follow ups?

Mr. COFFMAN. Well, Mr. Chairman, one of my military legislative assistants raised the prospect, Ms. Oliver, that the DOD does have some discretion on earmarks up or down in evaluating their efficacy. Could you respond to that now or get back to the committee later on with that?

Ms. OLIVER. Yes. The Department of Defense has some discretion about following or doing what is an earmark. It is the discretion you have given us because we have to do exactly what you tell us to do, but particularly on spending money.

There is less flexibility with spending money. I mean, there may be—I am not quite sure—I probably am not completely sure what—your staffer is thinking of something, and I am not meeting—I am not thinking of what it is.

Whoever is wondering didn't just make it up out of this. There is something there, but I don't know what it is. I don't know what to address.

Mr. COFFMAN. Maybe that is something——

Mr. ANDREWS. Would the gentleman yield? I wonder if Ms. Oliver would—my understanding is there is a distinction between statutory language——

Ms. OLIVER. Yes.

Mr. ANDREWS [continuing]. "The DOD shall spend the billion dollars on X."

Ms. OLIVER. Right.

Mr. ANDREWS. And report language which is directive with respect to an existing program element (PE) number, where if there is a PE number that has a billion dollars in it, and the committee in its report says the committee directs, urges—there is various permutations of this—the committee directs that money be spent to buy widgets. My opinion is you would have a lot more discretion over that because it is not a statutory direction. I think that may be what we are getting at here.

Ms. OLIVER. That makes sense, yes. I think that is probably true.

Mr. ANDREWS. Although I think the custom has been to treat that report language as directive, it has not been a universal or exhaustive practice, something we ought to think about in how we conduct our business.

Mr. Ellsworth, did you have any follow up?

Ms. Oliver, I did have a question on SBIR——

Ms. OLIVER. Yes.

Mr. ANDREWS [continuing]. Which we think is a very valuable tool, not only in expanding small business opportunities, but putting us on a much sharper cutting edge for the kinds of products that we buy.

I am particularly interested in the Pre-Milestone A material acquisition area, where we have a material solution process going on

within the Department. We are Pre-Milestone A. The reason I ask this question is that I think evidence, anecdotal evidence has shown some really terrific ideas to come out of small businesses in that phase.

But once we get beyond A and certainly when we get beyond B, almost by definition, the small businesses are in very deep water and don't have a chance to contribute as much. What mechanism do we have in place Pre-Milestone A in these material solutions contexts, to make sure that there is an active outreach effort to the small business that may have a great idea but not a whole lot of capital to develop it? How do we do that?

Ms. OLIVER. Well, that is one of the things we are working on. To be honest with you, we need to do a better—we in the Department of Defense have to do a better job than we are doing in making program managers understand that if there is an SBIR product or almost product, they need to consider it.

It is so hard to put a program together, and there are so many——

Mr. ANDREWS. Yes.

Ms. OLIVER [continuing]. Things to think of. I do understand why a program manager might say, "I don't want to hear anything more about anything. I am overwhelmed here. I am overloaded." Well, we have to do a better job in helping them understand——

Mr. ANDREWS. How does the program manager educate himself or herself about those possibilities? Let me use an amateur example, but——

Ms. OLIVER. Okay.

Mr. ANDREWS [continuing]. If I am in charge of a material solutions process, I know there are certain vendors to whom I can go, the biggies, as you call them, that probably have a dog in the hunt.

Ms. OLIVER. Yes.

Mr. ANDREWS. But I am just not going to be aware of a five-person company spun off of Stanford University or Massachusetts Institute of Technology (MIT) or Cornell——

Ms. OLIVER. Yes, yes.

Mr. ANDREWS [continuing]. Regulars. How—and I don't expect these program managers to spend their whole day looking for those. That would be pretty inefficient. How do we set up—this is not a rhetorical question—how do we set up a system where he or she can be aware of the creative, entrepreneurial, dynamic, small decisionmakers out there? How do you do that?

Ms. OLIVER. It is function of resources.

Mr. ANDREWS. Yes.

Ms. OLIVER. Not to get off on a hobby horse, but the SBIR program is almost unique, not completely, but almost unique in that you may not use program funds to administer the program.

Mr. ANDREWS. Yes.

Ms. OLIVER. That makes things like helping program managers understand what is out there, that makes it sort of a luxury in a way for the program managers. The Department of Navy has done a good job on it.

Mr. ANDREWS. Yes.

Ms. OLIVER. And there are——

Mr. ANDREWS. So if our rules say that all of the SBIR money must go for contracts and grants to the recipients——

Ms. OLIVER. That is correct.

Mr. ANDREWS [continuing]. But you have got to eat the overhead through some other aspect of your budget basically?

Ms. OLIVER. I didn't hear the last.

Mr. ANDREWS. How—the overhead to——

Ms. OLIVER. Yes.

Mr. ANDREWS [continuing]. To give the money out——

Ms. OLIVER. Yes.

Mr. ANDREWS [continuing]. Has to come from some other pool of money?

Ms. OLIVER. Yes.

Mr. ANDREWS. Would you favor and, you know, not speaking for the Department, just your professional opinion as someone who knows this area, would you favor a small administrative set-aside in SBIR that would give the program managers some support for that?

Ms. OLIVER. Yes. I think you have to have money to run a program well.

