SUBCOMMITTEE ON CONTRACTING AND TECHNOLOGY HEARING ON IMPROVING CONTRACTING OPPORTUNITIES AND PREVENTING FRAUD FOR SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES

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SUBCOMMITTEE ON CONTRACTING AND TECHNOLOGY HEARING ON IMPROVING CONTRACTING OPPORTUNITIES AND PREVENTING FRAUD FOR SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES

Thursday, July 15, 2010

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:10 a.m., in Room 2360, Rayburn House Office Building, Hon. Glenn Nye [chairman of the Subcommittee] presiding.

Present: Representatives Nye, Critz, Ellsworth, Halvorson, Bartlett and Schock.

Chairman NYE. Good morning. I would like to go ahead and call this hearing to order. I am going to present an opening statement, and then I will offer the opportunity for other members of the Subcommittee to present opening statements, if they wish; then I will invite the panelists to give their opening remarks, and then we will start with the questions.

There are currently 26 million veterans living today in America. Nearly 100,000 of these veterans live in my district. And after years of service in Afghanistan, Iraq, Vietnam, Korea and across the globe, they have returned home to Hampton Roads, Virginia, and all across our country, ready to continue contributing to our community and to our country.

These brave men and women deserve not only our enduring gratitude, but the opportunities and tools to build a new life. One of the most important tools we have to accomplish this mission is the Service-Disabled Veteran-Owned Small Business Procurement Program.

During the last fiscal year, the initiative awarded $10 billion in contracts to service-disabled veteran small firms; however, in 2008, the last year the SBA released its contracting goal report, these awards accounted for only about 1.5 percent of all Federal contracts, half of the 3 percent statutory goal established in 1999.

Fortunately, we have recently seen an uptick in contracts with the enactment of the American Recovery and Reinvestment Act. The Recovery Act provides veterans with new avenues and opportunities to contract with the government. Service-disabled veteran small firms have reportedly received $1.4 billion in Recovery Act contracts. This totals over 4 percent of all Recovery Act funds. And, of all the agencies testifying today, with the exception of FEMA, all

have awarded more than 3 percent of their Recovery Act contracts to service-disabled veteran businesses.

While I am pleased with this increase in contracts, I remain skeptical. The sad truth of the matter is that it appears many agencies have been saying one thing, but actually doing another. Last October, the GAO released a report finding contracts are being diverted away from legitimate service-disabled veteran businesses to nonveteran businesses, including large corporations.

In May, I held a hearing in Hampton Roads to get a update from GAO on the actions taken against these firms. There was a bit of positive action. A janitorial service falsely identifying as an SDVOSB in a contract with the U.S. Forest Service did not have their option exercised, and their services were not renewed, and their contract was terminated after the initial performance period ended. Unfortunately, this action was more the exception rather than the rule. The GAO found that, since November 2009, that 10 fraudulent businesses received over $5 million in new service-disabled veteran business sole-source and set-aside contracts and over $10 million in other Federal contracts. The GAO also found that over half of these firms remained in the Federal Central Contractor Registration database, or the CCR.

This report is a frustrating indication of the deplorable state of Federal contracting programs. It is clear that there are no adequate controls nor consequences in place to deter fraudulent actions. We must take action now to ensure these abuses stop immediately. It is long past due to address the breakdowns in the veteran contracting program system. Over 11 percent of all Iraq and Afghanistan veterans are currently unemployed. Eleven percent. This number is unacceptable. It is essential that all veterans' resources are significantly better managed and better overseen.

As veterans are more likely to hire other veterans, programs like this one being discussed today are critical to reducing the unemployment rate in our veteran community. I think I speak for all the Committee members here today in saying that we will do whatever it takes to support our service-disabled veterans and ensure that they have the tools they need to succeed in today's economy.

I am committed to the goal of eradicating fraud in the Federal contracting system, and I have taken the first steps to fix this problem. Last November, I introduced the Service-Disabled Veteran-Owned Small Business Procurement Reform Act. This act will put in place control measures to ward against abuses in the system; and, once law, it will finally enact punitive consequences for those who attempt to circumvent the law at the expense of our veterans. It will also establish a team of representatives responsible for supporting veteran entrepreneurship on a local level, actually working in the field visiting these businesses and doing what we said we would do.

Today we are honored to have a panel of service-disabled veteran firms and advocates here to testify about their personal experiences navigating what appears to be a rigged system. I want to thank those witnesses and the witnesses on both panels for appearing before our Committee this morning.

[The information is included in the appendix.]

Chairman NYE. I would like to yield now to other Members who would like to make opening statements.

Mr. Bartlett.

Mr. BARTLETT. Thank you very much.

I am now pleased to be the longest-serving Republican on both the Small Business Committee and the Armed Services Committee. I am honored to have been able to represent Americans for the last 18 years in Armed Services and last 16 years on the Small Business Committee.

In a former life I was a small businessperson, and so I know the problems that small businesspeople have. I worked for the government, and I wrote RFPs, and then I moved out into the private sector where I responded to RFPs. So I bought both sides of that street.

More than half of all the employees in our country are employees of small businesses, and way more than half of all the creativity and innovation comes from small business because that is a better environment for that kind of activity. Most of our contracting is with large business, but we know in the government that we desperately need more small businesses because that is the source of most new creativity and innovation. But there are huge impediments for small business getting involved with the government. Lots of red tape.

I am very pleased with the success that we have had with these large number of special set-aside programs encouraging the government contractors to reach out to small businesses. It is particularly important to reach out to our ex-service people. Most, by the way, of our contracting is Department of the Armed Services. It is half of all of our discretionary spending, and way, way more than half of all of our contracting in all of the government is in the defense area. And so these veterans bring two things. One, they are small business people, but they are also veterans, and they understand that environment. And so we really need to reach out more to them. So I am pleased to be here today.

By the way, where there is fraud, that doesn't mean that the taxpayer didn't get something for his dollar. It just went to the wrong person. And every dollar that goes to a business which is not service-disabled is a dollar that didn't go to these people who really deserve it and who earned it.

So I am pleased to be here. Thank you for holding this meeting, and I look forward to the testimony.

Chairman NYE. Thank you.

Chairman NYE. I would like to recognize Mr. Ellsworth.

Mr. ELLSWORTH. Thank you, Mr. Chairman.

I think it was a year ago when we were here, at least last year, maybe not a full year ago, that GAO and Administrator Mills testified that this multibillion-dollar program designed to help small businesses owned by service-disabled veterans was being undermined by rampant fraud. I guess what was the most shocking to us was that there were very few, if any, safeguards built into this contracting, that they just didn't exist. And I am proud to work with you on legislation that you introduced to stop this type of fraud before it is ever awarded.

I know the GAO has recently released some strong proposals for stopping fraud before the contract is awarded, monitoring contracts to ensure continued compliance with the program rules, and aggressively investigating and prosecuting potential for fraud. I am hopeful we can implement these fraud protections, but I must say that I am concerned about the lack of progress. And, as we have seen on a lot of different fronts here, it seems like progress is very slow, especially in these areas. Some of our Federal agencies seem to have made an issue since the last hearing.

I think the worst part of this failure by our government agencies is that real service to our disabled veterans who have struggled to start and maintain a small business have literally been stolen from them by criminals trying to make a quick buck. And it is despicable this fraud has gone on this long, and I look forward to hearing real solutions from the panel today.

I would like to yield back, Mr. Chairman, but thank you.

Chairman NYE. I would now like to recognize Mrs. Halvorson.

Mrs. HALVORSON. Thank you, Mr. Chairman.

First of all, I would like to say that I am strongly supportive of the service-disabled veteran-owned small business program. And like so many of my colleagues on this Committee, I am proud to say that I also serve on the Veterans' Affairs Committee. And with unemployment for Iraq and Afghanistan veterans well above the national average, we need to support programs to support people like this who have served our country.

I am also very concerned that there is this fraud; and once fraud is found, there is no requirement for termination, suspension, disbarment, or prosecution, and there seems to be no parity.

Under current law, when Federal contracting officers award small business contracts, they usually and generally can choose between the SBA's different contracting programs, including a HUBZone and SDVOSB. But in a recent ruling, however, a Federal Court of Claims ruled that Federal contracting officers must favor HUBZone over other programs, including the SDVOSB. And if this ruling is applied throughout the Federal Government, there is going to be a significant reduction in awarding of the SDVOSB contracts. So I think with this problem, we are also working on legislation, which is H.R. 3729, that will clarify this parity problem. So I continue to work together to address fraud, to address parity, and to continue to work to make sure we address all of these issues.

So I commend all of us coming together, and I commend the chairman for bringing us together on this issue.

Chairman NYE. Thank you very much.

Chairman NYE. I would now like to recognize Mr. Critz.

Mr. CRITZ. Thank you, Mr. Chairman.

Just a couple of quick comments are that, you know, the obligation that our country owes to our veterans is something that we take very seriously. And to have a situation where not only they are being veterans, but service-disabled veterans, and they are almost being—what you could say is that they are being overlooked, or they are being given a path that is impossible or tough to drive. And I think it is disappointing that we are sitting here talking about this, but the reason we are here, though, is that we can't change what has happened, but what we can do is look forward

and look for solutions. And I am anxious to hear what the solutions are to solve this dilemma and how you are going to put teeth into enforcement when we are talking about fraud.

And I yield back. Thank you.

Chairman NYE. As Mr. Ellsworth mentioned, it has been approximately 9 months since the GAO report first came out that uncovered a significant amount of fraud within the service-disabled veteran-owned small business contracting program. What we want to get to the bottom of today is what have you as agencies been doing to fix the problem since we have discovered those numbers back in November?

Our first panelist I would like to introduce is Ms. Linda Oliver. Ms. Oliver is Acting Director of the Office of Small Business Programs for the Department of Defense. In this role she is responsible for establishing Department of Defense policies that ensure the inclusion of small firms in defense-related procurement actions.

Ms. Oliver, I would like to recognize you for your opening statement.

STATEMENT OF LINDA OLIVER

Ms. OLIVER. Thank you. It is a pleasure to be here, Chairman Nye and panel members, to talk about service-disabled veteran small businesses.

In the Department of Defense, as I know you know, the service-disabled veteran-owned small business owners frequently have been our colleagues either in uniform or out of uniform before becoming small business members. So we are particularly concerned and sympathetic with our service-disabled veteran-owned small businesses.

This morning I will summarize the testimony—really summarize the testimony, because there is no point in going through with you what we have already written down.

The four areas I will quickly talk about is the Department of Defense performance over the past 7 years, what we have done and are doing to improve performance, what we have found about service-disabled veteran-owned small businesses that might help us do better. And then I will touch on the GAO study, two of the cases in the GAO study concerning the Department of Defense.

As in my testimony, over the past 7 years, the Department of Defense has had a fourteenfold increase in dollars that go to service-disabled veteran-owned small business contracts. We have had a sevenfold increase in percentages. We have had a fourfold increase in the number of service-disabled veteran-owned small businesses with which we contract. And because Chairman Nye told me he would do this when I last saw him in October, I want to mention that the Department of Defense, as Chairman Nye has said, has done very well with our Recovery Act dollars to service-disabled veteran-owned small businesses to the tune of $157 million, which is a lot of work. But we understand we have a long way to go, and we are working to improve our performance.

We had an effort several years ago to get more service-disabled veteran-owned small businesses in CCR. We have done a great deal of outreach. We have tried to put in place special emphasis within our contracting officers on certain contracting with service-disabled

veteran-owned small businesses. We did work with our Mentor-Protege Program. We probably, to be honest with you, have picked the low-hanging fruit, and so now we have turned to as much detail analysis as we can in order to understand better the service-disabled veteran-owned small business world so that we can take better advantage of it.

We were interested to find that the service-disabled veteran-owned small businesses tend to cluster around three areas of contracting. The biggest are the category which is general, but is services; professional, scientific, and technical services. Forty-two percent of the dollars that the Department of Defense sees go to service-disabled veteran-owned small businesses are in this area. Twenty-four percent of all of our contracts with service-disabled veteran-owned small businesses, 24 percent of the dollars, are for construction, and 11 percent are for administration, which means—administration meaning the sort of clerical people, for example.

With 77 percent of our contracts with service-disabled veteran-owned small businesses clustered in three areas, it means that we reach a saturation point, and what we must do is start focusing on the other areas. We are performing further analysis right now so that we can do a better job.

We have been concerned about the Government Accountability Office report. We have taken steps to deal with it. We don't like fraud either, and our inspector general is doing a report which we expect to have concluded in December. I have spoken with the suspension and debarment people. They think it is a good idea to have us pass the word better, and they are interested in coming in to help. Additionally, we believe that we need a sort of a ″just in time″ training for the limitations on joint ventures, because there seems to be—the problems seem to cluster there.

My time is up. Thank you so much for holding this hearing.

[The statement of Ms. Oliver is included in the appendix.]

Chairman NYE. I would now like to recognize our second panelist, Mr. Tim Foreman, the Small and Disadvantaged Business Department in the Department of Veterans Affairs. The office provides outreach and liaison support to businesses concerning acquisition-related issues, and also monitors the VA's implementation of procurement programs.

And I didn't mention this at the outset, but everybody is going to be on a 5-minute clock. If you have a couple more key points to make at the end of the 5 minutes, I will be a little bit lenient, but we have a lot of folks today, so we are going to try to ask you to use that as a guideline.

Mr. Foreman.

STATEMENT OF TIMOTHY FOREMAN

Mr. FOREMAN. Good morning, Chairman Nye and distinguished members of the Subcommittee. It is a pleasure to be here to represent the Secretary of the VA, Secretary Shinseki. I feel compelled to tell you, after being there for just 6 months—and this is my 6-month anniversary at the organization—that the Secretary runs a very tight meeting. He is a terrific leader. I have been around the government for 38-plus years. I have never met a more interested individual, especially in veterans, veterans of all types, to include

business issues. And he continually raises things he wants to do more to ensure that businesses stay in business when the vets come out, and he is concerned about even people in the Armed Forces making decisions, or not making decisions and just leaving the military, without having a strategy. What are they going to do when they get out? He is concerned about education, concerned about health and welfare. And we think we are the win-win solution.

Our first name is ″Veterans,″ so it is only natural that we have veterans to work for us in filling our requirements for products and services. One of the issues that we talk about, I want to thank Congress for the passage of 109-461. It has given us the ability to jump, increase our dollars and percentages. And I will give you just a quick example.

Back in 2005, we were at 1.3 percent to service-disabled veterans. As of this year to date, we are at 18.4 percent to service-disabled veterans, over 1 billion, 700 million. We suspect we are going to break last year's record on dollars, which was 2.3 billion.

Just another little hint of success. In the ARRA money, we are at about 82 percent spend rate right now, of which small business is 83 percent, and our veteran-owned small business are 80.6 percent, and service-disabled veterans at 79.5, or, if you will, 700-plus million of the 882 million. I think significant efforts have gone.

Let me get into, if you will, some of the issues we face over in the VA. We do have this unique legislative authority, which I again thank you. As a veteran myself, I enjoy working with the veterans and the veterans groups. We do look at verification. We have a system, a database, that we use. It is a VIP, vender information page, that we use to identify veterans, service-disabled and regular. We have two types of folks that appear on that database: self-certified, they come in, they say they are, we accept them and put them on the database; and the verified firms, those that have a special seal. We actually go through the verification process.

