



**TESTIMONY OF
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PRESIDENT**

NATIONAL SMALL BUSINESS ASSOCIATION

**AT A HEARING TO CONSIDER LEGISLATION UPDATING AND IMPROVING
THE SBA'S CONTRACTING PROGRAMS**

**BEFORE THE
COMMITTEE ON SMALL BUSINESS
U.S. HOUSE OF REPRESENTATIVES**

OCTOBER 4, 2007

Chairwoman Velázquez, Ranking Member Chabot, and members of the committee, my name is Todd McCracken, and I am the president of the National Small Business Association (NSBA), the oldest small-business advocacy organization in the United States. On behalf of NSBA, I would like to thank you for the opportunity to share my thoughts on federal small-business procurement and the need for legislation aimed at updating and improving the contracting programs of the Small Business Administration (SBA). I also would like to commend the Chairwoman, the Ranking Member, and the other members of the Committee for their sustained effort to work in a collegial and bipartisan fashion on a range of issues important to the small-business community.

Federal procurement is not just of singular importance to many small businesses—small-business participation is crucial to a healthy and competitive federal procurement process. Small businesses provide high-quality goods and services to federal-contracting agencies and infuse the federal procurement system with much-needed competition. In turn, the federal government invests in the most-dynamic and innovative sector of the U.S. economy. America's small businesses annually have generated 60 to 80 percent of the country's net new jobs over the last decade. Small businesses also “produce 13 to 14 times more patents per employee than their larger counterparts, and... these patents are more likely to be cited in other patenting applications,” according to a recent Small Business Administration Office of Advocacy working paper.

This unrivaled success has been achieved with less than adequate governmental support, however. Although small businesses comprise 99.7 percent of all employer firms in the U.S.,

employ half of all private sector employees, and are responsible for more than 50 percent of the country's private, non-farm gross domestic product, they only receive a fraction of federal contracting dollars and a tiny sliver of federal research and development investment. In FY 2006, for instance, small companies received 19 percent of federal contracting expenditures, according to data compiled by the respected research firm Eagle Eye Publishers. According to the SBA, the percentage of federal contracting dollars going to small businesses in FY 2006 was 22.8 percent—but even this is grossly insufficient. Even more disheartening is the paltry 4.3 percent of the federal research and development investment reserved for small business—despite the fact that small businesses employ more scientists and engineers than large companies (32 percent vs.

27 percent) and generate five times more patents per research and development dollar than large companies.

Small Business Contracting Goal

The *Small Business Reauthorization Act of 1997* established a government-wide goal of 23 percent of prime, federal contracts to be awarded to small firms. The small-business members of NSBA believe that this number—which the federal government continues to fail to achieve—is inadequate. Accordingly, NSBA was extremely pleased to see that *H.R. 1873, the Small Fairness in Contracting Act*—which was introduced by Representative Braley, Chairwoman Velazquez, and Ranking Member Chabot, unanimously passed by this committee, and overwhelmingly approved by the full House of Representatives—reflects this recognition and proposes raising the government’s small-business procurement goal to 30 percent of all federal contacts. NSBA also supports the bill’s stipulation that each federal agency will have an annual small-business procurement goal not lower than the government-wide goal.

Furthermore, NSBA was pleased that *H.R. 1873*’s increased small-business contracting goal would be benchmarked in relation to a more accurate and inclusive federal procurement tally, specifically one that finally incorporates contracts carried out abroad. The inexplicable exclusion of various kinds of contracts, such as those carried out overseas, has distorted the reality of federal small-business procurement for too long. The continued omission of certain types of contracts from the government’s small-business procurement calculations too frequently has resulted in escalating exclusions and creative bookkeeping rather than increased small-business contracting or even accurate data collection.

The small-business owners of NSBA believe that increasing the federal government’s small-business contracting goal should be the aim of all small-business owners and groups. In the long run, a myopic focus on increasing the set-aside of one preference group—usually at the expense of another—will not benefit America’s overall small-business community. In the past, such tactics have all too often resulted in the cannibalization of contracts of one small-business concern by another, rather than an increased share of the federal procurement pie for all small businesses. It is time for the small-business community to work together to achieve the broad goal of increasing the overall percentage of federal contracting dollars reserved for small business. There is truth in the saying that a rising tide lifts all boats.