Mr. ANDREWS. I mean, my instinct would be that the savings would be multiples of the set-aside. If you had some program support for the small business—for the program manger in the material solution context, to find the five people at Stanford that have a great idea about this, that even if they don't wind up awarding the contract to that enterprise, the competition that would be stimulated would probably bring the price down of the contract they would eventually award and maybe sharpen the competition in a qualitative way as well.

Ms. OLIVER. Absolutely.

Mr. ANDREWS. You would agree with that idea?

Ms. OLIVER. Absolutely I do.

Mr. ANDREWS. Well, ladies and gentlemen, we have really benefited from your hard work and preparation for today. And as I say, I start with the presumption that competition enhances value and that broader small business participation enhances competition.

I think it would behoove us, wherever we can, to put empirical data behind those suppositions because it would then give the committee the intellectual heft, as it were, to make the argument that there should be some changes in the law that would benefit small businesses and benefit the country.

So we are interested in whatever you can do to supplement the record. A number of members asked questions that would help us do that. And as we proceed in this process, the panel during the end of this calendar year and early of next year, is going to be meeting to consider a series of recommendations, which will take the form of a report which will hopefully then take the form of legislative language in the fiscal year 2011 authorization bill.

We would welcome your input into that process, that we would hope that your participation would not end with today's hearing but, in fact, would begin with it.

Again, we thank you for your involvement. I thank my colleagues, and the hearing stands adjourned.

[Whereupon, at 8:58 a.m., the panel was adjourned.]

A P P E N D I X

October 29, 2009

PREPARED STATEMENTS SUBMITTED FOR THE RECORD

OCTOBER 29, 2009

House Armed Services Committee
Panel on Defense Acquisition Reform
Chairman Robert Andrews
Statement for the Record

Hearing on: *Can DOD Improve Innovation and Competition in Acquisition by Better Utilizing Small Business?*

Today's hearing is the last in our series of 'hypothesis' hearings examining the ways in which DOD sometimes loses value in defense acquisition. Our task today is to determine whether DOD can better utilize small business to improve innovation and competition in acquisition. Our hypothesis is that the Department can and should better utilize small business to access new innovative technologies and to enhance the discipline that competition brings to acquisition.

Most people intuitively understand that truly revolutionary ideas and technologies almost never come from the dominant firms in an industry. In some cases, those firms may actually generate some of these ideas, but their institutional interests and limits usually keep them from developing truly revolutionary products. So we are quite likely to find that the 'next big thing' in defense acquisition will be something developed by a small firm or a non-traditional defense supplier. How do we create a defense acquisition system where DOD is able to identify and take advantage of these breakthroughs? In an era when DOD is hoping to acquire innovative technologies faster and cheaper, it seems highly likely that small businesses will need to play a significant role.

Innovation is not the only reason to believe that better small business participation in defense acquisition can improve DOD's outcomes. The sheer size and complexity of today's largest defense firms can create a host of organizational conflicts of interest and can make it difficult for them to meaningfully compete with one another. Properly structured acquisition programs, as mandated by the Weapon Systems Acquisition Reform Act of 2009, can allow for smaller firms,

including small businesses, to bring their independence to the contracting process and to increase competition for significant elements of defense acquisition.

The Department of Defense, like the Federal Government as a whole, has a suite of programs in place to support and assist small businesses. Our question today is do those programs posture us in the most productive way to capitalize on the advantages of small business in defense acquisition.

Statement of Rep. Conaway

Hearing of the

Defense Acquisition Reform Panel
on

"Can DOD Improve Innovation and Competition in Acquisition by Better Utilizing Small Business?"

October 29, 2009

Good morning, Mr. Chairman, ladies and gentlemen. I would like to thank our witnesses for taking time out of their busy schedules to be with us this morning.

Our panel has held hearings on everything from DOD's role in tackling the challenges facing the industrial base; to Information Technology contracting to last week's hearing where we looked at auditing. I find it very appropriate, that with today's subject, we are going from Wall Street to Main Street. Very few Members of Congress have large Multi-National companies in our districts. But every one of us has some form of small business in our district.

I realize that today's hearing will focus on the Department of Defense's utilization of small business to improve innovation and competition in defense acquisition. It's no secret that it can be very challenging for small business to participate in the Defense Acquisition process. And we are very fortunate to have some expert witnesses in front of us today to help us understand how we can continue to help small businesses to successfully participate in the system.

One question that I get asked from small business is in regards to small business set-asides. And I hope to learn more about this today, but are there specific metrics which leads to the inclusion or exclusion of small business set-asides in a Request for Proposal (RFP) and are set-asides more prevalent in product development type contracts or maintenance and repair type contracts?

I look forward to learning more from our witnesses.

Thank you Mr. Chairman.

TESTIMONY

of

Linda B. Oliver

Acting Director

Office of Small Business Programs

Office of the Secretary of Defense

U.S. Department of Defense

Before the

U.S. House of Representatives Armed Services Committee

Defense Acquisition Reform Panel

Hearing on

"Can DoD Improve Innovation and Competition in Acquisition by Better Utilizing Small Business?"

October 29, 2009

HOLD UNTIL RELEASED BY THE COMMITTEE

Linda B. Oliver
Acting Director, Office of Small Business Programs
U.S. Department of Defense

Good morning Chairman Andrews, Ranking Member Conaway, and Committee Panel Members. I am Linda Oliver, Acting Director of the Office of Small Business Programs of the Department of Defense.