When I came on board, there were some problems. I think even in the GAO report, one of the verified firms that was challenged and found not to be a service-disabled veteran was, in fact, verified within our database. But we weren't calling for complete data. So the first thing I did is I said, wait a second, we have got to stop this. We have got to ask for all the data we need. And it is going to slow down the process, but in the interim it is going to be good. It is going to be good for the government. So that is one of the things that we did.

We are actually moving the backlog around a little bit. We are working it down. We have taken action by taking away from CVE ancillary programs right now until we take that hill, and we want to reduce it down to zero.

I am currently the person who makes decisions on all protests right now. I am the adjudication official and the final authority within the VA, and I do that. When I do it, it has to go through general counsel.

Another issue that we want to talk about is we are standing up a debarment committee. I volunteered to be part of that debarment committee. I figure, since I am the top-level person in the VA for this program, I want to make sure that nobody steals valor from

our true veteran heroes. So I am going to be that. And not only that, they turned around and said, would you be interested in being the chairman? We think you are the right person. And I said yes. And the Secretary thought that was a great idea.

I have got 30 seconds to go. I have got so many things I want to say. But I think we have done a good job. I think we have got a good system. Is it perfect? No. We are going to work until we get it right. But remember, one thing we always want to remember, I try to keep the barriers to entry low because you don't want to keep out valid service-disabled veterans because you raised it too high. But you have to raise it up a little bit to keep out those that are going to steal valor, and we want to keep it just high enough.

So, with that, thank you very much. I look forward to your questions.

Chairman NYE. Thank you, Mr. Foreman. I will give you an opportunity during the questions and answers to elaborate on that committee. I would like to hear more about that.

[The statement of Mr. Foreman is included in the appendix.]

Chairman NYE. Let us go on to our next panelist. Mr. Anthony Martoccia is the Director of Contract Operations for the Federal Emergency Management Agency. Mr. Martoccia is responsible for awarding and administering $2 billion in contracts to support FEMA. He is also responsible for providing acquisition support for all FEMA programs.

Thank you for being with us.

STATEMENT OF ANTHONY MARTOCCIA

Mr. MARTOCCIA. Good morning, Chairman Nye and members of the Subcommittee on Contracting and Technology for the House Committee on Small Business. I am Tony Martoccia, chief of the contracting office at FEMA. I appreciate the opportunity to appear before you today to discuss FEMA's engagement with the private sector, in particular with service-disabled veteran-owned small businesses, and to specifically address FEMA contracts cited by the GAO as part of its case study on service-disabled veteran-owned small businesses in October 2009.

Today I will provide an overview of SDVOSB program data outlining how FEMA engages small businesses owned by service-disabled veterans, and how we worked to meet the 3 percent goal and the award of FEMA acquisition set-asides for competition among those companies and researching those that are not SDVOSBs.

The SDVOSB program is intended to honor the extraordinary service rendered to the United States by veterans with disabilities incurred during active service with the Armed Forces. The Veterans Benefit Act of 2003 established the SDVOSB program to provide Federal contracting assistance to those concerns. Contracting officers may set aside acquisitions to any small business concern controlled and owned by one or more disabled veterans. Executive Order 13360 requires Federal procurement officials and prime contractors to provide opportunities for these firms to increase their Federal prime and subcontracting to those firms owned by service-disabled veterans.

In order to advance FEMA's efforts with SDVOSBs, the Agency has designated a full-time small business specialist whose primary

responsibility is to increase contract opportunities to small businesses. We are working hard to meet the 3 percent annual goal with SDVOSB businesses, and I am pleased to report FEMA is currently at 2.65 percent of prime contracts awarded to those companies. We have more work to do, but FEMA is making strides and working with that community.

I have reviewed the October 2009 GAO report which was undertaken by GAO to review the SDVOSB procurement program to determine whether cases of fraud and abuse exist within the program, and whether the program has effective fraud-prevention controls in place. The report cites two cases in which FEMA contracts were reviewed. FEMA takes the findings from the report very seriously, and, as a result, FEMA is considering many initiatives that would prevent future incidents of fraud, including awareness training for contracting officers, contract specialists, use of FedBiz to assist in the verification process, and the requirement for submission of VA certification by the successful offeror before final award.

I thank the Subcommittee for your consideration of my opening statement, and I look forward to answering questions.

Chairman NYE. Thank you. Thank you for joining us. When we get to the Q and A, I am going to ask you to elaborate on your awareness training for contracting officers, because I would like to hear about how you do that.

[The statement of Mr. Martoccia is included in the appendix.]

Chairman NYE. Let us go ahead on to our next panelist, Ms. Jeanette Brown, the Director of the Office of Small Business Programs in the Environmental Protection Agency. The Office of Small Business Programs advocates for small businesses, socioeconomically disadvantaged businesses, and minority academic institutions.

Ms. Brown, thank you for being here.

STATEMENT OF JEANETTE L. BROWN

Ms. BROWN. Thank you.

Chairman Nye, members of the Subcommittee, thank you for providing me the opportunity to appear before you today to discuss the Environmental Protection Agency's performance with service-disabled veteran-owned small businesses.

At EPA, the mission of the Small Business Program, OSBP, is to support the protection of human health and the environment by advocating and advancing the business, regulatory and environmental compliance concerns of small and socioeconomically disadvantaged businesses and minority academic institutions, including efforts to ensure that the Agency meets its goals with respect to service-disabled veteran-owned small businesses.

The Agency's commitment to service-disabled veteran-owned small businesses is strong, very strong. The Agency's progression towards meeting and exceeding the 3 percent service-disabled veteran-owned small business goal has been steady since 2003, with increases each year thereafter. The Agency has exceeded the 3 percent service-disabled veteran-owned small business goal for the last 3 years and is on target to continue this pattern of success for fiscal year 2010.

In January 2006, the EPA Office of Small Business Programs implemented a plan to manage and measure efforts to improve our

performance and meeting our small business goals in all socioeconomic categories, including service-disabled veteran-owned small businesses. The plan includes the following elements: a clear communication from the head of the Agency reinforcing the importance of meeting our small business goals; internal small business performance measures; consistent dissemination of data from the Office of Acquisition Management tracking regional and program offices' progress on a quarterly basis; internal and external outreach and training by the small business program on the utilization of small businesses; and an internal recognition program which provides visible recognition for those offices and regions meeting their small business performance measures.

Our strategy has made a tremendous difference in increasing the Agency's performance in striving to meet all of our socioeconomic goals. Our most significant achievements are in the area of service-disabled veteran-owned small businesses. EPA has been recognized by the Veteran Administration's Center for Veteran Enterprise for its commitment and service to service-disabled veteran-owned small businesses, and EPA has a proven track record for awarding multimillion-dollar contracts to service-disabled veteran-owned small businesses.

In October 2008, we awarded a $100 million contract to Vision Technologies, a service-disabled veteran-owned small business in Glen Burnie, Maryland. That contract supports and manages several Agency network services' voice and data networks and information technology security. In February 2010, we awarded a $20 million remedial action contract to Los Alamos Technical Associates, Inc., a service-disabled veteran-owned small business located in Ohio. Under this contract, it provides for environmental and engineering support services in EPA's remedial planning and oversight activities in New York, New Jersey, Puerto Rico and the Virgin Islands.

EPA's Office of Small Business Programs follows procedures set forth by the FAR, Federal Acquisition Regulations, to review procurement requests to ensure that small business concerns are fairly considered in the procurement process. Contracting officers within EPA's Office of Acquisition Management are responsible for verifying the status of vendors and follow FAR procedures as well regarding the vendors' representations and certifications.

A preaward review. The acquisition community relies heavily on the Central Contract Registration, CCR, and the online representation and search application, ORCA, to verify the status of contractors prior to making the award. The information in ORCA is updated as necessary, but at least annually, to ensure that they are kept current, accurate, and complete. Any business working with the Federal Government under the FAR are required federally to be registered in CCR before doing work or getting a contract.

At time of award, an award notice is posted on EPA's Web site to inform vendors and the public about the award. At this time interested parties may come forward to protest the size claimed by the potential awardee. These cases are then turned over to SBA to review and make a determination.

EPA does not utilize an Agency database that identifies service-disabled veteran-owned small businesses; however, we do use CCR and ORCA.

EPA follows the FAR with respect to misrepresentations involving contractor code of ethics, ORCA certification, and small business certification. If the contracting officer is aware of a violation, they are to engage the Office of Inspector General—EPA Office of Inspector General to report the incident and coordinate with SBA.

EPA is proud of its support for service-disabled veteran-owned small businesses, and we thank you very much for allowing us to be here and look forward to answering your questions. Thank you.

Chairman NYE. Thank you very much, Ms. Brown.

[The statement of Ms. Brown is included in the appendix.]

Chairman NYE. I would like to introduce now the final panelist for the first panel, Mr. Joseph Jordan, the Associate Administrator for Government Contracting and Business Development at the Small Business Administration. In this role Mr. Jordan and his team are responsible for implementing the contracting programs contained in the Small Business Act.

Mr. Jordan, thanks for being with us.

STATEMENT OF JOSEPH G. JORDAN

Mr. JORDAN. Thank you. Chairman Nye, distinguished members of the Subcommittee, it is an honor to testify before you today on the SBA's deep commitment to veteran entrepreneurs and small business owners. This past year our administrators made veterans a priority in each of the SBA's core mission areas, the three Cs of capital, counseling, and contracting.

With regards to access to capital, the SBA hit a milestone on July 4, with nearly half a billion dollars in SBA's Patriot Express loans over just 3 years going to veterans, reservists, servicemembers, and their spouses.

Within our counseling programs, the SBA has doubled the number of veterans business outreach centers to 16. In fiscal year 2009, we provided training to 290 contracting officials of 5 major agencies, as well as 2,000 service-disabled veteran-owned small businesses.

Today I have been asked to focus on the steps we have taken to help veteran and service-disabled veteran-owned small businesses access contracting opportunities.

As you know, the SBA works with Federal agencies to increase contracting opportunities for small businesses. Our goal is to ensure that not less than 23 percent of all eligible prime contracting dollars go to small businesses. Within that, the Federal Government has a number of additional subgoals, including a 3 percent goal for service-disabled veteran-owned small businesses.

Agencies have made great strides in recent years. In fiscal year 2007, 1 percent of prime contracting dollars went to service-disabled vets. That rose to 1.5 percent, or $6.5 billion, in 2008, and we expect that, based on preliminary data for fiscal year 2009, there will be yet another significant increase in both dollars and percentage.

Still, we know we have work to do and are committed to ensuring that the Federal Government hits its goals for all small busi-

ness groups, including service-disabled veteran-owned small businesses.

One of the reasons we know that we can improve further is due to our efforts with respect to Recovery Act contracting. This time last year, the Vice President, Commerce Secretary Locke, and our Administrator made a strong interagency push to ensure that Recovery Act contracts were going to veterans, minorities, women, and other groups. We have been tracking this data, and I am very pleased to say that the Federal Government has awarded 5 percent of Recovery Act contracts to service-disabled veteran-owned small businesses, and I want to thank the other agencies represented here today for their contributions to that accomplishment.

Building on our success in the Recovery Act, we are examining which of our actions were most effective. Ultimately we want to identify best practices and integrate them into our regular day-to-day fiscal year contracting efforts. More recently this commitment to veteran-owned small businesses has been renewed by the President himself. In April, he ordered the creation of two task forces, one on small business contracting, and another on veterans business development. Today's discussion lies at the intersection of those two efforts, and Administrator Mills and I, as well as others throughout the administration, are working to create formal recommendations that should be delivered to the President in the coming weeks.

Overall we have made progress over the past year, but, as the GAO reminded us last fall, there is more we can do. Our goal-related improvements must be accompanied by policies and procedures that root out fraud, waste, and abuse in this important program. That is why we have developed a comprehensive approach to rooting out fraud, waste, and abuse. We are collectively focused on all three stages of the contracting oversight continuum: certification, ongoing surveillance and monitoring, and enforcement. We have already made improvements in all three areas even when, like in the case of the service-disabled veteran-owned small business program, it operates via a self-certifying process.

We are handling more protests than ever before, and the protest process is working. While the number of protests is increasing, the percentage of firms determined as ineligible through protests is declining. We are also working more closely than ever with the Veterans Administration, our general counsel's office, our suspension and debarment official, our inspector general, the Department of Justice, and many other key stakeholders.

I should also note that the President's fiscal year 2011 budget submission asks for $2 million that will help us with eligibility and certification efforts across our contracting programs. My commitment to you today is that we will continue to move forward with diligence and speed in strengthening our efforts to eliminate fraud, waste, and abuse.

Finally, we share the concerns of many service-disabled veteran-owned small business contractors on the issue of parity, which is perhaps the most pressing issue facing this community. A recent court decision attempts to place the HUBZone set-aside program above SBA's other small business contracting programs, including the service-disabled vets program. If this decision were applied

throughout our contracting programs, it could essentially redirect billions of dollars away from service-disabled veteran-owned small businesses as well as 8(a) and women-owned small firms. Moreover, it could create confusion within the contracting community, which could result in all small businesses losing opportunities for Federal contracts.

That is not fair, and it wasn't the intent of Congress. That is why the administration supports a legislative effort currently under way to make the relatively simple clarification in statutory language replacing ″shall″ with ″may″ in HUBZone's language. We urge Congress to act on this issue as soon as possible, especially given that a large portion of contracting dollars are obligated in the final quarter of the fiscal year, and missing out on just 1 percent of contracting opportunities means $5 billion in lost revenues to small businesses.

Thank you very much for your time, Mr. Chairman, and I look forward to your questions.

Chairman NYE. Thank you for your testimony.

[The statement of Mr. Jordan is included in the appendix.]

Chairman NYE. Clearly we have got a problem here, and I am incensed at the fraud against our veteran business owners that was uncovered by this GAO report. This report was available to all of us 9 months ago.

It is my assessment that agencies tend to be focused on target numbers and on processes. Our veteran business owners, I can tell you with great certainty, are concerned with outcomes, as am I. We owe it to the taxpayers who fund these programs to be able to say to them that we are sure that the money we have allocated to go to small business owners who are service-disabled veterans is actually going to them in fact. The GAO report showed that that is not the case.

I want to drill down on exactly what you have done since 9 months ago when we discovered this fraud in the system. And everyone here represents an agency who has contracts that were let out who were determined to be problematic.

I want to ask a couple of relatively simple questions, and I will ask each person on the panel to respond to these. And the first question I have is specifically what have you done in terms of practicing better oversight over your contracting officers? We know that some of the instances of fraud that were uncovered involved contracting officers who were very well aware of the problem. We know there are cases where service-disabled veteran business owners have pointed out problems either through the SBA or directly to the contracting officers involved at the agencies, and essentially there has been no follow-up action taken against those companies.

So what I would like to ask, and I will start with you Mr. Jordan, what specifically can you say from the SBA's point of view—and I am going to ask all the agency representatives—has been done in terms of overseeing contracting officers and how they work and providing training that they need to do a better job?