Reliable and Accurate Data

A dearth of reliable and accurate small-business federal procurement data continues to undermine efforts to increase small-business participation in federal contracting. Time and again, it has been demonstrated that a large number of contracts ostensibly awarded to small businesses actually have been awarded to and carried out by large firms. A FY 2005 Office of Advocacy-sponsored study found that 44 of the top 1,000 small business contractors in FY 2002 were not, in fact, small businesses—and the small-business coded contracts they received totaled \$2 billion. The aforementioned exclusion of various kinds of contracts, such as those carried out abroad, also dilutes the accuracy of federal procurement data.

NSBA continues to support efforts to improve the accuracy and reliability of federal procurement data. While work remains to be done, NSBA has been pleased by the efforts of the SBA to work with federal agencies to identify and correct miscoding and anomalies in the federal contracting database. Disappointed but not surprised by the results of the SBA's first-ever Small Business Procurement Scorecard (Scorecard), NSBA is pleased that reality has been reintroduced to the system and looks forward to working with the SBA and the other federal agencies as they seek to meet their small-business contracting goals.

NSBA supports the new SBA regulation regarding small-business size-standard recertification following mergers, acquisitions, novation requests, and prior to any option being exercised. Agencies must not receive credit for small-business contracting when none actually has occurred, and contracts purportedly awarded to small businesses actually should be carried out by them. It is equally vital that these firms not

be penalized for their growth. NSBA opposes any effort to change the terms and conditions of contracts awarded to actual small businesses that grew beyond their small-business status during the duration of their contract. Small-business growth should not be penalized, especially if the growth is transitory and related only to the duration of a contract. Small businesses also must not be further saddled with onerous regulatory requirements, as they already disproportionately bear the burden of federal regulations and paperwork.

Elimination of Fraud

Large businesses are far too frequently the real recipients and executors of federal contracts ostensibly awarded to small businesses. Up to a third of the SBA's list of top 100 small business

contractors in 2005 were actually large businesses, according to a report from Eagle Eye Publishers. Additionally, more than 20 percent of the respondents to an NSBA survey reported losing out on a federal procurement opportunity that instead went to a large firm identified as a small business. Allowing large companies to masquerade as small for the purposes of obtaining the federal protections intended for the nation's small businesses is an affront to the will of Congress, a breach of the trust of the American people, and an infringement of the principles of fair play and competition. NSBA welcomes efforts to combat fraud in SBA's small-business contracting programs—including actions such as on-site verifications and geographical limitations and civil penalties for firms found to have falsely represented themselves as service-disabled, veteran-owned.

In addition to combating it, NSBA urges enforcement against companies committing fraud. Since 1988, the *Small Business Act* has provided for felony convictions up to 10 years, criminal fines of \$500,000, mandatory 3-year debarments, and forfeitures for companies determined by the SBA to have misrepresented their small-business status. Prosecutions under these provisions have been lacking, however, and the SBA rarely rules on whether companies have misrepresented their small-business status. This should change. NSBA urges prompt prosecution for companies found to have fraudulently claimed small-business status. NSBA also continues to advocate for increased authority for the SBA to disbar large contractors that fraudulently identified themselves as small businesses.

Alaskan Native Corporations

One cause of concern that unites most corners of the small-business community is the ever increasing amount of federal small-business contracting dollars going to Alaskan Native Corporations (ANCs) through the 8(a) program. According a GAO report issued last year, the federal government obligated \$1.1 billion in 8(a) contracts to ANC firms in FY 2004—up from \$265 million in FY 2000. Furthermore, \$876 million of the FY 2004 8(a) obligations were sole source contracts— up from \$180 million in FY 2000. The small-business owners of NSBA do not begrudge the ANCs this money, nor do they quibble with the intent of Congress to address the historical disadvantages of Alaskan Natives. The small-business owners of NSBA simply contend

that, at a minimum, the limitless, sole-source contracts for which ANCs alone are eligible should not count towards agencies' small-business procurement goals.

Conclusion

Despite being the world's largest buyer of goods and services, the federal government of the United States remains something of an unknown commodity to America's small businesses. Although they comprise 99.7 percent of all U.S. employer firms and employ half of all private sector workers, only 22.8 percent—less than a quarter!—of federal contracts went to small businesses in FY 2006, by the government's own calculations. Although they lead the nation in innovation and net new job creation, 17 federal agencies failed to meet their overall small-business procurement goals and at least two of their socio-economic goals in FY 2006, by the government's own account. From these numbers alone, it is obvious that the SBA's contracting programs are in need of improvement. NSBA thanks the Committee for attempting to provide some measure of remedy to this situation with the *Small Business Contracting Program Improvements Act of 2007*.