Thank you for inviting me to address the ways in which the Department of Defense (DoD) can improve innovation and competition in acquisition by better utilizing small businesses. The first key word – innovation – is what small businesses do best. The second topic – competition in acquisition – is the primary reason we nurture small business activities in the Department of Defense.

Competition and Small Businesses

The Competition in Contracting Act has become a pillar of Federal Government procurement because competition effectuates sound public policy. Small businesses are the gears that keep competition going. They compete with other small businesses; as a result DoD benefits from better prices and better services. They grow and challenge mid-sized companies; thus DoD benefits because the industrial base is strengthened. Perhaps most importantly, their fresh ideas directly challenge the technology, processes and practices of the large contractors. DoD benefits from having the large prime contractors reminded that DoD is not a captive customer. In short, competition from small businesses helps provide the best services, supplies and equipment to our nation's Warfighters while also providing the best value to the taxpayer. Hence, supporting small business supports competition and is good public policy.

In addition to the indirect support small businesses provide to the public policy that supports competition, most procurements that are set aside for small businesses are, in fact, competed among small businesses. Recently my office conducted a review of contracting records for Fiscal Year (FY) 2008 from the Federal Procurement Data System-Next Generation (FPDS-NG) and looked at the results of competed small business contracting actions. Total eligible contracting dollars for all of DoD in FY 2008 was $329.2B. Of this amount, a total of $61.3B in funds was awarded to small business. This represents 19.86 percent (per SBA final adjustment) of the total eligible dollars. Of these FY 2008 small business contracting awards, over 77 percent were competed in full and open competition and competition among small businesses. This compares favorably to DoD's overall competition rate of 64 percent.

Improving Innovation

Napoleon said that an army travels on its stomach. These days, the biggest appetite of the United States military is for innovation. Since small businesses are commonly recognized as a particularly rich source of innovation, DoD frequently relies

Linda B. Oliver
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U.S. Department of Defense

on small businesses to power innovative initiatives. Two examples are the Small Business Innovation Research (SBIR)/Small Business Technology Transfer (STTR) Program and the DoD Mentor-Protégé Program.

Small Business Innovation Research Program (SBIR) and Small Business Technology Transfer (STTR) Programs

The SBIR/STTR Programs were established to help promote innovation and commercialization from small businesses through Federal research and development budgets. These programs are intended to harness the enthusiasm and innovation inherent in small, high-tech American firms to develop and commercialize critical technologies in order to meet the needs of our American and Allied Warfighters. This sector of our industrial base is a key element of our nation's military and economic strength, and is also often found at the heart of regional economic development or cluster initiatives.

The SBIR Program sets-aside a significant amount of funds for research and development for small businesses in a given year. For example, during Fiscal Year 2008 a total of 12,280 Phase I and 1,672 Phase II proposals were received and evaluated, and 1,826 Phase I and 1,072 Phase II contracts were awarded at an aggregate value of $1.2B dollars. Competition among small firms is used for all Phase I awards, which provides funds to explore an idea that could move to the second developmental phase,. Since an idea needs to pass through a careful competitive wicket, successful subsequent awards are sole-sourced.

Of course there are ways the SBIR/STTR programs can be improved. One measure of success for the SBIR/STTR programs is the degree to which the ideas from the program are incorporated into products – and since we are the Defense Department – we are particularly interested in weapons systems. The acquisition of major systems is governed by DoDI 5000.02, "Operation of the Defense Acquisition System." There are approximately 70 active major defense acquisition programs, and these are managed by major program managers who are typically assigned upon consent of the Service Acquisition Executive. DoDI 5000.02 governs the requirements for achieving a successful milestone review, and major program managers adhere closely to its mandates. Two of the key documents required for these programs are the Technology Demonstration Strategy and the Acquisition Strategy. The SBIR Program is briefly mentioned in the document where it states, "[program managers] shall consider the use of technologies developed under the Small Business Innovation Research (SBIR) Program, and give favorable consideration to successful SBIR technologies." The commercialization success of SBIR/STTR technologies is largely dependent on the impetus from integration and use of SBIR/STTR technologies in DoD programs. Perhaps if there were more discussion about SBIR/STTR in DoD 5000.02, program managers might be more likely to incorporate SBIR/STTR technology into DoD programs.

Linda B. Oliver
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U.S. Department of Defense

Another area where the SBIR Program could be improved is in a relatively new pilot program. The Department is working to produce more SBIR commercialization projects in defense industries and other broader marketplaces. The military departments are implementing Commercialization Pilot Programs (CPP) under authority granted by the National Defense Authorization Act of Fiscal Year 2006 to accelerate the transition of SBIR-funded technologies to Phase III, especially into systems being developed, acquired and maintained for the Warfighter. The Army, Navy and Air Force are taking different approaches to this challenge. These efforts to date show promise with initial commercialization rates exceeding those of the broader SBIR Program. The Department may be able to improve overall commercialization success by applying the lessons learned from the CPP throughout the entire SBIR Program, as well as the STTR Program. However, we will need time and good data to determine the value of the approaches and improve upon them where appropriate.

Mentor-Protégé Pilot Program (MPP)

The Mentor-Protégé Pilot Program provides incentives for major Department of Defense contractors to furnish disadvantaged small business concerns with assistance designed to enhance their capabilities to perform as subcontractors and viable suppliers under DoD contracts and other federal government commercial contracts. The incentives received by eligible mentors are either a direct cost reimbursement or credit against subcontracting goals for costs incurred. The use of Federal dollars results in a high degree of accountability from the firms and from the MPP managers.