Mr. JORDAN. Absolutely. And let me first say that I wholeheartedly share your and the community's focus on outcomes. I think policies and procedures are very important, but they have to

be aligned with the outcomes, and that is where the focus needs to be.

In regards to the 10 firms that were highlighted in the GAO's report, all 10 were referred to 1 inspector general. One of the 10 was referred from the inspector general to our suspension debarment official. They issued a show cause letter to that firm, and through a series of steps determined not to suspend or debar that firm. The remaining nine firms are under inspector general investigation, a combination of our inspector general and inspectors general from the agencies where these contracts were let out, and I am not allowed to elaborate further on those particular instances.

But now, moving to what are we doing about this as a symptomatic issue beyond just these 10 firms. Well, first there is outreach. So we set up an on-line training course, free, for how veterans and service-disabled veteran entrepreneurs could access these opportunities, and we are also in our outreach activities promoting the protest process. Like I said, if you look at the number of protests year over year, they are going up every year, which would indicate the awareness gap is closing, that service-disabled veteran-owned small businesses know the procedure when they think somebody is not appropriately identifying themselves. As we process those, the percent that we actually determine are, in fact, ineligible is going down. So the awareness is going up, but the actual unscrupulous actors you see as a percent are going down.

On the upfront certification, we are working closely with VA to utilize better data and technology tools. So despite the fact that this is a self-certification program, we dissuade any bad actor from thinking that they can get in or thinking that it is a good idea to try.

Then on ongoing surveillance and monitoring, one of the things that came after that GAO report was we identified a potential gap. And once we did determine a firm to be ineligible, they have to decertify themselves in the Central Contractor Registry. That is not something SBA can do. We have now amended our policies to say that they have 30 days to do so; otherwise, we refer that action to the inspector general as well.

And just to give you a little context when I talked about the protests, we conducted 136 service-disabled veteran bid protests through mid-June of this year already, and that compares to 94 of all last year. And if you look the year before, it is about a 33 to 50 percent increase year over year again. And then it goes to rigorous enforcement.

So I talked about the 10 firms. But we are beyond that, really looking at how we can work collaboratively with all law enforcement departments and mechanisms to ensure that when we do catch these bad actors, they are appropriately punished.

Chairman NYE. One quick follow-up for you. I talk to service-disabled veteran-owned small businesses in my district, and they say that when they want to protest an award, they get referred by SBA back to the original contracting officer from the Agency, who then tells them go back to the SBA and make your complaint there, and they get stuck. How are you working to solve that problem?

Mr. JORDAN. So the typical path is that the contracting officer who is the point of contract for that contract is who they would pro-

test with. The contracting officer would then fax to SBA that protest, and it would go from there. In the event that there is confusion—and I have heard this anecdotally. The problem is when I press for details, I have not gotten the specific instances that we can then reverse-engineer what happened and, in those cases, what went wrong. In the case that you find those, please give them to me personally, and I will follow up on them, because that absolutely should not be happening. We do not want them caught in that cycle.

Chairman NYE. We will. We will provide them to you.

Ms. Brown, can you please comment on oversight on contracting officers?

Ms. BROWN. Yes. Thank you.

Within the office—and I am in the Small Business office, and we work separately and distinct from the contracts office, but also collaboratively together in this process of the procurement process. The Agency does not have a detection and monitoring program for firms receiving service-disabled veteran-owned small business contracts, but we do follow the FAR. We do look at the preaward process. We put and post awards on the Internet for dissemination so that the public will see it. We have found that the small business community is a strong advocate and watchdog, and so they do call. EPA verifies the status of contractors using CCR and ORCA.

In addition to that, we work within the Office of Small Business Programs reviewing the acquisition packages; looking at the statements of work, the recommendations; making recommendations back to the contracting office in terms of what we think separate and distinct; and also working with SBA-PCR at the local level.

Chairman NYE. I am sorry to interrupt you. There seems to be a cell phone that is going off. This would be an appropriate opportunity for people to check and make sure their cell phones are on silent, please.

Okay. Ms. Brown, please go ahead.

Ms. BROWN. And for the contracts that are in question, the one that was cited in the report for EPA, that has been referred to the EPA IG office, and we are waiting for recommendations back or final word on that, and so I can't discuss that in detail now.

Chairman NYE. I will give you an opportunity to follow up with us after this hearing in writing with some detail about what actions your Agency is taking to solve the problem.

[The information is included in the appendix.]

Chairman NYE. Mr. Martoccia, please.

Mr. MARTOCCIA. Thank you.

We have a pretty robust review system for contracting officers. We go through a preaward process when procurement strategies are being developed. We work with our Small Business Office, a person like Jeanette, and we discuss what strategies to use. And we train. We have a good career development program and training program for our contract specialists and contracting officers.

In our particular case we need to be more diligent at the time of solicitation award to assure ourselves that these companies who are certifying the particular socioeconomic program, including disabled veterans, that they are, in fact, owned by the service-disabled veterans. So we are making it a point, through myself and my boss

and through my branch chiefs, that at the time of solicitation and award, that we are thorough and deliberate review of the qualifications to make sure that those companies are, in fact, qualified to bid on those solicitations.

Chairman NYE. Mr. Foreman.

Mr. FOREMAN. One of the things I would like to caution everybody about when we think about fraud, a lot of folks that we deny verification is really not because of purposeful fraud. It is they don't understand that it is not only the status fraud, i.e., I am a veteran or a service-disabled veteran, and I am not, that would be a status fraud; but part of status fraud, the harder part, is total ownership and control, and a lot of folks don't do that with their paperwork. So there is—and I can term it innocent fraud, but there are people that make mistakes, and they do change, and they do reapply and get verified. So I am very hesitant to condemn everybody who runs into that problem, because there are legitimate service-disabled veterans who don't understand the process and will do things wrong.

In terms of what do we do, one of the things that we did when we first heard about it—and I think I had the pleasure—I think I was there about 2 weeks and had to testify on the House Veteran Affairs Committee, took the 10 firms, referred them over to our IG to see if there were other things that we could do, what kind of penalties can be placed on them, et cetera, if, in fact, they were true bad actors.

The other things that we did, we do a lot of our own right now—I am trying to give it over to Joe Jordan, but the protests. So I actually do work on the protests, and I am the adjudicator for those kind of things. So when the protests come in, you get a file about that thick versus when we do a verification, that is only about that thick. So you are talking about 2 inches to 5 inches. We do a lot of background checks. We do what they call site visits, unannounced and announced, to ensure that the right things are going on. We get a very good report.

We are in the process of tripling our contract support to go out and look at these contracts. We have also expanded our employees, the full-time equivalents. We are starting to fill the office with more folks. We are finding that it is a lot better in that regard.

Also, teaching. Like in the old infantry days, command, control, communication, and intelligence. If communication doesn't work, none of those work. You don't have control if you lose communication, you don't have command, and you don't have intelligence.

So part of it is me going out and talking to the veteran committees and communities, making them understand the critical but the most difficult part for us to judge is control of a business and total ownership of a business. You don't have a board of directors that can outvote you. And that has been one of those little things that we have.

So, again, we have to be careful of how high we ramp up to guard against allowing legitimate firms in, but we have to guard against it. I am, like I said, going to be the debarment chairperson, and in that role we are going to look at protecting the government's interests. It is in the best government's interests that we keep peo-

ple who are not who they say they are out of doing business with the government, and so we will do that.

Chairman NYE. Thank you.

Ms. Oliver, the same question about the contracting officers. At least one of the cases involved an Air Force contracting officer who was shown to have been aware of the fraud going on. I know, as the DOD small business oversight person, you have to work with the each of the individual branch contracting folks. Can you talk to us about changes that are being made to prevent that from happening?

Ms. OLIVER. Yes, I can. And let me start with the most general way that we are trying to prevent this sort of thing from happening.

We need to figure out the extent of this problem and the nature of the problem. Tim has a really good point that at least in the cases—our two cases, as I started to dig through, there was some ignorance on the part of these service-disabled veteran-owned owners, but they weren't—I would—it is not for me to judge, and the cases aren't finished, but there is, as a minimum, another side to explaining all this. And we need to—that is two—I told you earlier that we are—in 2009, we contracted with 3,164 different service-disabled veteran-owned small businesses. The IG has looked at two.

Now, the caution, we can't say, well, 2 out of 3,164, that is a nonexistent problem. I understand. They only looked at a few. But we need to see how extensive it is. And our inspector general has been working, gathering data, analyzing data to figure out how big is this problem?

The contracting officer that you were talking about would say to you, as he has said to me, that there was at least a failure to clearly communicate or a certain inaccuracy. He took the spanking, which he would say was not completely accurate and, I am happy to say, moved forward to say, what can I learn from this? What can we do differently? And that contracting officer has instituted a system of market research which will ask pointed questions to the owners of the service-disabled veteran-owned small businesses so that they will understand better what the rules are.

I think one of the things that comes out of this is we need to do—my office needs to do specific "just in time" kind of training of contracting officers and of service-disabled veteran-owned small businesses so they are very clear about what exactly are the limits of the joint ventures. These are pretty frequently joint venture problems. In other words, it is not veterans saying, I am disabled, when I am not. That appears to be the case. It is not people posing as service-disabled veterans. It usually involves a veteran who has, in the cases we have been able to look at, misunderstood.

With me today is the poor guy who is going to get to put together all this training.

Chairman NYE. Let me interrupt you for just 1 second, because I am not sure I understand what you are saying.

Ms. OLIVER. Okay.

Chairman NYE. What I am hearing is that the problem here was ignorance on the part of the service-disabled veteran business owner, and not a problem with the contracting officer, despite what

the GAO report said. So are you disputing the findings of the GAO report?

Ms. OLIVER. Yes.

Chairman NYE. Okay. Because the report found that there was a relationship between the contracting officer and the subcontracting business owner that received a contract. So I just want to make sure that we are all clear and that we are talking about the same case.

Ms. OLIVER. I would be so happy to have the contracting officer—let us see. The most important thing is we learned from—we learned the lesson. And we have learned the lesson.

Chairman NYE. I agree with that, that the most important thing is that we learn the lesson. But if we don't agree on defining of the problem, it is difficult for us to say that we agree that we learned the lesson. I am going to follow up with you in just a minute—

Ms. OLIVER. Okay.

Chairman NYE. —because I am having a hard time internalizing your response on that question, because now it seems like we have backed up a step in terms of whether we are looking at whether the GAO report was actually accurate, and we can move on to solving the problem, if we agree on that or we don't, and now it sounds like we are back another step.

We are going to have to vote in a few minutes. I want to offer an opportunity to Mr. Schock to ask any questions before we go to vote, and then we are going to come back after the votes, and I want to reconvene with the same panel and follow up with you.

Ms. OLIVER. Okay.

Mr. SCHOCK. Thank you, Mr. Nye. I am actually going to yield my time to my good friend Dr. Bartlett, who has another commitment at 11:30, and so he will not be able to return, so he can ask his questions. I will be back and then take Mr. Bartlett's time.

So, Dr. Bartlett, please go ahead.

Mr. BARTLETT. Thank you very much.

We have had hearings in this Subcommittee and full Committee on fraud and HUBZones and this program. And the real surprise would have been that there were no frauds, because what we did here was to ask these people to self-certify. We should have had some pangs of conscience when we repeated the Lord's Prayer and came to that part of it that said, ″Deliver us from temptation.″ How can we ask the Lord to deliver us from temptation and put this kind of temptation in front of these people?

And we here at this dais should have had some pangs of conscience, too, because we didn't give you enough money to do the policing of this that we should have given you. If you look at the amount of money we gave the 8(a) programs, it was enormously more in terms of percentage than we gave these two programs.

So the real surprise would have been that there were no frauds. And I hope that there is some pangs of conscience when you repeat the Lord's Prayer and you come to that part that says, ″Lead us not into temptation.″ What right have we to place these people in this path of temptation?

Have we now given you enough money that you can adequately police these programs? Or should we still have some pangs of conscience when we repeat the Lord's Prayer?

Mr. BARTLETT. Do you have enough money now to police the program? We didn't give you enough money to police the program, and that was obviously true in the HUBZone programs, and I gather it was true in these programs, too. Do you now have enough money to police these programs?

Mr. MARTOCCIA. Speaking from FEMA, I think we have enough money. I think it is making sure that the contract specialists and the contracting officer understand that these companies have to make sure that they verify their status. It is a simple thing to do. I think in our case, I think it was an oversight.

Mr. BARTLETT. We have to run to vote. I just want to make sure, if you don't have enough money, please let us know, because we don't want to be a part of the problem. If we haven't given you enough money, then we need to give you enough money so you can police these programs.

Mr. JORDAN. Congressman, one thing I would add is that in the SBA's fiscal year 2011 budget, the President requested an additional $2 million specifically for rooting out fraud, waste and abuse in the contracting programs, and that would be a very helpful funding source for us.

Mr. BARTLETT. It would have been nice if we gave that money to you early on, and so we wouldn't have had to sit hear listening to these cases of fraud, waste and abuse. If you had enough money to police the programs, we wouldn't be here.

Thank you very much. We have to run to vote.

Chairman NYE. There is apparently one vote, so I will ask the panelists to remain in place until we return.

[Recess.]

Chairman NYE. I am going to reconvene this hearing.

Ms. Oliver, I wanted to follow up with you on a conversation we were having before we broke. Before we recessed, you said while the small business owner in question in this Air Force contract case might not have been completely educated on the requirements of the program, there was no attempt by the contracting officer to intentionally violate the law. I want to make sure that was your statement?

Ms. OLIVER. That is my statement.

Chairman NYE. Okay. This is what the GAO report said. In the report it said that the base director of contracting and legal counsel who approved the award had a prior working relationship with the service-disabled vet owner on the base, and it found that the contracting officials were aware of the service-disabled veteran owner's limited involvement in performing the contract. Also, when the contracting officer was deposed by the Committee staff, he confirmed that it was indeed a Federal employee that worked there, and that an entity other than the service-disabled business that was awarded the contract was going to provide the service.

What I need to know, given the fact that agencies have an opportunity to dispute the GAO findings when they are first reported, and, as far as I can tell, the DOD did not, I would like to know if you are disputing that finding, or whether you are prepared to accept the finding, and then we can move forward.

Ms. OLIVER. I need to have you tell me exactly which finding?

Chairman NYE. It is a $900,000 contract that was let under an Air Force contract at McDill Air Force Base.

Ms. OLIVER. Yes, I agree with that.

Chairman NYE. Okay. So what I need to know is are you disputing the GAO finding that was in the report?

Ms. OLIVER. On the McDill discussion, I agree with some of the things that are in that discussion. I think some of the conclusions are conclusions that aren't completely, at least in the report—don't explain why they came to those conclusions.

Chairman NYE. Do you know why DOD hasn't presented an attempt to refute the GAO finding until now? Because there is an opportunity in the GAO report process for the agency to say they don't agree with the finding.

Ms. OLIVER. I don't know whether this went to McDill, whether this report went to McDill before.