One measure of success of the program is to compare the size of contracts awarded to firms that have been through the MPP Program with the size of contracts to those that have not. Over the past five fiscal years the average size of contract awards to protégé small businesses has exceeded the average contract size awarded to non-protégé competitors by 270 percent.

Beginning in 2006 the Mentor-Protégé Pilot Program began changing its focus to concentrate on small businesses providing product and services in the science and technology industries. This resulted in higher scrutiny of potential Mentor-Protégé agreements and higher dollar value contracts awarded to small businesses in the MPP Program. As a result, while the number of new agreements awarded each year has been reduced, the newer mentor-protégé agreements have a more immediate impact on meeting the needs of our Warfighters.

The joint robotics initiative is a case in point. Warfighter driven capability requirements are the key factor in developing the unmanned systems technology focus areas that underpin the selection of protégés for the robotics initiative. Each mentor-

Linda B. Oliver
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U.S. Department of Defense

protégé team is assigned a key technology focus area that exploits the protégé's strengths and does not duplicate technology or capabilities but rather complements other mentor-protégé efforts. As a result several mentor-protégé teams have formed partnerships to package their technologies into an integrated solution.

Barriers to Small Businesses

Uncertainty of Priorities

As you know, Congress has directed Departments and Agencies to give special attention to certain specific subsets of small businesses. These subsets are small businesses owned and operated: by socially and economically disadvantaged people; by women and by veterans who have service connected disabilities. Additionally, there are special provisions for small businesses located in historically underutilized business zones, and the Small Business Administration has a business development program commonly called the 8(a) program (named for the section of the regulation that describes the program).

We value these special categories and we have policies that provide particular consideration of these small businesses. However, each new category can itself be a barrier to achieving other goals set by Congress as the criteria for each of the various categories are not necessarily consistent. Multiple categories/socio-economic programs compete for the same pool of acquisition dollars. Each new category creates complexity for both contracting officers and program managers, decreasing the likelihood that they will be able to complete the actions necessary to award contracts to qualifed small businesses in any of these categories.

Until recently, additional uncertainty existed due to a Government Accountability Office (GAO) opinion, issued as a result of a bid protest, that is in direct conflict with a regulation promulgated by the Small Business Administration (SBA). The GAO opinion would have limited the discretion of contracting officers to award contracts under certain programs for small businesses, including small businesses owned by service-disabled veterans. In August, the Department of Justice issued an opinion on this issue, concluding that the GAO incorrectly interpreted the Small Business Act and reaffirming the validity of the SBA regulation. Congress recently made clear that the Department of Justice, and not the GAO, accurately construed the Small Business Act. The Statement of Managers to the Conference Report on the National Defense Authorization Act for Fiscal Year 2010 (H.R. 2647) "direct[ed] the Secretary of Defense to continue to administer" the small business program at issue "in a manner consistent with the Department of Justice opinion." With the legal uncertainty created by the GAO bid protest decision thus resolved by Congress, DoD hopes and expects that GAO will no longer sustain further bid protests on the basis of GAO's prior and now-repudiated reading of the Small Business Act.

Linda B. Oliver
Acting Director, Office of Small Business Programs
U.S. Department of Defense

Size of the Small Business Workforce

Identifying opportunities for small business participation in DoD acquisitions is the responsibility of the acquisition team that includes a small business specialist, who advises program managers and contracting officers and assists in developing and formulating the acquisition plan. For example, when a Program Manager for a major defense acquisition program develops his/her acquisition strategy in preparation for a milestone review, a small business specialist is assigned to the acquisition and is responsible for conducting market research, reviewing subcontracting possibilities and proposing strategies that will allow for maximum practicable opportunities for small businesses. The same holds true for all other acquisitions in the Department. The Department currently provides training and support to ensure that the skills, knowledge, and abilities of the small business specialists are sufficient to meet mission needs. We are studying the supply and demand for these individuals and will work to ensure that we have the right strategy for utilization of their skills .

NAICS Code Size Standards

The existing industrial size standards that are used predominantly by the Department of Defense may need to be reviewed. Nearly all of the size standards important to DoD may also need to be updated. The size of our procurements and the businesses within the relevant industries have grown making a review necessary. From my experience, too frequently, the minimum infrastructure required to perform a DoD contract is more than a small business will be able to perform; too frequently, small businesses lose their status as small before they become self sufficient.

The Department and the Small Business Administration are studying the current size standards and ways to make contracting more efficient. We need a clearer picture of the magnitude of the relevant issues and we need to identify possible solutions.

Conclusion

Small businesses enhance competition. Their efforts help DoD get the best value for our taxpayers while obtaining the best products and services for our Warfighters. Small businesses are also a well-spring of innovation and technology advancement. The SBIR/STTR Program and the DoD Mentor-Protégé Program are rich in examples of innovative products and services.

Although small business programs make important contributions to our military in support of our Warfighters, some things within the acquisition and procurement arena could be improved. Conflicting exhortations and resultant misunderstandings that

Linda B. Oliver
Acting Director, Office of Small Business Programs
U.S. Department of Defense

involve parity and the setting of priorities among the various subsets of small business categories are harmful; the acquisition community needs clear and consistent direction. Finally, we believe that the existing NAICS code size standards are not serving DoD as well as they might. We are studying the extent of this problem.