Chairman NYE. The reason I am asking you, I am surprised at your response, and I want to make sure that I understand whether or not you are saying that essentially—and what I heard was the problem here was ignorance on the part of the service-disabled business owner and not responsibility on the contracting officer to have seen the problem and taken action to prevent this contract from being wrongly awarded.

Ms. OLIVER. Here is what the contracting officer would probably say to you: I didn't know enough to ask enough questions; I didn't know enough about joint ventures with service-disabled veteran-owned small businesses to ask the questions which would have made that potential contracting officer give me the information that would have kept this whole thing from happening.

That is the reason I said earlier he has put into place a system to make sure—the head of contracts—to make sure he and other contracting officers ask the questions that would have brought the facts out that would have prevented awarding a contract to a joint venture which—where, in fact, the service-disabled veteran-owned small business owner didn't have control.

Chairman NYE. The reason I am pressing you on this point is because in this case it was the contracting officer who saw the paperwork and the plans submitted that clearly showed there was a problem, and went ahead and issued the contract anyway. That is what the GAO report found. Now, rather than relitigate that today—and the reason I raise this is because I want to make a couple of key points. I don't agree with your assertion that essentially the essence of the problem is ignorance on the part of the service-disabled veteran business owner. I don't agree with your assertion that the fact that there were a small number of cases total investigated by the GAO implies that there is a relatively small problem out there. To my mind, it implies that there is a much larger problem we have barely scratched the surface on.

So if we can agree on those points, I will tell you one thing I do agree with that you said. You concluded by saying your office needed to do a training program, better oversight over the contracting officers to make sure that they understand the importance of why we ask for a goal for service-disabled veteran-owned businesses and how to make sure that happens in fact and not just on paper. I agree with that assessment. What I am disappointed in is the fact

that 9 months after the GAO showed fraud, we are still back at the same place we were 9 months ago saying we need to do more going forward.

Ms. OLIVER. I don't think we are.

Chairman NYE. Okay. This is your opportunity to show me what you have done in the last 9 months to help solve that problem.

Ms. OLIVER. Our inspector general has worked, and we hoped this would be—when I heard about this hearing, I said, is there any way you can move this through faster, because our inspector general has spent a lot of hours, I have talked to the people involved, in looking at the extent of the problem and what can be done about the problem.

You may very well be correct that this is the tip of an iceberg. I don't know. But I do think that there is a whole bunch of failure to understand in all of this, because I just hardly ever meet a contracting officer who wants to disregard the rules. More frequently they, DOD contracting officers, are very knowledgeable, but when it comes to small business, it is an area that they need to know more. We work on that all of the time. I think most contracting officers would say that to you.

Chairman NYE. I think I agree with your assessment that there is a failure to understand among many contracting officers of how to stop fraud in the system. What I don't feel satisfied with is that we are not further down that chain, as we ought to be, given the fact that we have known about this for almost a year.

Let me move on to another question, and I want to talk to you about consequences. We recognize, as Mr. Foreman pointed out, that there is a challenge in trying to ensure that contract dollars are awarded appropriately; that business is done and transacted in a way that gets done, the business of the government is done on behalf of the taxpayer, and at the same time there are appropriate protections to ensure at the front end that we know who signed up and said they are a service-disabled veteran, and we can certify that they really are; that there is a process in the middle to check and hear complaints and follow up on them; and that there is a consequence at the end of the day for someone who commits fraud. I am not satisfied that that system works, and the reason I am not satisfied is because of what the GAO report showed.

We have to figure out how to solve this, and this is what we are asking you to do. I am going to start with Mr. Foreman, because you mentioned you set up a special commission for debarment within the Veterans Administration, and I would like you to describe succinctly, please, how your committee works and how do you think this will solve the problem in terms of presenting consequences which will change the system and change the calculus for those who would defraud our veteran business people?

Mr. FOREMAN. Chairman Nye, you really nailed it on the issue of consequences. What we will look at is every denial, where we deny a verification to a veteran-owned firm. We will forward that both through the IG for the VA and to the committee which I am the chairperson of. We will look to see if it is just a knowledge factor where somebody made a mistake, and usually it happens in the ownership and control arena, what we call the status fraud arena.

And if it is a simple thing, we can push it off and say, you can resubmit. If we find that there is actual fraud where they are working with somebody's brother, or they are not even at the facility—we have had that happen. You would be surprised how many people come in, sit down, and this is the veteran, the president and CEO, and the other guy or lady talks to you. You really want to have the fraud barometer very low. You don't want to have it high. When they get around 49 to 51 percent ownership, that drives us into what we call a risk factor.

What we need to do is, of course, really get into the debarring mode. Once that happens, I think you are going to see a lot of the fraud fall away. We want to make sure that we capture the guilty, not the innocent, and that is going to happen. We have already processed—we have 57 in house. I have already administered 23 of those, most of which we sustained the protest; i.e. we found there was fraud. So all of those go to the IG automatically, and it is automatically going to go over to the committee for the debarment.

Chairman NYE. I appreciate your explanation on that. I want to ask, voluntarily are there any other agency representatives who would like to describe similar actions that their agencies have taken in terms of pursuing debarments since the GAO report came out in November?

Mr. JORDAN. If I can respond.

Chairman NYE. I want to offer the other agencies an opportunity to respond.

Noting none, Mr. Jordan from SBA.

Mr. JORDAN. I had the opportunity to speak with an SBA suspension/debarment official during the short break, and one of the things that he suggested I highlight is since this report we have developed regulations which are now going through the process that would allow SBA, when we receive credible information that a service-disabled veteran-owned small business may not be who or what they say they are, SBA can demand that that firm prove its eligibility. And if we find them ineligible, then we remove them from CCR and pursue those enforcement actions, as opposed to the process now, which I outlined before, which does originate with the contracting officer as the point of contact for a contract. We hope that will further allow us to do that.

You talked about the continuum, to add another tool into that continuum. One other thing on the back end that SBA has been pushing, you talked about enforcement and consequences, is that currently, as Dr. Bartlett mentioned, the government contracts for 100 chairs, gets 100 chairs for the price it paid, and so the Department of Justice, when we ask them to prosecute, will say there was no harm to the government. There is legislation that has been discussed that would remove the value to the government from the equation when the contract or procurement was received or awarded under fraudulent circumstances.

So those are things that we are aggressively trying to think proactively beyond the tools that we already have at our disposal.

Chairman NYE. One more question before I yield to Mr. Schock.

I would like to know, again voluntarily, if any agencies can tell me, 9 month point since the GAO report showed evidence of fraud in this program, which agencies have suspended active contracts,

suspended businesses that were found to be fraudulent underneath that program?

Mr. Foreman.

Mr. FOREMAN. Through the protest process, we have suspended, in terms of the debarment—not debarment, but in terms of the protest, if we have found that they are not verified, we refer them to the IG and to the debarment committee. The debarment committee is brand new, but it is going to happen. There are a lot of other little issues that get involved.

We also do—in just the straight verification, we do denials. Every time we do a denial, that goes through our general counsel's office. So when we deny, probably in the neighborhood of maybe a couple hundred we have denied over the course of the years.

Chairman NYE. My question is more about suspension. I understand that debarment is a tool, and it does take time to go through a process. Suspension can be done quickly. Have any of these cases resulted in a suspension? Has this GAO report resulted in a suspension of any of the immediate contracts?

Mr. FOREMAN. Not to my knowledge. In fact, the statute for 109-461 mentions the debarment committee, but it doesn't mention suspension.

Chairman NYE. Thank you.

I note no one else has raised their hand as well. I have to admit, I am disappointed to hear that. The reason why I wrote the law I wrote, which provides for criminal penalties, is because we have to have consequences in place. I think one of the first consequences ought to be a suspension of the contract.

I yield to Mr. Schock.

Mr. SCHOCK. Thank you, Chairman Nye. Again, I appreciate you holding this hearing. I would ask unanimous consent that my opening remarks be submitted for the record.

Chairman NYE. Without objection, so ordered.

[The statement of Mr. Schock is included in the appendix.]

Mr. SCHOCK. The GAO report focused on a lot of things. One of the things that was of concern to me was the whole purpose of these preferences is to try and help out the specific demographic that we are trying to help out. One of the things that the GAO highlighted that I think raises an additional concern, in addition to the fact that we are not meeting the threshold, is that the percent that are supposedly being helped oftentimes are a front man, if you will, or a front lady for basically garnering that set-aside only for the money, the business. The contract can then be handed off or subcontracted to much larger entities.

So I guess my question is we rely right now—or the way the rules are written are that we rely on other small businesses to cry foul, other small businesses to somehow know about the unfairness of those practices, to report. And I guess my question would be perhaps the agencies themselves who are awarding the contracts to these small business set-aside preferences should be the ones to follow up and verify that, in fact, it is small business people who are doing the work because your agencies are the ones who know what work is to be provided. Your agencies, your folks letting the contracts and awarding the contracts are the ones who have the relationship with the small business, so doesn't it make sense that

your agency verify that, in fact, the work is all being done by these set-aside contractors as opposed to saying, well, we are going to award the contract, close your eyes and not open until someone screams foul?

As a small business person myself, I will tell you that unless I catch wind of it somehow, I don't know when another small business person in my community gets awarded one of these contracts. And so if they go out and are basically a shill and sub it out to a bunch of large corporations, I am not going to know, first of all, that it happened and, second of all, who to contact within your agency to let you know that there is a problem, and that they are skating the system.

So the point is my question is why don't you within your respective agencies take it upon yourself to be responsible for policing these efforts? Any of you? All of you?

Mr. FOREMAN. I will give it a little bit of a shot here. We call that process fraud, and process fraud is one of the harder ones to catch because, as you noted, it is after contract award. It is postaward. The contractor promises up front here are the deliverables; here is how I am going to do it. You actually do preawards, and you actually do postawards when you are talking to the contractor: Remember, you have this that you have promised that you are going to do. It is called the subcontracting limitation, and the contractor doesn't live up to it, but they don't tell you that. If they did, you know, the show would be over right then. I am sorry, we are going to have to pull this award back and resolicit. But that doesn't happen. Generally the business will say—and, again, it is a hard one to catch because it is after award—how many contractors and contracting officers do you have, where are the businesses located, and how do you trace it down?

I am not making excuses for them, but it would cost a lot to really police that. And the more that I have learned from this last 6 months here in my job, I look back, it could be a HUBZone problem, it can be a small business problem, it can be a woman-owned business, or an 8(a) problem. As a matter of fact, the first time it came to me in my career, it was an 8(a) problem. It wasn't even the 8(a) company was shipping the products. And the only reason we found out about it, the 8(a) stopped paying the subcontractor, and he complained to us. That is when I worked for DOD. It was a defense construction supply agency issue.

That has happened, and I guess, to me, it is probably the dirty, lingering area, how do you catch it all. We have 40 people, but my people are physically in D.C. What you need to do is have some sort of a centralized process where we can go out and verify small businesses. Where are they? If they do progress payments, it is fairly easy, by the way. I used to be a price analyst, and you can really challenge it, because you go to the engineer, they will tell you how much is done, where it is and who is doing what. But if it falls out of that realm, it is tough.

I probably left more questions than answers.

Mr. SCHOCK. I asked two follow-ups. Any of you can answer.

First, beyond them guaranteeing the deliverables that they are signing up for that you are awarding them for, specifically what do you have in that contract that then they are—in addition to signing

that they are going to be doing deliverables, but they are also signing that they are, in fact, going to be the ones producing the product?

Mr. FOREMAN. It is called the subcontract limitation clause. That clause requires any small business preference program, that they have to do 50 percent construction. There are two types of construction. It is either they have to do 15 percent or 25. All other programs are 50 percent or more.

The uniqueness to service-disabled veterans, they can make that subcontracting limitation working with other veterans. So if two veterans get together, one is a sub and one is a prime, and they do over 50 percent of the effort, that is legal. That is also true of the HUBZone program, a HUBZone or any other HUBZone program. The rest of the government, that firm has to do that percentage.

Mr. SCHOCK. My second question would be, you know, each agency is different. I know one of the concerns at the Department of Defense I always hear, a lot of our products we need manufactured, small businesses themselves can't produce. They don't have the capital. What we need, small businesses by nature can't produce in volume.

Aside from being a veteran, aside from being one of these demographic qualities that then qualify you to apply for that set-aside contract, what do your respective agencies do to verify that, in fact, it is a company that can produce the product that they say they are competing for? In other words, if I am a woman, or I am a minority, or I am a veteran, and I can show proof that I am an X-owned company by virtue of me filling that category, and I say that I produce weapons, or I produce whatever the deliverable is for the Federal Government, beyond showing proof that I am the owner and, therefore, qualified to compete for the contract, what do you do to verify that, in fact, they build a product, that the product is actually of the quality of your respective agency? And I would think through whatever process that is, you would verify that, in fact, they can produce it in house, and that they are not a shill corporation and, you know, simply a front person with nothing more than a P.O. box and a 1,000-square-foot office competing for Federal contracts.

Mr. FOREMAN. At least what happened when I was in the field, which was over 30 years ago, we used to have DCMA, Defense Contract Management Agency. And I worked for that agency, and part of my job was to postaward reviews and preawards. During the preaward phase, you judge the financial capability, the engineering capability, the manufacturing capability, the equipment, the site, transportation and shipping of the products. You would look at all parts. You would go back and adjust, and you would get together as a group and either accept or deny that firm as the right firm when you do a preaward.

Over the years they have moved away from doing preawards. They have made it very limited as the years have gone on, so I don't know that is being done now. But that was one way you could handle it.

The other issue was in the postaward at DCMA, and I would get involved in that where you would go out and sit down and talk to

the contractor after they received award. You would again go through the clauses so that they understand. It is an educational issue; it is a communication issue. We have to do that. I don't know so much. It has been like 30-plus years now that I have been out of that organization, but that is one of the ways that I felt very comfortable about what we were doing.

Mr. JORDAN. If I can build on that, Congressman, going back to Chairman Nye's point regarding outcomes, we need to hit these goals, and we need to do so absent waste, fraud and abuse. I would divide it into three sections. One is do we have these right policies and procedures when you are looking at determinations of responsibility and doing your market research, and during the contract operation is the contracting officer appropriately looking at subcontracting plans and subcontracting performance?

Then in the second phase it is training. And I spoke a little bit about the President's Small Business Contracting Task Force that he has set up, which has to deliver recommendations to him late next month. I chair one of the five workings groups of that, and it is on workforce training and agency accountability. One of the big things that we are trying to push is closing any awareness gap on the contracting officer front to make sure that not only do we have the right policies and procedures in place, but they know what those are.

The third thing I would say, you mentioned these preferences are aimed at helping these specific groups, and we are not meeting the thresholds. To that I would only implore you, one of the key things that we can do overall to help service-disabled veterans is ensuring parity between all of these different programs and replacing that ″shall″ in the HUBZone language with ″may″ so we get the contracts, and so the contracting officers don't, during this training, don't become confused as to what they can or cannot do.

Mr. SCHOCK. Anyone else?

Mr. FOREMAN. That is except for VA. We like to have the program we have. We want to continue with 109-461. Thank you.