Thank you. I would be pleased to answer your questions.

Ms. Linda B. Oliver
Acting Director, Office of Small Business Programs
U.S. Department of Defense

Ms. Oliver became the Acting Director of the U.S. Department of Defense Office of Small Business Programs on January 21, 2009, serving in the position for the second time. (She also "acted" from December 2006 until May 2007.) She began her tenure at the office as Deputy Director in December 2001.

The office she leads is responsible for establishing and enforcing Department of Defense policies so as to provide maximum practicable opportunities for small businesses to successfully compete for Defense contracts. Achieving this central goal entails advising the Office of the Secretary of Defense on small business matters, working with the military departments and with the Defense agencies to ensure that the policies and programs established by the Defense Department are properly carried out, as well as working with industry groups to improve contracting and subcontracting opportunities for small businesses. She also coordinates with the leaders of other Federal organizations on small business matters and she advises members of Congressional staffs.

Linda previously served in the Office of Management and Budget where she was the Associate Administrator for Procurement Law, Legislation and Innovation in the Office of Federal Procurement Policy. When the Administrator position was unfilled or when the Administrator was unavailable, she was Acting Administrator. In her Associate Administrator position, she advised on procurement policy for the Federal government. She and her staff reviewed all Federal procurement legislation, Executive Orders and regulations, in addition to dealing with issues concerning labor, economic and social programs and international matters related to Federal procurement policy.

Ms. Oliver began her Federal Government career as an attorney with the U.S. Department of the Navy. During most of her Navy service she specialized in Federal procurement law. Her positions included a tour at the Pentagon, where she was Assistant General Counsel at the Office of the General Counsel advising on contract claims resolutions and a tour at the Naval Air Systems Command where she provided contracting advice to program managers. She also served as Counsel at the Naval Criminal Investigative Service. She has additionally held attorney positions at the Naval Research Laboratory, the Naval Electronic Systems Engineering Center, San Diego, and at the Office of Naval Research. Prior to joining the Government, she was in private practice in Honolulu, Hawaii and in Bremerton, Washington.

She has been a member of the Senior Executive Service since 1998. Her honors include Presidential Rank Award of Meritorious Executive and the U.S. Department of the Navy Superior Civil Service Medal.

TESTIMONY

Of

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

Before the
U.S. House of Representatives Armed Services Committee
Defense Acquisition Reform Panel

Hearing on
"Can DoD Improve Innovation and Competition in Acquisition by Better Utilizing Small Business?"

October 29, 2009

Chairman Andrews, Ranking Member Conaway, and other distinguished Members of this Committee, thank you for inviting me to testify about the U.S. Small Business Administration (SBA) and its small business procurement related programs and the importance of small business participation in the Federal procurement arena. I am Calvin Jenkins, Deputy Associate Administrator for Government Contracting and Business Development.

A key part of SBA's mission is to ensure that small businesses receive a fair opportunity to participate in the Federal procurement arena, including small businesses owned by women, service-disabled veterans, those that are socially and economically disadvantaged individuals, and small businesses located in Historically Underutilized Business Zones (HUBZone).

This mission is important because Federal procurement is a significant market for small businesses to sell their products and services and contribute as a driver to our economy. Small business is flexible, creative and innovative. They represent 99.7 percent of all employer firms and have over half of all private sector employees. Small businesses have generated the majority of net new private sector jobs over the past 15 years.

Through SBA's various government prime contracting and subcontracting programs, the SBA provides policy direction and guidance to Federal procuring agencies and works with them to develop acquisition strategies that will help to increase opportunities for small businesses in Federal procurement. The SBA facilitates this working relationship with the Federal procuring agencies by serving as an active member of the Chief Acquisition Officers Council and chairs the Small Business Working Group. The SBA also chairs the Committee of the Directors of Small and Disadvantaged Programs.

During the period of Fiscal Year (FY) 2000 through FY 2008, total Federal procurement increased from approximately $200 billion to more than $434 billion. The small business share increased from $44.7 billion to $93.3 billion. In addition, subcontracting dollars going to small business in FY 2008 totaled more than $64 billion. Thus, for FY 2008, prime contract dollars supported over 650,000 jobs within small businesses and subcontracts supported over 450,000 jobs.

For that same period (FY 2000 – FY 2008), contract awards to: small disadvantaged business increased from $7.3 billion to $29.3 billion, women-owned small business from $4.6 billion to $14.7 billion, HUBZone certified business from $663 million to $10.1 billion, and service-disabled veteran-owned small business from $554 million (FY 2001) to $6.4 billion.

Although these are significant increases in contract awards for small business, more work is still needed. The SBA recognizes the need to improve small business government procurement programs working closely with our Federal agency partners.

The SBA through its government contracting function is responsible for assisting small businesses in obtaining a fair opportunity to participate in government procurement through a variety of programs and services. A key tool in this effort is SBA's statutory mandate to establish small business procurement goals with each agency at the beginning of the fiscal year in line with meeting the government-wide goals. The government-wide goals for prime contracting include 23 percent for small business, 5 percent for small disadvantaged business, 5 percent for women-owned small business, 3 percent for service-disabled veteran-owned small business, and 3 percent for HUBZone certified small business. SBA is also required to report on agencies' achievements in meeting their goals, as well as their plans on how to achieve goals that have not been met. SBA has established a Small Business Procurement Scorecard to do this and it is publicly available on SBA's website.