Mr. SCHOCK. Well, to that point, when I spoke with the SBA Administrator, my first point to her was: Why don't we make them all ″shall″ as opposed to all ″may″? But apparently legally then you would have to qualify for every one of them, which would be kind of difficult.

But my point to her was, look, we are failing. We are failing on all of them. And so what are you doing to make it so we are not failing on all of them?

Her point to me was that, in her opinion, it was a lot to do with the leadership; that it takes the agency heads as high as up as the Secretary at each one of these departments to say, you know what, it is going to be a mission. It is a directive of mine to the folks letting these contracts that we are going to meet these goals, and people are going to be held accountable for it.

My question to all of you would be have you to this date heard from any of your respective heads; you know, has Secretary Gates ever mentioned the set-asides and the need to meet those goals as specified by Congress really? I am sure Shinseki wants the veterans set-aside met.

I am curious. I think the leadership of each respective agency is very key to what the goals are. I know within our organizations, if we say, well, this is kind of a goal, but if we don't meet it, gee, you all tried, too bad, so sad, we will do it again next year. But if it is this is a key goal, and if we don't meet it, there are going to be consequences, I think you have a different outcome.

I am just curious what directives and what message you have heard, if anything, from your respective heads about meeting those set-aside goals?

Ms. OLIVER. I would need to go back and get the specific letters, but our leadership has put a great deal of emphasis on service-disabled veteran-owned small business achievements. The Secretary has discussed it. Dr. Carter, I think, has signed out a letter. Our leadership really is behind; it is just behind getting the—

Mr. SCHOCK. How long have you been at the Defense Department?

Ms. OLIVER. Working with small business issues?

Mr. SCHOCK. Yes.

Ms. OLIVER. Eleven years, 12 years.

Mr. SCHOCK. Okay. So you have been there under several Secretary of Defenses?

Ms. OLIVER. I have.

Mr. SCHOCK. Is the directive any different now than it was 5 years ago, 10 years ago?

Ms. OLIVER. Yes. It is not a directive, meaning a directive as a specific.

Mr. SCHOCK. I guess my question is on the part of us policymakers who are responsible to our electorate, should we be able to tell our electorate and the folks we are claiming we are helping that we should expect any different outcome this year as opposed to 5 years ago, 10 years ago based on the leadership of your respective department?

Ms. OLIVER. There has been a difference. It is in my testimony. Think about the size of the Department of Defense. I mean, I think it is fantastic that since we got a tool where we could make progress, that the progress has gone in the direction that it has. It has been 7 years.

Mr. SCHOCK. Do you think that the 3 percent set-aside is too high?

Ms. OLIVER. I think for the Department of Defense, given our product mix, it is a challenge; but I think it is one that we can meet. I think we have to think every single year of another way to find the less low-hanging fruit. And we keep working at it. I think we will make it.

Mr. SCHOCK. How about the other agencies?

Mr. MARTOCCIA. Secretary Napolitano as well as our Administrator Fugate have made it a priority for us to provide opportunities for all small businesses, including service-disabled veteran-owned small businesses. So we are doing good. Our goals are high. We exceed at FEMA the 23 percent. We are about at 32 percent, and they continue to move up our goals. Our trend has been good over the last few years.

Ms. BROWN. At EPA, Administrator Jackson has made it very clear that she is very supportive of the program. She had a con-

versation with me when she first came and said, I want these numbers to go up on my watch and not down.

We do have a good story at EPA when you look at our numbers. Our small business numbers, we hit over 40 percent for small service-disabled veteran-owned last year, in fiscal year 2009; 8.93 percent was what we accomplished. We are on track now as of the third quarter with 5.6 percent, and we don't see that going down. We anticipate that we will exceed the 3 percent.

So Administrator Jackson has—I report to the Deputy Administrator. I sit in with senior staff. She has made it very clear. She asked during senior staff, what are my small business numbers looking like? And she has signed a memo out to the Agency saying that the administration—and she is supportive of the small business program and wants to continue its success.

We have incentive programs where we recognize our regions. We give out the Crystal Duck Award, and it is very competitive within the Agency amongst the program officers and the regions competing for that recognition for our small business program as a whole.

Mr. FOREMAN. In VA I have the pleasure of working closely with Secretary Shinseki. He is very committed not only to the service-disabled or the veteran business goals, but to the SDV goal, to the HUBZone goal, and he personally sends out those goal letters. I have with me a copy of the goal letter that he sent out, and given his druthers, he would probably rather push them up. But I will have to say sometimes the staff says, wait a second, you are going too aggressive. But we have aggressive goals.

We have done some things. This year to date we are at 18.4 percent with service-disabled. With veterans we are at 21 percent of our total spend as of the 10 months.

With HUBZones, this is where we fall behind. We are 2 percent. Of course, we are only trying to get to 3, but we are not just trying to get to 3, we are trying to blow past those goals. Those are minimums, they are not where we should go.

In terms of small business, we are at 35.4 percent right now. So this is the highest level except for the year 2008; we did finish at 36 percent for small business. So, I mean, we are committed. I think the management team is committed. I have never been in so many what they call ELB, executive leadership board, meetings where we talk to each other about where we are going, and how we are going to get there, and what are the problems. And it is not one you can just sit there and listen to. They go around the room, and you have to speak on your issues, what are your problems and what are your fixes.

Mr. SCHOCK. Well, I think, based on your own testimony and numbers, you represent some of our better-performing agencies, and perhaps we will have to have a hearing in the future with some of those that are not meeting the goal and are bringing down our average. I appreciate you answering the questions.

With that, I yield back to Chairman Nye.

Chairman NYE. I am going to wrap up this panel and move on to the next panel, noting the time.

In summary, as I said in my opening statement, I am also pleased to note that your small business contracting goals, the

numbers are looking better and better. I am pleased to note that service-disabled veteran and small business contracting goals are looking better and better. That is good. However, when the GAO report shows that some significant portion of that contracting pool was fraudulent, there is a big asterisk next to that number now for me. The only way I can be confident that we are actually meeting those goals, the only way, more importantly, that the taxpayers that we all work for can be confident that you are actually using that money in a way that it was designed to be used, and it is going to the correct end user, and, most importantly, the only way that our veteran business owners can be confident that the program that we set out to provide them with tools to improve their lives and show them that we care about their service to our country is if you find instances of fraud and take action to root them out.

I am going to release you so you can go back to work on doing that. I have expressed some disappointment today because I feel we have not moved far enough along in a demonstrable way. I am asking you to redouble your efforts on this. We owe it to our veterans, and we owe it to the taxpayers.

Thank you for your time.

Chairman NYE. I would like to go ahead to invite the second panel to the table, and we will start right away.

I want to go ahead and thank the witnesses on our second panel for taking the time to be with us today. I know some of you have traveled from across the country to join us. It is important that you are here with us.

You were here and had an opportunity to listen to representatives of the executive agencies talk about their approach to solving the problem, the fraud problem, that was uncovered by the GAO report last year. You have had an opportunity to understand, I think, where I am coming from on this and how I feel the agencies have responded to it. But I think what is even more important is to hear from you, those who are out there in the trenches of the economy every day, the ones who are responsible for competing for these contracts, and the ones who create the jobs and represent those veterans businesses that do that, and hear your thoughts on where the rubber meets the road, and what it is like to be with dealing with the government contracting officers, and what it feels like for you to have to engage with that system, and does it work. That is what we are trying to get to at the end of the day here: where is it not working, and how can we make it work better for you.

I would like to go ahead and introduce our first panelist, Mr. John Kobelski, president and CEO of Andromeda Systems Incorporated, from my district in Virginia Beach, Virginia. Andromeda Systems Incorporated provides technical and contractor support services in both the government and commercial sectors and is a service-disabled veteran-owned small business.

We will have a 5-minute clock.

Mr. Kobelski, thank you for being with us.

STATEMENT OF JOHN H. KOBELSKI

Mr. KOBELSKI. Good afternoon, Chairman Nye and members of the Committee. My name is John Kobelski, and I am president and

CEO of Andromeda Systems Incorporated. I am pleased to be before the Committee today testifying on behalf of the service-disabled veteran business owners. I have submitted my full statement, which I ask be made part of the hearing record.

I am a small business owner and a service-disabled veteran, who proudly served my country as an enlisted member of the United States Air Force from 1967 through 1971, serving in Vietnam from October 1968 through September 1969; and as a naval flight officer and an aeronautical engineering duty officer with the United States Navy from 1974 to 1990. I am a graduate of Louisiana Tech University, with a B.S. In 1973 on the GI bill, and the naval postgraduate school, MSEE 1980. Since my retirement in 1990, I have been employed by several government service contractors, both large and small, and in 2005 I established Andromeda Systems Incorporated along with my partner John W. Henson, a fellow Vietnam veteran. I am also currently the vice president of the Service-Disabled Veteran-Owned Small Business Council out of Virginia Beach, Virginia, working exclusively for the promotion of service-disabled veteran-owned small businesses.

Drawing from my experience as a service contractor, I have seen numerous obstacles placed before SDVOSBs seeking to gain the share of government contract opportunities outlined in Executive Order 13360 and have been made aware of incidents of fraud and abuse in the community. In my written statement I have detailed my experience in these matters and have given several examples and possible solutions.

It is my opinion that the major reason the 3 percent goal is not being met is because agencies claim they cannot find enough qualified companies in their searches to justify contract set-aside competition. I find it hard to believe that out of over 17,000 SDVOSBs—and I heard today there are about 24,000 of them now—listed in the CCR, an agency can't find two qualified to perform most any contract. Are they really trying? Really? The requirement should be made into law and not just an Executive Order.

Another reason given by agencies for not setting aside a contract is that the magnitude of the procurement disqualifies or increases the performance risk for several RFI responders. This again is disheartening to SDVOSBs, and I address this in more detail in my written statement.

The 8(a) quotas are apparently being met by government agencies. Why isn't it the same for SDVOSBs? Is it because the 5 percent set-aside quota for section 8(a)-certified companies is law and not an Executive Order?

A third reason, and probably the most compelling, is the political climate that surrounds all procurements. I am not sure how one combats cronyism, favoritism, or the ″good old boy″ network, but highly qualified SDVOSBs, as well as plenty of other small businesses, have been denied contracts as a result of it.

One major way to improve prime contract opportunities for SDVOSBs would be to streamline the sources sought in RFI processes and use other search criteria.

A major reason why we established the council in Virginia Beach in 2009 was to provide qualified sources to Federal agencies for

competitive set-asides. All they have to do is ask us, and we will go out and search for them.

On the subcontracting side, unrestricted companies are not being held accountable for adhering to their small business subcontracting plans. Small business teammates on an awarded unrestricted contract see very little, if any, of the contract percentage promised them by the prime. Without oversight and penalties for large prime contractors, the practice of ignoring SDVOSBs will continue.

Bundling, or the combining of many contracts into one, has hurt many small businesses, and in particular the SDVOSBs. Bundled contracts are usually competed as unrestricted and won by large companies, and, as mentioned earlier, the large prime's small business subcontracting plans are hardly ever enforced, and very little, if any, work flows down to the SDVOSBs.

In order for SDVOSBs to reach parity with the other set-aside programs, laws must be enacted similar to that in the 8(a) community. Executive Orders are important, but in no way do they carry the weight of law. We understand that Congressman Wittman of Virginia has introduced legislation that makes Executive Order 13360 into law and even strengthens it.

On the issue of fraud and abuse, there must be an official SBA certification process. It should be made mandatory for all businesses claiming to be SDVOSBs, with severe penalties for those that falsify their representation. We also understand that Congressman Nye is preparing legislation in this area.

In summary, laws are the key. Everyone jumps to the mention of the Federal Acquisition Regulations, and everything else is a ″nice to have.″ It is a shame that some of our best and brightest, especially those coming home from Iraq and Afghanistan, who have given so much to this country and have so much more to offer, have to play second fiddle to the rest of the set-aside community. Those veterans know the sacrifices, hard work and determination as much, or even more, than anyone.

It is my opinion that all veteran small business owners should be given parity, at least when it comes to DOD contracts. Veterans can make a difference, and like the 8(a) program, there should be a formal SBA process for certification and parity among set-asides.

Thank you, Chairman Nye and Committee members, for the opportunity to appear before you today. I stand ready to answer any questions you might have.

Chairman NYE. Thank you, Mr. Kobelski.

[The statement of Mr. Kobelski is included in the appendix.]

Chairman NYE. I am aware of your work with the Service-Disabled Veteran-Owned Small Business Council in Virginia Beach, and appreciate your leadership on that. You are doing a lot of good in the community.

I would like to introduce Mr. Joseph Sharpe, the director of the National Economic Commission for the American Legion. The American Legion's economic division focuses on veterans education, employment, business development and assistance. The National Economic Commission was formed to ensure that veterans receive ample opportunities for success once they leave the military.

Mr. Sharpe, welcome.

STATEMENT OF JOSEPH C. SHARPE, JR.

Mr. SHARPE. Thank you, Chairman Nye, Ranking Member Schock and members of the Subcommittee. Thank you for the opportunity to present the American Legion's views on improving contracting opportunities and preventing fraud for service-disabled veteran-owned small businesses.

The American Legion views small business as the backbone of the American economy. It is the mobilizing force behind America's past economic growth and will continue to be a major factor as we progress through this unstable economy.

The American Legion supported legislation in the past that sought to add service-connected disabled veterans to a list of specific small business categories receiving 3 percent set-asides. The American Legion understands that by raising the priority level of service-disabled veteran business owners in the Federal Acquisition Regulation by changing ″may″ to ″shall,″ they would be awarded more contracts within the Federal system.

The American Legion seeks to support legislation that supports and develops service-disabled veteran-owned small businesses, while providing them equal opportunity to start and grow a small business, including establishing numerical goals for all veterans to compete in the government procurement.

Also, the American Legion is concerned about the administration's direction towards end sourcing and how that is affecting small businesses. We believe the push to end-source thousands of contractor positions could have severe repercussions for small businesses, particularly service-disabled veteran-owned businesses, across the Nation, and force small businesses to scale back decisions or to go out of business.

Concerning the prevention of fraud, the Veterans Affairs and the Small Business Administration should develop a comprehensive partnership to assist veterans who are interested in participating in Federal procurements. The Center of Veterans Enterprise should maintain the database and verify accurate veteran/service-connected disabled veterans' status. SBA should retain the responsibility for validating the business ownership, size, standards and structural integrity of the business. SBA should have direct reporting and import authority to the VIP database through the Office of Veterans Business Development once this information is collected. VA should maintain the eligibility status regarding veteran status. SBA is responsible for verifying all other socioeconomic categories for the purpose of Federal procurement. SBA already maintains the infrastructure, the expertise and established regulatory guidance to include the veterans population within that authority.

To boost the Federal Government procurement numbers within the veteran business community, the American Legion recommends: One, currently GSA schedules are exempt from small business regulations. Without this change, SDVOSBs will be limited in their quest to expand business opportunities.

Two, implementation of a coordinated, standardized training program for procurement staff that focuses on SDVOSB procurement strategies in their respective agencies.

Three, President Obama should reissue Executive Order 13360, providing opportunities for service-disabled veteran-owned busi-

nesses to increase Federal contracting and subcontracting opportunities for veterans, and require that its tenets be incorporated into SBA regulations and standard operating procedures.