Regarding contracts awarded under the American Recovery and Reinvestment Act, Federal agencies, including the Department of Defense, have done a good job so far in meeting those goals. Currently, contract dollars to small business is above 26%. The socioeconomic achievements are: 6.9% for HUBZone, 3.9% for service-disabled veteran-owned, 4.4% for women-owned small business, and 10.5% for small businesses owned by individuals that are socially and economically disadvantaged.

To help agencies meet or exceed their small business contracting goals, SBA has embarked on a number of regulatory and administrative initiatives that we believe are necessary to create the environment that will encourage Federal procuring agencies, including the Department of Defense, to increase procurement opportunities for small business. These initiatives include proposed changes to the 8(a) Business Development Program to ensure that it operates more efficiently and that benefits of the program are provided to those companies that are truly eligible. We are also undertaking a comprehensive review of the small business size standards for all of the NAICS codes to

ensure that they are at the appropriate levels. Further, we are conducting a business process re-engineering effort to minimize risk and streamline the HUBZone certification process. Also, OMB is currently reviewing the SBA's proposed regulations for the women-owned small business procurement set-aside program.

Our field staff, which is another key tool in our delivery of small business procurement assistance, is organized into six Area Offices: Boston, Philadelphia, Atlanta, Chicago, Dallas, and San Francisco. These offices are responsible for overseeing and directing the activities of our Procurement Center Representatives, Commercial Marketing Representatives, Small Business Size Specialists, Industrial Specialists and Natural Resources Sales Specialists.

Procurement Center Representatives (PCRs) are stationed at major Federal procuring activities and are responsible for increasing small business opportunities in the Federal procuring process. PCRs work with Federal procuring officials at the early stage of the procurement process to explore and develop creative and innovative ways to increase small business participation. PCRs review all proposed major unrestricted procurements and bundled requirements, and recommend procurement strategies that will maximize opportunity for small business to participate as prime contractors. The SBA encourages small businesses to team together and to establish strategic alliances, joint ventures, and participate in a mentor-protégé program to better position themselves for increased procurement opportunities. In addition to SBA's 8(a) Mentor-Protégé program, the Department of Defense (DOD) has a Mentor-Protégé Pilot Program that leverages major DOD contractors to provide disadvantaged small businesses with assistance to increase their capabilities to perform as subcontractors and suppliers under DOD contracts.

Two other programs that help contribute to small business innovation are the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs. Both the Senate and the House have passed bills to reauthorize these programs, and the Administration agrees with leaders in the small business community that a final bill needs to provide a long-term reauthorization.

SBIR requires federal agencies with over $100 million in R&D spending to set aside 2.5 percent of those funds for SBIR grants and contracts that are competitively awarded to eligible firms for early stage R&D. In Fiscal Year 2007, the 11 agencies participating in SBIR provided about 5,500 federal grants and contracts for small businesses, a $2 billion investment. STTR is similarly structured but with a 0.3 percent set-aside for federal agencies with over $1 billion in extramural R&D funding. Obviously, the Department of Defense is an active and crucial player in both of these programs because of the size of its R&D spending.

While programs like SBIR and STTR continue to thrive, we are concerned about new challenges which face small businesses that participate in the SBA's small business contracting programs. Currently, a conflict exists between the Government Accountability Office (GAO) and the SBA over the SBA's interpretation of the Small Business Act. The Department of Justice's Office of Legal Counsel has issued an

Opinion confirming the SBA's position and interpretation. Congress recently made clear that the SBA and the Department of Justice, and not the GAO, accurately construed the Small Business Act. The Statement of Managers to the Conference Report on the National Defense Authorization Act for Fiscal Year 2010 (H.R. 2647) "direct[ed] the Secretary of Defense to continue to administer" the small business program at issue "in a manner consistent with the Department of Justice opinion." With the legal uncertainty created by the GAO thus resolved by Congress, the SBA hopes and expects that the GAO will no longer sustain bid protests on the basis of the GAO's prior and now-repudiated reading of the Small Business Act. The SBA is continuing to work with the contracting officer community over this issue in order to assist each agency in implementing the Small Business Act and meeting its small business contracting goals.

Chairman Andrews and other distinguished Members of this Committee; thank you again for the opportunity to testify before you regarding our work to promote government contracting programs for America's small business, and I am happy to answer any questions you may have.

U.S. Small Business Administration

Biography

Calvin Jenkins
Deputy Associate Administrator for
Government Contracting & Business Development

Calvin Jenkins was appointed Deputy Associate Administrator for Government Contracting and Business Development by the Administrator of the U.S. Small Business Administration in October 2005. He is the Small Business Administration's top career senior executive for government contracting and business development programs. Mr. Jenkins is responsible for overseeing the administration of the umbrella office with jurisdiction over the Agency's offices of Technology, Size Standards, Government Contracting, Business Development/8(a), and Small Disadvantage Business Certification.

Prior to his current appointment, Mr. Jenkins served as the Deputy Associate Deputy Administrator for Capital Access at the U.S. Small Business Administration. In this capacity he was responsible for administering the Agency's commercial loan programs, the Certified Development Company (504) Program, Small Business Investment Company Program, and the Microenterprise Development Program. In fiscal year 2005, these programs had combined loan approvals totaling more than $20 billion.

Other management positions held by Mr. Jenkins includes the Associate Administrator for Field Operations, District Director for the Agency's Washington District Office, Associate Administrator for One Stop Capital Shops, Associate Administrator for Minority Small Business and Capital Ownership Development, Assistant, Administrator for Administration, and Director of the Office of Industrial Assistance.

Mr. Jenkins has been the recipient of several government service awards, including the Small Business Administration's "Distinguished Service Award" and the 1998 and 2004 Presidential Rank Award of "Meritorious Executive."

He is a native of New York and holds a bachelor's degree in economics and urban geography from the City College of New York.

DOCUMENTS SUBMITTED FOR THE RECORD

OCTOBER 29, 2009

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

January 19, 2010

The Honorable Robert Andrews
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Andrews:

This is in response to your recent letter regarding a question for the record resulting from the Panel on Defense Acquisition Reform of the House Armed Services Committee on Thursday, October 29, 2009.

The Small Business Administration has six Government Contracting related online courses designed to assist small business in navigating the Federal procurement process. These courses include the following topics:

1. A Veteran's Guide: How to Win Federal Contracts
2. Winning Federal Contracts: A Guide for Women Entrepreneurs
3. Recovery Act Opportunities: How to Win Federal Contracts
4. Business Opportunities: A Guide to Winning Federal Contracts
5. INSIGHT: Guide to the 8(a) Business Development Program
6. Government Contracting Workshop (Maine SBDC)

Each of these courses is free of charge and can be accessed at www.sba.gov/training/governmentcontracting. The Small Business Administration also encourages small businesses to access the Federal Procurement Data System-Next Generation. This is a database of Federal procurement that can be used by small business as a valuable tool to determine which Federal contracting agencies buys the product or services that the firm sells. In addition, the firm can also get information relating to the quantities and frequencies of the products or services being purchased. The Federal Procurement Data System-Next Generation is located at www.fpds.gov.

Thanks you for the opportunity to provide this information for the record and your continued support for small business. If you have any questions, please contact the Office of Congressional and Legislative Affairs at (202) 205-6700.

Sincerely,

Calvin Jenkins
Deputy Associate Administrator
Office of Government Contracting
and Business Development

Federal Recycling Program Printed on Recycled Paper

WITNESS RESPONSES TO QUESTIONS ASKED DURING THE HEARING

OCTOBER 29, 2009

RESPONSES TO QUESTIONS SUBMITTED BY MR. ANDREWS

Ms. OLIVER. The following is provided to identify the competitive break-down of dollars awarded to small businesses in FY 2008, based on information generated from the Federal Procurement Data System – Next Generation (FPDS–NG) as of September 22, 2009. Of the $62.027B awarded to small businesses, $24.9B or 40 percent of the dollars were awarded using full and open competition where competition was not restricted to small businesses. Another $23.2B, or 37 percent of the dollars were awarded using full and open competition after exclusion of sources which means competition is restricted in some manner, such as for small business set-asides. The remainder of the dollars awarded to small business were either not available for competition 12.69 percent or not competed 9.7 percent. A contract action is categorized as not available for competition in limited cases such as when a law specifies a particular source, sole source awards to 8(a), HUBZone or Service-Disabled Veteran-Owned Small Business concerns, international agreements, items bought for resale in the commissary, or utilities. Other non-competitive awards are reported as not competed. [See page 8.]

Ms. OLIVER. The following is provided in response to the question of whether there is a price differential realized when there is small business competition in the market place. The DOD Office of Small Business Programs relies on the data and reports that can be generated from the Federal Procurement Data System – Next Generation (FPDS–NG). For awarded contracts, FPDS–NG contains data elements that allow for reporting the dollar value of contracts awarded by DOD and other federal agencies. However, information in this database does not include the prices that the government may have received in the competition process from unsuccessful offerors. In addition, reports generated from FPDS–NG do not offer the opportunity to assess competition and pricing differences between full and open competition and those competitions that have been set aside for small business concerns (full and open competition after exclusion of sources). It should be noted however, that when a small business concern is awarded a contract under full and open competition, it is competing against all offerors, regardless of their size. FPDS–NG reporting for FY 2008, indicates that $24.9B or 40% of dollars awarded to small business concerns resulted from full and open competition and another $23.2B or 37% of dollars awarded to small business concerns resulted from full and open competition after exclusion of sources. These statistics support the premise that small businesses are price competitive in open market competitions. [See page 9.]

RESPONSES TO QUESTIONS SUBMITTED BY MR. COOPER

Ms. OLIVER. The following is provided to clarify what type of actions compose the 12 percent of dollars awarded to small business that are reported as Not Available for Competition. The DOD Office of Small Business Programs relies on the data and reports that can be generated from the Federal Procurement Data System – Next Generation (FPDS–NG). DOD contract awards that were made to small businesses in Fiscal Year (FY) 2008, total $62.027B. The 12 percent mentioned is actually 12.69 percent and represents the total amount of DOD contract awards that were made to small businesses that were reported as Not Available for Competition. This amount is $7.84B of the total. Contracts reported in this category include those where statute expressly authorizes or requires that the acquisition be made from a specified source or through another agency. For example, awards to Ability One, sole source awards to 8(a), HUBZone, or Service-Disabled Veteran Owned small business concerns. Awards authorized by statute comprised $7.7B of the dollars awarded to small business that were reported as Not Available for Competition, with the remainder reported as being authorized by international agreement. Contracts for earmarks do not automatically fall into this category. Unless law specifically requires procurement from a specified source, the buying office must compete a new contract for an earmark or justify a non-competitive award consistent with the exceptions authorized by the Competition in Contracting Act. [See page 14.]