Four, the SBA needs to emphasize Executive Order 13360 again and establish it as a procurement priority across the Federal sector. Federal agencies need to be held accountable by SBA for implementing the Executive Order, and SBA needs to establish a means to monitor agencies' progress and, where appropriate, establish a report to identify those that are not compliant and pursue ongoing follow-up.

Five, in order to achieve the mandates of Executive Order 13360, the SBA must assist Federal agencies to develop a strategic plan that is quantifiable and will assist them in establishing realistic reporting criteria.

Six, the American Legion also recommends that the House Small Business Committee embrace and promote development of stronger policy and legislative language that champions the utilization of Veteran-Owned Small Business Joint-Venturing as a ready solution to the small business spending requirements of the Stimulus Spending Initiative.

And, seven, hold those agency leaderships responsible for meeting the 3 percent congressional mandate goal. We recommend the Committee schedule a hearing with all Federal agencies who consistently do not meet their Federal procurement goals.

This concludes my portion of the testimony. We look forward to continuing working with the Committee to enhance entrepreneurship among American veterans. The American Legion appreciates this opportunity to present this statement for the record. Again, thank you, Chairman Nye and Ranking Member Schock for allowing the American Legion to present our views on this very important issue.

Chairman NYE. Thank you, Mr. Sharpe, and thank you for your work for our veterans.

[The statement of Mr. Sharpe is included in the appendix.]

Chairman NYE. I now yield to Mr. Schock.

Mr. SCHOCK. Thank you, Chairman Nye.

I am pleased to introduce Stephen J. Hope, the president and CEO of Office Automations Systems, Limited, also known as CIAN, Inc., a service-disabled veteran-owned small business.

Mr. Hope is a 20-year veteran of the United States Navy. With a background in cryptologic computer programming and systems engineering, Mr. Hope's diverse framework centers on the military and national intelligence area. He attended postgraduate studies at the Defense Intelligence College and holds a B.A. in business management with a concentration in information systems from the University of Maryland.

With over 30 years of experience in the computer industry, Mr. Hope has become an expert on microcomputer networks, computer security, computer forensics, and industry compliance matters. His company, CIAN, Inc., specializes in computer network security and employs 40 people, over 50 percent of whom are veterans, in my hometown of Peoria.

CIAN, which provides, determines, and ensures the confidentiality, integrity and availability of your network, that is their mis-

sion, is to provide remote and on-site computer network security to include access control, forensics, intrusion and vulnerability detection, risk assessment, auditing, and incident response to government and corporate networks.

Last year in 2009, Mr. Hope started the first-ever Businesses Back to Basics in Peoria, recognizing that budgets were tight, and information technology is crucial to a company's continuation of operations and success. CIAN launched this service to assist local businesses with their IT concerns. Beginning February 23, 2009, and still continuing, CIAN offers free support to any IT-related issue a business may have. Additionally, seats in this call center are being filled by IT professionals in a community currently seeking full-time positions with benefits.

Given his diverse background and his work with the Federal Government, I know Mr. Hope has several ideas for how Congress can work to improve the service-disabled veteran-owned small business program.

With that, I am happy to yield 5 minutes to Stephen Hope of Office Automation Systems.

Welcome, Mr. Hope.

STATEMENT OF STEPHEN J. HOPE

Mr. HOPE. Thank you and good afternoon, Chairman Nye, Ranking Member Schock, and members of the Committee. Thank you for inviting me to testify today.

My name is Steve Hope. I retired over 21 years ago after 20 years of Active Duty honorable service in the Navy. 1990, I started my own company, a small commuter consulting firm, with offices now in Peoria, Illinois, and Bowie, Maryland. I have a service-connected disability, and run the day-to-day operations of my company.

I am the president and CEO of Office Automation Systems, Limited. We do business as OASYS and CIAN, Incorporated. We are a C-corporation, registered with the Small Business Administration as a Vietnam-era veteran-owned and service-disabled veteran-owned small business concern. We are registered with the CCR, ORCA, Small Business Association, and VetBiz. We are an information technology firm specializing in computer network security, including penetration tests, forensics incident response and information assurance. Basically we keep the bad guys off your networks. Over 50 percent of my employees are veterans, and nearly every one of my employees carry a certified industry certification.

I offer this background on my company because I want to emphasize that I have done my homework. I have followed the rules and regulations, and I have complied with 8(a) agency mandates. The issue before the Committee has deeply affected the growth of my company and pursuit of my doing business with the government. To date, we have yet to receive one single government prime contract nor any service-disabled veteran-owned small business concern set-aside contract.

I have read every word of the GAO reports that have been submitted to the Committee, and while I have no firsthand knowledge of waste, fraud or abuse of SDVOSBs contracts, it doesn't surprise me. I have witnessed it in other Small Business Administration

business development programs, but I have chalked up our inability to get a primary SDVO contract to the typical government red tape, the ″good old boy″ network, and Federal regulations. One such regulation puts the onus on the losing contractor to protest a bid to prove any wrongdoing in terms of an SDVO status by the winner. I see other evidence of the problems all the time.

I am not here to add any more confusions or problems to the Committee. Actually, I have solutions. I think I have four very viable, realistic solutions that could be put into place now.

Number one, the implementation of a business rules management system, sophisticated artificial intelligence software that will capture, analyze, test and execute the rules and regulations of numerous sources. Capturing, collating and analyzing agency databases will indeed yield the intended results to confirm the eligibility, the industry, and the possible involvement of the day-to-day operations by the owners. That is all required by current regulations.

Number two, it should be imperative that the contracting officers interview the bidding finalist and ascertain the particulars of how the operations will be run, and review their SDVO eligibility. I also highly recommend site visits. Currently many contracts require a contractor site visit precontract award. This additional requirement to visit the finalist's site should be added to every SDVO awarded contract.

Number three, something needs to be done to reverse the SBA regulation that makes it imperative that 8(a) minority status contracts remain an 8(a) contract. The ″once an 8(a) contract, always an 8(a) contract″ CFR 125.504 fights the effort to allow existing contracts to be realigned into the SDVO initiative. Although well intended, the ″forever an 8(a) contract″ clause was introduced when information technology was experiencing exponential growth. The unintended consequence has arisen that 8(a) contract set-asides have a virtual lock on many IT support contracts at many and dozens of Federal agencies.

Number four, all disabled veteran-owned companies are issued a separate identification card, as I am holding up now, by the Department of Veterans Affairs. For veterans indicating that they own and operate a business, and they desire to operate within the SDVO initiative, additional information should be included on this card either on a microchip or other means of doing it, even with a bar code; that this card should be presented when contracts are awarded and they are signed.

My overall goal in addressing the Committee today is to make myself available, my experiences known to the Committee members, and I hope to illustrate how the President's SDVO directive actually affects the business owners attempting to do work with the Federal Government. I respectfully request that you consider my recommendations and you help us improve the opportunities for SDVO initiatives.

I would thank the Committee for inviting me. Thank you for the opportunity to testify, and I would like to answer any questions.

[The statement of Mr. Hope is included in the appendix.]

Chairman NYE. Thank you very much. I appreciate all of our panelists having proposed some succinct and I think very thought-

ful solutions, ideas that would actually help government agencies increase their contracting to service-disabled veteran-owned businesses and increase efficiency in the system.

I just have a couple quick questions, and then I am going to defer to our ranking member.

But I heard from a number of service-disabled business owners complaints about the process whereby when they make a complaint about an award, they protest to the SBA and they are sent back to the original contracting officer, who then either tells them to go back to the SBA, or they are concerned that complaining to that contracting officer kind of muddies the waters for them for any future contracts.

What I want to hear from you are any thoughts about—and also from Mr. Sharpe about the people you represent—Any thoughts about your approach, how you see your relationship with those contracting officers. And are there things that we can do from the Congressional side that can make it easier for you in terms of your ability to relate openly with contracting officers, but also be able to point out problems when they exist without suffering repercussions?

Mr. KOBELSKI. Yes, sir. I think the contracting officers are not well trained. The ones that have been in business for a while are. And we approach contracting officers, we don't go to the SBA to protest, we go directly to the contracting officer. And the contracting officer comes back with a few excuses and says, well, this, that, and another thing.

But what we have talked with—for instance, this morning, we had my contracts person contact a contract officer in NAVSEA and he—wondering why this contract is being put out unrestricted vice small business or even SDVOSB. The contractor replied that he was—Seaport told them—this is on the Seaport contract—told him that he would have to put it out to small business, but he was able to have them change that to go unrestricted. Now, it is a 15-man-year contract, it is about a $1.5 million a year contract for 5 years. And what has happened, he told my contract representative that he—well, she asked him whether he did market research or not, and what kind of market research did he do on making this unrestricted. And she was replied to with the comment: I don't do market research.

I mean, I think the FAR states that you have to do market research. I am not sure, but I think that is the case. But I think it all lies with the contracting officer. I think if the contracting officers are really trained well or at least abide by the FAR, I think you will get more out of it, really.

Chairman NYE. Thanks. Anybody else? Mr. Sharpe.

Mr. SHARPE. I have also been told that the contracting officers are poorly trained, and I have also participated with some of our business owners as they had meetings with various contracting officers, and it appears that there is a lack of knowledge. And my opinion is that, basically, the process is pretty dishonest.

I just don't think our veterans need to come back when they are working with these contracting officers, that they have to do certain things by providing them dinners and taking them out and all these other little things that all seem to be included in this process.

And I really think that there needs to be stricter oversight to this, because it gets to the point where it is really pretty dishonest for our veterans to have to more or less pimp themselves to get a contract.

Chairman NYE. Mr. Hope.

Mr. HOPE. Personally, I have never protested an SDBO contract award to another person because of the issue that you mentioned there, retaliation, or just not wanting to muddy the waters with any agency.

I think that if we stick to the four issues that I brought up, precontract award homework has to be done. We don't need the losers to step forward and try to protest if it has been confirmed by the SBA or others.

Chairman NYE. I think that is a good point. We obviously want to take the onus off of our service-disabled business owners from having to do all the protesting and all the heavy lifting when they have got very little extra time, when they are trying to focus on doing their business. I appreciate that.

I want to give the opportunity to any of our panelists to comment on anything they heard from the first panel. You have brought prepared statements, but you also have had a chance to listen to testimony provided by the agencies about how they look at contracting. And this is just an open-ended opportunity, if there are any comments you want to make on what you have heard. Yes, Mr. Kobelski.

Mr. KOBELSKI. Yes, I really admire the VA. They have really gone above and beyond in meeting their goals. They are really doing a fantastic job.

As far as the rest of the agencies, I am not sure about the other two; but DOD, I think they are not getting the information up top. I think the information is not flowing up. I think there are a lot of excuses being made from the contracting officer and even the small business advocates in the commands, and I think they need to investigate it a little bit more.

Chairman NYE. Mr. Sharpe.

Mr. SHARPE. We have actually visited a number of these agencies, and one part of the conversation that came out earlier today was that a lot of these agencies, if it is not coming from the head, that it is definitely not getting down to the procurement officers and there is just not enough buy-in. We were even told by one particular agency that they are not getting that. And since their agency is the client that generally, when a company wants to do business with them, they will do anything that that agency says that needs to be done prior to receiving the contract.

So if an agency is saying that in order to do business with us, you will work with our veteran-owned businesses, that will generally happen. If that is not being said, then they will not do it. And they will use the excuse, ″Well, I don't need to do business with you. The regulations state that I ″may″ do business with you.″ And a lot of our veterans see that as saying no.

So those agencies where there is oversight, where the Secretary and the Administrator is telling them, giving them a directive that you will deal with veterans, generally you see their percentages rise. And then when you witness some of the meetings, you don't

see all the other shenanigans that are going on, and then the fear of a protest, and then having to do other things than to do what they are supposed to do.

Mr. HOPE. The only comment I have is more general. And that is, we have been hearing this same thing for all the Small Business Administration business development programs, the same type of chatter, the same type of thing. We don't see anything being done, we don't see anything being implemented. There is no realistic approach by any one of the agencies that they have mentioned. It is more of a ″We will try to do better. Our numbers will go up and things will get done.″ But there has got to be something tangible. We don't see it. We just don't see it.

Chairman NYE. Thank you. I will yield to our ranking member, Mr. Schock.

Mr. SCHOCK. Thank you, Mr. Chairman. To follow up on that, Mr. Hope, I would give the opportunity for you and the other panelists to respond to that. What barriers do you see for yourself trying to go after contracts with these Federal agencies? Are there certain barriers that are in place? Is there a difficulty getting the information? What would you like to see as a possible competitor for providing services or a provider of services to the Federal Government—what barriers are in place as someone who is in the Midwest or someone who is on the East Coast, but not in Washington, D.C., trying to compete for business with these respective agencies that you just heard from and others are there?

In other words, if you are up here and you could get them to provide different information or do things differently, what would it be to make it easier for you to compete and be awarded contracts at the Federal Government?

Mr. KOBELSKI. As far as set-asides go, SDVOSB set-asides, again, the agencies are not out there looking. They are not seeking other ways to find those companies out there. I think anybody can do any work across the Nation. I do work in California. I am out of Virginia Beach, Virginia. I also do it in Jacksonville, and we do it well, and we do it on naval aircraft mostly.

I don't see any barrier at all for us to get work, or at least qualify for work along with a couple other small businesses, SDVOSBs that I know of that can do the work. Now, I would love to compete it, I would love to compete the work, but I would like to compete it within the SDVOSB community. And there are enough of us out there to do that engineering work in Naval aviation or in Air Force aviation, wherever it is.

Again, I see no barriers except for the agencies not looking for us, even though we are going through the small business offices and we are sending documents out and everything, but it seems to be going to deaf ears.

Chairman NYE. Mr. Hope or Mr. Sharpe.

Mr. SHARPE. The barriers that we see are that many of our business owners would prefer to have an office here in Washington so they have access not only to the Hill, to be able to provide complaints or concerns—complaints or concerns to you—but also they like to be closer to the head, the heads of the various agencies here. I mean the offices, where they are able to talk to someone with some sort of authority. They feel like if they are out in the Midwest

somewhere, that they are at a disadvantage. And also, there is a feeling that some of the Federal representatives that are in those areas really don't pay too much attention to them.

It is like they need to come to Washington, talk to the Representatives, come to hearings like this, provide information for testimony before they are actually heard, because they just feel like it is not really coming from the heads of the various agencies, it is not getting out to the rural areas, and there appears to be some disadvantage to that.

Mr. HOPE. I would say our number one barrier is the resources internal to the organization, that we cannot afford to, number one, protest after the fact. And we don't have enough resources to bid on every possible contract in hopes of getting one.

I would like to offer a real-day situation that we are confronted with today. Six weeks ago, a government agency went out with us, SDBO set-aside RFQ, request for quote, on a product and services, of which my organization spent numerous days, 6 weeks, of three engineers learning, making sure we understood everything inside out. Our executive assistant spent many hours getting the RFQ prepared.

We submitted it on time on Tuesday night of this week. It was due today. Last night or the night before, they came out with an amendment to the RFQ saying that this is no longer an SDBO set-aside and it has been opened to small business industrywide.