Ms. OLIVER. We obtained data from the earmark database managed by Office of Management and Budget to answer the question whether earmarks have been grow-

ing or shrinking in recent years. The database reflects that in Fiscal Year (FY) 2008 there were 2,275 earmarks for DOD totaling $7.8B, down from 2,636 earmarks for DOD in FY 2005 totaling $9.3B. [See page 15.]

QUESTIONS SUBMITTED BY MEMBERS POST HEARING

OCTOBER 29, 2009

QUESTIONS SUBMITTED BY MR. CONAWAY

Mr. CONAWAY. I want to focus on small business set-asides in DOD contracting for a moment. In your experience, are there certain types of procurements—be it product development, maintenance and repair, etc.—that achieve stronger results with small business set-asides in them?

Ms. OLIVER. There is no specific area; small businesses are capable of providing and performing a wide range of products and services for DOD. Based on contract award data from the Federal Procurement Data System – Next Generation for Fiscal Year 2008, areas where small businesses achieve strong results include information technology, professional scientific, technical services and wholesale and retail trade.

Mr. CONAWAY. We have all seen and understand that resources are tight these days, and we all share a responsibility as stewards of taxpayer funds. In your experience, what level of savings do small business bids on DOD contracts achieve for the government and the taxpayer? Can you detail it in any specific way for us?

Ms. OLIVER. The Department maintains no data that would show the level of savings that small business bids achieve on DOD contracts. However, it is instructive to look at DOD contract awards that were made to small businesses in Fiscal Year (FY) 2008. These awards total $62.027B. Of this amount, forty percent, or $24.9B, are contracts that were awarded to small businesses under full and open competitions. This strongly suggests that small businesses are competitive and bring the best value to the taxpayer. It is also instructive to note that another $23.2B, or 37.4 percent of DOD contracts that were awarded to small businesses were competed under full and open competition after the exclusion of sources (i.e., set aside for small business). The total percentage of competed contracts for small businesses (both full and open and full and open after the exclusion of sources) is more than 77 percent. Competition among small business is valid competition that brings best value and savings to the taxpayer.

Mr. CONAWAY. Can you give us an idea what leads to the inclusion or exclusion of a small business set-aside in an RFP? As an example, the P–3 Orion, an airplane which is seeing extensive use in a vital role in Iraq, is currently the subject of a draft RFP for Programmed Depot Maintenance (PDM). The current draft RFP does not have a small business set-aside in it, yet the service is considering it for the final RFP. I am aware of small businesses that can perform this work for the Navy but would be shut out of the competition if there is not a small business set-aside included in the final RFP. Given the demand for these airplanes around the world, shouldn't we include a small business set-aside in the RFP that can serve as an additional source of repair for the Navy?

Ms. OLIVER. To clarify a potential misunderstanding derived from the question posed—the P–3 Orion RFP referenced is not for PDM (Phased Depot Maintenance), but for the maintenance, repair, and modifications of the Navy's P–3 aircraft. The Navy Program Office, PMA–290, recently completed a comprehensive review of six potential small businesses who expressed interest in the contract being designated a full or partial small business set-aside during the pre-solicitation Industry Day. The review was conducted using NAVAIRSYSCOM Sources Sought Process Guidebook to ensure a consistent methodology was used to evaluate the company's ability to meet minimum capability and capacity requirements necessary to meet the Navy's requirements. It is the assessment of PMA290 and the NAVAIR Procurement Contracting Officer that this contract is not suitable for set-aside to small business. However the evaluations and recommendation are still under review by the NAVAIR Small Business office (OSBP) and the Small Business Administration's Procurement Center Representative (PCR) as part of the Small Business Coordination Record (DD2579) process. Once recommendations are received from the OSBP and PCR, the contracting officer will make the final determination of the acquisition strategy.

Mr. CONAWAY. The Small Business Acquisition and Sustainment Tool (SbAST) is being conducted as a total small business set-aside by the USAF and specifically Warner Robins ALC. The contract requirements include maintenance, repair, modifications, upgrades, and enhancements for reliability, serviceability, maintainability,

and performance improvements for Air Force operated systems at Warner Robins Air Logistics Center. I recently spoke with the CEO of a small business DOD contractor who will be submitting his proposal in early November for SbAST. His enthusiasm for this type of RFP and the prospects it holds for his business and employees was clear. I wonder if you would comment on SbAST and whether this form of RFP, directed at Small Businesses, will continue to be utilized in DOD contracts?

Ms. OLIVER. The Small Business Acquisition and Sustainment Tool (SbAST) is being conducted as a companion contract which is a strategy developed by the Small Business Office at the Department of the Air Force. Under this approach two separate request for proposals (RFPs) are issued. One RFP is designated work set-aside exclusively for small businesses. The proposal is similar but may not be identical to the full and open RFP issued for the same general requirement using multiple award contracts. Companion contracts allow small businesses to compete against other small businesses for all task orders to be awarded under the companion contract. The contracting officer decides at the task order level whether a requirement is best suited to be competed amongst small business contract holders or by those who won contracts under the full and open request for proposal. The Department of the Air Force is considering the use of this strategy on other large service acquisitions.

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