That number of resources we just spent, we can't just continue that way, so we need to find out why these SDBO set-aside contracts are being rescinded at the last minute. That is number one. I mean, there are lots of issues like that, that I have talked to many SDBO presidents that have the same issues, the same concerns about expending resources to get nowhere.

Mr. SCHOCK. Mr. Kobelski, you mentioned that you didn't feel like the agencies themselves are even looking for you, or aren't really making a sincere effort to try and maybe fill their quotas. What leads you to believe that?

Mr. KOBELSKI. Several sources sought RFIs—they are trying through RFIs and sources sought. But it appears that they are not making it—the RFI or the sources sought is not the way to really go, to really get the attention of the SDVOSBs. Most of the companies are small, they are under $5 million, $3 million companies, and they don't have the resources to answer 10-page requirements and listing all the information they have.

Why can't we have just a one-page sources sought document, go out to the community and go to organizations like the SDVOSB Council out of Virginia Beach, Virginia, go to the American Legion, go to a few other places to find these sources? And I think you will get a lot more responses to these things.

And I think most of the agencies are doing it via RFIs. They are trying to get the information out, they are abiding by the FAR and getting information out there, but it is not hitting home.

Mr. SCHOCK. Anyone else?

With that, before I yield back, I will just give you the opportunity once again, if you have any other closing remarks for me as far as if you were up here and had the ability to effect change, what changes you would like to see that would be most helpful to you

to be awarded these contracts or to be able to better compete for them?

Mr. KOBELSKI. I would put some more teeth into 13360, executive order. I would make it law, just like the 8(a). Put it on parity with the 8(a) companies—or program.

Mr. SCHOCK. Fair enough.

Mr. SHARPE. More legislation, changing ″may″ to ″shall.″ Having joint hearings, bringing in the agency heads. The last thing they want to do is have you ask, ″Why, Secretary, your veterans aren't being taken care of,″ and letting a roomful of veterans hear his answer.

Mr. KOBELSKI. I have one more comment. I think the idea that Chairman Nye had about putting an SBA rep in every location would really help the program unbelievably. I think that is the greatest idea I think I have heard. And making sure that all SDVOSBs are certified by the SBA.

Mr. SCHOCK. Thank you very much. I appreciate your time.

Chairman NYE. Just let me say again how much I appreciate you taking the time to be here, and let us hear directly from the folks who are out on the front lines every day. We got to hear from the agency representatives, that is useful; but we need to juxtapose their comments with what you are seeing from your end.

So, again, I appreciate you taking the time and making the effort to travel to Washington to be here with us.

Let me also thank and note that there are some agency folks who remained to listen to the testimony provided by the business owners. So thank you for being here to listen to what these folks had to say today.

With that, I will ask unanimous consent that all members have 5 legislative days to submit materials for the record. Hearing no objection, this hearing is now adjourned.

[Whereupon, at 12:15 p.m., the subcommittee was adjourned.]

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Opening Statement for the Hearing:
"Ensuring Contracting Opportunities and Preventing Fraud for Service-Disabled Veteran-Owned Small Businesses"
Aaron Schock (R-IL)
Ranking Member
House Committee on Small Business' Subcommittee on Contracting and Technology
July 15, 2010

Chairman Nye, I want to thank you for holding this very important hearing on the issues confronting the Service Disabled Veteran Owned Small Business Program. I also want to thank all the witnesses who traveled to be here today. Your testimony and input is greatly appreciated as we look to identify ways to improve this SBA run program.

Veteran owned businesses are an integral part of the small business community, which is why in 1999 Congress established a government-wide goal that 3% of the all federal prime and subcontracting dollars should go to these types of small businesses. It is unfortunate that despite the establishment of this goal, federal agencies continue to fall short of realizing it. In Fiscal Year 2009, veteran owned small businesses only saw 1.8% of the federal contracting dollars, according the Small Business Administration's own scorecard.

This is unacceptable – the federal government can and must do better. Federal agencies must do more to help service disabled veteran-owned small businesses navigate the challenges of owning a business and deal with the bureaucratic red tape that comes with it.

In addition to the failure to meet the modest goal of 3%, I am disappointed by the fraud and abuse that continues to plague the SBA's veteran small business program. In the Government Accountability Offices' October 2009 report, it was revealed that 10 firms improperly received over $100 million in sole source or restricted competition contracts that were supposed to go to veteran owned small businesses. I'm sure our local veteran businesses in Illinois would have jumped at the opportunity to apply for those government contracts.

Quite frankly, I am frustrated that Congress and federal agencies continue to talk in circles and make promises to eliminate fraud and abuse within this program while failing to meet the established goal of 3%. This Committee and this Congress have a responsibility to ensure that these programs and goals benefit their intended recipients.

I look forward to today's testimony by the government witnesses regarding the strategies and plans they are implementing to solve some of the problems that have been identified within the veteran owned small business program.

I am especially interested to hear the testimony from our second panel of service disabled veteran small business owners who will be able to provide us with an 'on the ground' perspective of this important program and obtain their thoughts on what Congress can do to improve it. Again, I thank Chairman Nye for holding this hearing and I look forward to the witnesses' testimonies.

TESTIMONY

of

Linda B. Oliver

Acting Director

Office of Small Business Programs

Office of the Under Secretary of Defense (Acquisition, Technology & Logistics)

U.S. Department of Defense

Before the

U.S. House of Representatives

Committee on Small Business

Subcommittee on Contracting and Technology

Hearing on

"Service-disabled Veteran-owned Small Business Contracting Program"

July 15, 2010

HOLD UNTIL RELEASED BY THE COMMITTEE

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

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

Thank you for the opportunity to appear before you today to discuss the Department of Defense (DoD) service-disabled veteran-owned small business (SDVOSB) contracting program. Many current DoD employees are veterans as well as employees in defense industry, and thousands of veterans have started small businesses. We have worked with, know well, and greatly admire SDVOSB owners and we are committed to providing maximum practicable opportunities to these service-disabled veteran-owned small businesses in our contracting and acquisition programs.

My testimony today will start with a brief review of the DoD small business accomplishments since Congress passed the Veterans' Benefit Act of 2003. This act gave DoD the authority to set aside procurements for SDVOSBs. I will also update the DoD accomplishments on the American Recovery and Reinvestment Act of 2009. Next I will convey some of the business characteristics of SDVOSBs we discovered as we explore ways to continue our assent to meeting the government-wide SDVOSB statutory goal of three percent. Finally, I will comment on some of the issues raised by the October 2009 by the Government Accountability Office (GAO) report entitled, "Service Disabled Veteran-Owned Small Business Program," that was prepared for the Chairwoman, Committee on Small Business, House of Representatives.

How Effective Has DoD Been?

One way to view progress is to look at some of our numbers. Chart 1, presented below, shows DoD's accomplishments toward increasing its prime contracts with service-disabled veteran-owned small businesses. Over the past seven fiscal years (FY), FY2003 through FY 2009, DoD has increased its prime contract awards to SDVOSBs from $0.3 billion to $4.3 billion. The chart delineates a line moving to the right in an upward trend. The chart illustrates that DoD is steadily improving through annual increases in dollars awarded to SDVOSB each year. We are proud of this progress, one that shows a fourteen fold increase. From a different viewpoint, our percentage achievements have gone from 0.2 percent in 2003 to 1.4 percent in 2009; that's a seven fold increase. Taken together, it is good for SDVOSBs when the percentages are increasing in an upward trend and also when the total dollars are increasing at an even faster pace. While these trends are positive and encouraging, we cannot and will not relax our efforts until we achieve the Government-wide goal of three percent.

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Chart 1

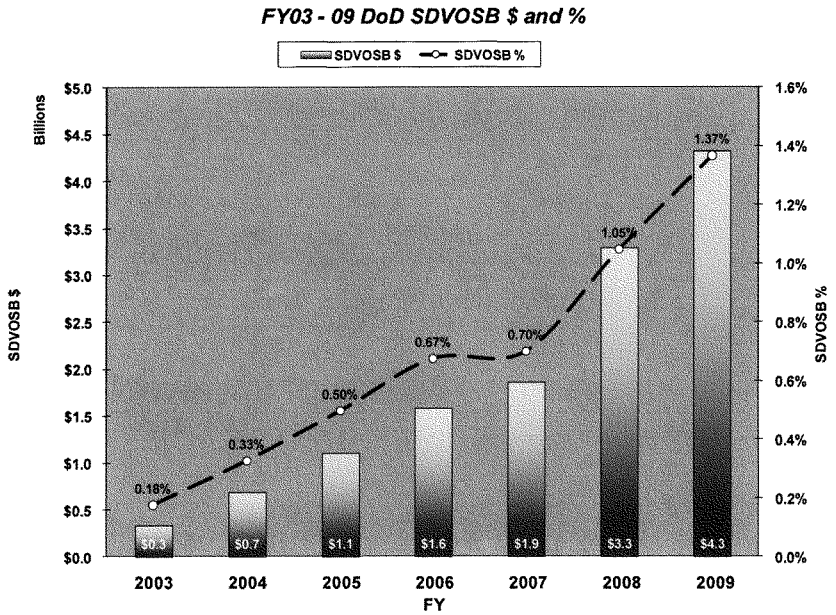

Chart 2 provides another perspective on our work with SDVOSBs. In FY 2003 the number of service-disabled veteran-owned small businesses that received DoD contract dollars totaled 751 firms. As the chart below illustrates, the number of firms has steadily increased since then and shows an overall upward trend. In FY 2009 the number of service-disabled veteran-owned small businesses firms increased to 3,164 firms. The overall increase for this six year period represents more than a four-fold increase.

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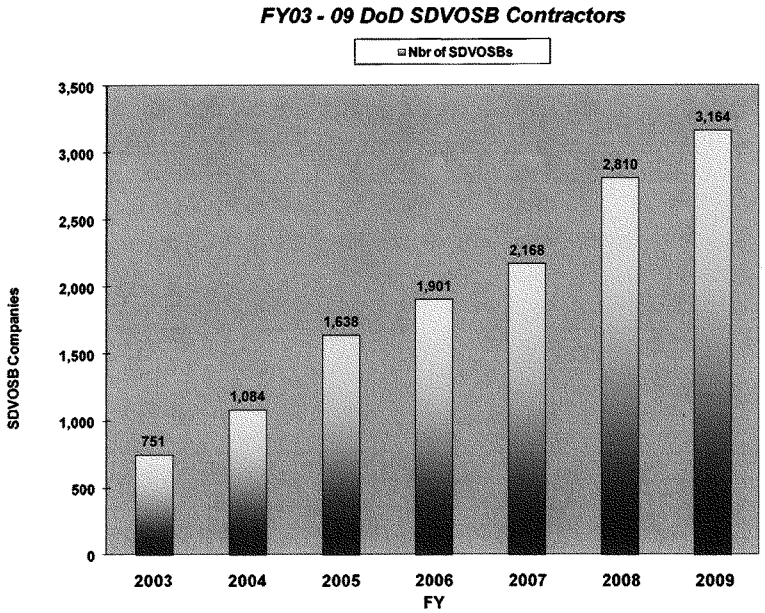
Chart 2



DoD was appropriated $7.4B in Recovery Act funds. To date about $4.2B has been awarded to both large and small businesses in more than four thousand contract actions. About $2.5B in Recovery Act awards has been for work performed by small businesses. Thus far $157M of DoD Recovery Act work is being performed by SDVOSBs. In order to ensure small business interests are considered, my office actively participates in the Department's Recovery Act working group that meets weekly to assess our progress and performance in meeting the requirements of the Act.

What are some of DoD efforts that are specifically directed at service-disabled veteran-owned small businesses?

The DoD Mentor-Protégé Program

In 2003, my office initiated a legislative proposal that would make SDVOSBs eligible to be protégés in the DoD Mentor-Protégé Program. The enacted change bore fruit in the spring of 2005, when three SDVOSBs entered the program. Since then, their participation has steadily increased so that today there are 13 service-disabled veteran-owned small businesses with active DoD mentor-protégé agreements. This represents 10

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percent of all active mentor-protégé agreements within the Department. Typically, these agreements last for three years.

The SDVOSB participation in this program was a particularly important step because the program facilitates protégé success by helping the protégé company learn and grow with established DoD prime contractors. Technology enhancement or technology transfer from the mentor to the protégé firm is a central element of the program. As a result, protégé firms that graduate from the program are generally valuable additions to the Department's supplier base.

Training

In May of this year at the 2010 DoD Procurement Conference and Training Symposium my office partnered with Defense Acquisition University to present eight training sessions on strategies for contracting with small business. These sessions were attended by a large component of DoD contracting officers and contract specialists.

With a team of experts across the Department, my office has revised Defense Acquisition University's Internet Web-based training module for DoD acquisition personnel on strategies for contracting with service-disabled veteran-owned small businesses. In addition to this continuous learning module, my office is working with DAU to develop additional small business training modules for program managers and contracting officers.

The Department of the Army, on behalf of DoD, leads the Department's efforts with respect to the National Veteran Small Business Conference each year. This conference is a training and outreach event specifically aimed at our service-disabled veteran-owned small businesses. It allows DoD to present current information on its contracting methods as well as discuss facts firms need to compete effectively for DoD contracts. The DoD small business contracting workforce is committed to increasing its training and outreach efforts that are designed to assist service-disabled veteran-owned small business concerns.

My office also sponsors an annual DoD small business specialist training conference. The conference provides training and assistance to the DoD acquisition workforce across all DoD components.

What are some of the some of the business characteristics of SDVOSBs?

Data analysis has helped us understand the characteristics of SDVOSBs. I believe that we are gaining insights that will help us develop mechanisms that will, in turn, allow us to make even greater use of SDVOSBs in our contracting program.

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We have found some facts that have led us to make a few conclusions about this contracting group. For example, more SDVOSBs wish to do business with the Federal Government each year. We reached this conclusion after observing that the number of SDVOSB firms self representing and certifying their status through registering in the Central Contract Registration (CCR) database is continuing to grow each year. During 2010 there has been a net increase of approximately 500 new SDVOSBs self representing and certifying their status registered in CCR each month. As of June 1, 2010, there were 24,059 small businesses that have self represented and self certified their status as being SDVOSBs. Another conclusion based on our review of the data involves the types of business categories where SDVOSBs receive the largest award dollars within DoD's contracting program.

The Department of Defense contract awards to SDVOSBs have tended to concentrate around a relatively small group of products and services classified under the North American Industry Classification System (NAICS) codes. The three top categories are: professional, scientific & technical services; construction; and administration & support. These three categories account for 77 percent of all service-disabled veteran-owned small business awards that were made in FY 2009 as compared to fifty-two percent for all other small businesses.

In these categories DoD awards a higher percentage of contract dollars to SDVOSBs than it does to all other small businesses. In FY 2009, for example, there were $63B DoD contract dollars awarded to all small businesses, including SDVOSBs. Of this total, approximately $4.3B, or about seven percent were dollars awarded to service-disabled veteran-owned small businesses.

For awards made to SDVOSBs, 42 percent of contract dollars were awarded in the category of professional, scientific and technical services. In contrast, for all other small businesses 25 percent of the dollars were awarded under this NAICS code. For awards made to SDVOSBs, under the NAICS code for construction, 24 percent of contract dollars were awarded, as compared to 20 percent of contract dollars made to all other small businesses. For awards made to SDVOSBs in the administration and support NAICS category, 11 percent of contract dollars were awarded to SDVOSBs. This compares to seven percent of total DoD contract dollars that were awarded to all other small businesses.

We believe these facts imply good use of SDVOSBs in the NAICS classes where DoD buys what SDVOSBs offer. We hope that further analysis will help us better understand the SDVOSBs that are available to do business with us so that we can continue to improve our SDVOSB accomplishments.

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What can DoD learn from the GAO Study?

The GAO study cites on page three that it selected ten cases from over 100 allegations of fraud that it received. The GAO focused on ten "firms that received SDVOSB contracts through fraudulent or abusive eligibility misrepresentations." The study is helpful because it presents a framework for analyzing the problem.

There are three differing eligibility requirements: service-disabled veteran status, ownership & control, and size. These three requirements are derived as follows. The Small Business Act defines the term "service-disabled veteran" as one with a disability that is service-connected, as defined by title 38 U.S.C., section 101. The term "service-connected disability" is a disability that was incurred or aggravated in the line of duty in the active military. A service-disabled veteran self-represents his or her veteran status. Proof of being a service-disabled veteran can be evidenced by a Department of Defense (DD) Form 214 or a letter as to his or her disability from the U.S. Department of Veteran Affairs. The Small Business Act further defines the term "owned and controlled by service-disabled veterans" to mean: (1) A small business concern that is not less than 51 percent owned by one or more service-disabled veterans; and (2) the management and daily business operations of which are controlled by one or more service disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such a veteran.

None of the ten cases studied by GAO demonstrates a veteran purporting to have a nonexistent service-connected disability. However, they present a range covering the type of potential violations involving the ownership and control requirement and the size requirement for eligibility. In fact, because there are so many different ways to break the two rules on which the report focuses, perhaps a more practical way to categorize these cases is by focusing on the government employee or apparatus most likely to identify and correct abuse. For the purpose of discovering and discouraging fraudulent or abusive eligibility misrepresentations, these cases can be categorized as either pre-award violations or post-award contract violations.

Pre-award violations are often discovered as a result of an interested party filing a U.S. Small Business Administration (SBA) bid protest. Five of the ten cases in the report involved such protests. On page 18 of the GAO report the GAO states that "there is not an effective process for prosecution, suspension, or debarment of program abusers."

Is there a better way to use the existing suspension and debarment system? Perhaps our current process could be modified to better handle these cases. For example we could improve communication by routinely sharing copies of bid-protest decisions with relevant suspension and debarment officials at the agency responsible for making the contract award. This would allow the suspension and debarment officials at the agency the opportunity to take action when it is appropriate.

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U.S. Department of Defense

Some post-award violations probably can be prevented by actions taken during the pre-award planning and selection process. Continued emphasis on improved market research, and review of past performance information are two areas that can assist the contracting officer in identifying potential problems before a contract is awarded.

For post award contract problems, the contracting officer who administers the contract is in the best position to discover fraudulent or abusive practices. In many cases it is only after a contract has been awarded, (i.e., during the contract's period of performance) that such misrepresentations and pass-through abuses can be detected.

Improving a contracting officer's ability to identify and prevent some kinds of abusive practices may require strengthening the administrating contracting officer's awareness of the problems mentioned in the GAO report. A significant abuse discussed by GAO is firms that use service-disabled veteran-owned small businesses as a pass-through. Detection of this type of abuse can be improved by increased training that emphasizes how pass-through activities are identified.

Other possible actions include, adding information to the Defense Federal Acquisition Regulation supplement companion resource, Procedures, Guidance and Information. Additionally, developing specific training modules is an idea worth exploring.

I believe that many of the problems illustrated by the ten cases reviewed in the GAO report can be addressed through better communication between Federal components that have responsibility to detect and discourage fraud. Better training that focuses on identifying and detecting firms attempting to use service-disabled veteran-owned small businesses as a pass-through would also detect potential abuse.

Conclusion

The achievements of service-disabled veteran-owned small businesses in contracting with DoD are the result of dedicated, agency-wide support and commitment of our contracting and acquisition professionals, the service-disabled veteran-owned small businesses and the diligent efforts of veterans' groups. The DoD has continued to increase its contract awards to service-disabled veteran-owned small businesses since 2003. DoD has demonstrated that it can continue to increase opportunities for SDVOSBs in all its programs, including the DoD Mentor-Protégé Program. Service-disabled veteran-owned small businesses are and will continue to be an important part of DoD small business programs.

The October 2009 GAO study has identified important problems associated with contracting with SDVOSBs. We appreciate the insight the report has given us. I am

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

confident that we have the mechanisms and tools available to resolve the problems indentified in the report.

Mr. Chairman, I thank you and the members of the Committee for your interest in our efforts. I would be pleased to address your questions.

Testimony of Mr. Timothy Foreman
Executive Director, Office of Small and Disadvantaged Business Utilization
Before the House Small Business Committee
July 15, 2010

Good morning Chairman Nye, Ranking Member Schock and distinguished members of this subcommittee. It is my privilege to testify before you today regarding the status of the Department of Veterans Affair's (VA) Service-disabled Veteran-owned and Veteran-owned small business (SDVOSB/VOSB) program. I will also address aspects of the government-wide SDVOSB program with a perspective to better eliminating fraud and maximizing participation among deserving qualified business owners. Small business enterprise can best serve as an engine of ingenuity and creativity with favorable impact on both business and government when it is free of fraud and enthusiastically engaged in its work or mission.

VA's Service-disabled Veteran-owned Small Business Program

VA is the recognized Federal leader in its share of contracts to small business owners who are Veterans and Service-disabled Veterans. The provisions of the *Veterans First Contracting Program,* authorized by Sections 502 and 503 of Public Law 109-461, are directly responsible for much of our recent success and growth. While the government-wide goal for procurements with SDVOSBs is three percent, VA exceeded its 2009 fiscal year goal of 7 percent and realized a 16 percent procurement rate to SDVOSBs last year. I am pleased to note that, under Secretary Shinseki's leadership, the Department has established ten and twelve-percent stretch goals for SDVOSBs and VOSBs respectively for fiscal year 2010.

In addition to the set-aside and sole-source authority granted for VOSBs and SDVOSBs, VA's Office of Small and Disadvantaged Business Utilization (OSDBU) has a number of programs for outreach and education of small business owners. OSDBU regularly participates in teaching aspects of small business programs to contracting personnel at the Office of Acquisition, Logistics and Contracting's VA Acquisition Academy. We will soon implement a Mentor Protégé Program as well.VA is working with SBA regarding options for VA's for small business protest and adjudications.. VA also has robust outreach, counseling and education programs targeting both VA procurement personnel and prospective small business owners.

Additionally, I will become the Chairman of VA's newly formed Suspension and Debarment Committee for non-Federal Acquisition Regulation (FAR) debarment actions. This committee will be yet another tool available for VA to help deter fraud; it will provide a mechanism to protect the government from businesses who wrongly masquerade as SDVOSBs. This position should be distinguished from that of the senior debarment official, responsible for FAR-based acquisition

actions, for the Department, as that responsibility is delegated by the Secretary to the senior procurement executive in VA. Keeping the pretenders out of the competitive process will prevent them from stealing the statutory and regulatory rights due only to real VOSBs and SDVOSBs; it will prevent them from stealing the valor of those who are entitled to meaningful procurement advantages.

Throughout our targeted efforts to enhance procurements to VOSBs and SDVOSBs the quality of products and services provided to our Veterans by our VOSBs and SDVOSBs remains high. As the program grows, our Veteran clients will continue to receive quality services and products from increasing numbers of Service-disabled Veteran suppliers who, as fellow Veterans, better understand the needs of the community VA serves. This symbiotic aspect of VA's program is a "win-win." Like many programs of broad and comprehensive scope, however, there are areas where we can still do better.

One area where VA can do better is in subcontracting with SDVOSBs. As Secretary Shinseki stated at the 5th Annual Veterans Small Business Conference last year,

> In a few short years, we have exceeded our prime contracting goals – but we have fallen miserably short of our subcontracting goals. VA's subcontracting goal for service-disabled Veteran-owned small business is 3%, and we have yet to meet it. This is unacceptable, and it is going to change.

Mr. Chairman, I can add little to the direction provided by the Secretary regarding VA's subcontracting accomplishments and goals. It is my duty, in part, to see that this change occurs, and we are now beginning to track subcontracting goal accomplishments.

VA has an examination and verification process for VOSBs and SDVOSBs and maintains a database called the Vendor Information Pages (VIP) that lists SDVOSBs and other Veteran-owned businesses. The VOSBs and SDVOSBs listed in the database are either VA-verified or self-verified. Today, a business may be listed in VIP once that business certifies that it meets specified criteria. Businesses may also opt to apply for VA verification; these businesses complete additional application requirements, they are examined by OSDBU's Center for Veteran's Enterprise and are verified if they meet specific criteria.

Today, we are receiving applications far more quickly than we are able to process. Resolving this backlog continues to be a top priority for OSDBU. The list of VA-verified VOSBs and SDVOSBs will eventually constitute a database that will serve as the backbone of VA's small business contracting efforts. Careful review of the applications and site visits, where appropriate, will eliminate most status and process fraud in small business contracts and will streamline

program administration. Resolving this backlog will be the singular focus of OSDBU's Center for Veterans Enterprise for the near future.

After December 31, 2011, only VA-verified businesses will be visible in the VIP database; all businesses must be VA-verified before being accessible to contracting officers on that database. VA is committed to expending necessary resources to reduce the inventory of pending applications for verification that were submitted by VOSBs and SDVOSBs; we expect to clear this backlog no later than January 1, 2012. On June 1, 2010 we awarded a contract to create "VIP-5", a version of our verification database that will fully automate assembly of the materials needed for verification determinations. We will release requests for proposals by the end of July 2010 to solicit contractor assistance to help VA clear the backlog of VOSB and SDVOSB applications for verification. We anticipate accelerating the processing of applications from the current level of several hundred per month to almost 2,000 per month to meet our goals and the 2012 deadline.

Beyond VA's Veteran Owned Small Business Programs

VA does have advantages over other federal agencies because of the *Veterans First Contracting Program.* Under this program SDVOSBs are granted first priority for VA contracting opportunities while Veteran owned small businesses have second priority. These are meaningful advantages in securing VA contracts.

All federal agencies have the authority for sole-source or restricted competition contracts with SDVOSBs. Whenever such an advantage is available, some in the competition will seek methods – legal or not – to gain that advantage. This and other Congressional committees have observed that fraud plays a major and unwanted role among the portfolio of small business programs administered by the federal government. Eliminating that fraud is essential so that procurement dollars may efficiently go where Congress intended when it created those small business advantages.

Government-wide, we observe two types of fraud: status fraud and process fraud. Controls are necessary to prevent both types of fraud. At the same time, control mechanisms should be carefully considered for their potential impact on legitimate SDVOSBs. We should strive to stop fraud while not unduly obstructing legitimate SDVOSBs.

Of the two types of fraud, status fraud is the easier to detect. VA relies on an internal database named the Beneficiary Identification Records Locator System to determine if the putative business owner is a Veteran or service-disabled Veteran. Other available documentation is checked to determine ownership and control – both must be present. Other federal agencies use their own checks to determine the status of the putative business owners; contracting officers will

crosscheck GSA's Central Contractor Registration (CCR) database or even VA's VIP database to see if the business is listed as a SDVOSB. Most methods that are used are able to alert the contracting officer to the potential of status fraud.

Process fraud is more difficult to detect because it is identifiable only after the contract award. It involves a failure to comply with the limitations on subcontracting clause. This clause requires the SDVOSB to perform a certain percentage of the contract work itself. Detection requires post-award follow-up and detection by VA contracting, OSDBU or contractor support personnel. VA is committed to identify and stop process fraud wherever it occurs. Both status and process fraud may require on-site evaluations to detect non-compliance.

Fortunately, the SDVOSB community is a fairly strong, self-policing community. They are not bashful about pointing out fraud when they believe it occurs. Of the 23 protests that have crossed my desk as Executive Director, all but seven were sustained. At a minimum, SDVOSB status protests identify a potential place for federal investigators to begin their review. While this source of information is convenient, it is not sufficiently comprehensive to provide for effective federal oversight.

As the Government Accountability Office (GAO) pointed out in their May 24, 2010, testimony before this subcommittee, an effective fraud prevention framework is required to deter fraud. VA has a more robust fraud prevention framework for SDVOSBs than do most other federal agencies, yet VA still experiences both types of fraud. In their testimony, GAO discussed the need for more data regarding fraud and fraud prevention, suggesting that too many businesses that commit fraud are not effectively dealt with by agencies. VA has taken steps to address this issue by establishing a Suspension and Debarment Committee and by referring any business found committing fraud to either this committee or to the VA OIG for action. VA expects this will strengthen its fraud program – either of these steps may result in adverse actions upon the fraudulent business. Such actions may be mirrored government-wide to produce a deterrent.

It is the Secretary's expectation that by greatly reducing fraud in the SDVOSB program government-wide, VA will create an environment more conducive to participation by legitimate SDVOSBs. By detecting and debarring or otherwise punishing businesses pretending to be SDVOSBs, the increase in business opportunities should bring out greater numbers of SDVOSBs and may allow these businesses to earn a greater share of the federal procurement dollar.

Mr. Chairman, VA appreciates the subcommittee's advocacy for a more robust structure in the government-wide, small business community to detect, deter and prevent fraud in the SDVOSB program, and to assure that appropriate actions are taken against fraudulent businesses. I would be pleased to answer the Subcommittee's questions.

DEPARTMENT OF HOMELAND SECURITY

FEDERAL EMERGENCY MANAGEMENT AGENCY

STATEMENT OF

Mr. Anthony Martoccia

Chief of the Contracting Office,

Director Acquisitions Operations Division,

Office of the Chief Procurement Officer,

Mission Support Bureau,

Federal Emergency Management Agency

On

"Improving Contracting Opportunities and Preventing Fraud for Service-Disabled Veteran-Owned Small Businesses"

BEFORE THE

COMMITTEE ON SMALL BUSINESS

SUBCOMMITTEE ON CONTRACTING AND TECHNOLOGY

U.S. HOUSE OF REPRESENTATIVES

July 15, 2010

Good Morning Chairman Nye, Ranking Member Schock and members of the Subcommittee. My name is Anthony Martoccia, the Chief of the Contracting Office and the Director of the Acquisition Operations Division at the Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA). I appreciate the opportunity to appear before the Committee today to discuss FEMA's engagement with the private sector, in particular with Service-Disabled Veteran-Owned Small Businesses (SDVOSBs), and to specifically address FEMA contracts cited by the Government Accountability Office (GAO) as part of its case study on the SDVOSB program in October 2009.

FEMA's Mission Support Bureau has jurisdiction over the Office of the Chief Procurement Officer, which is responsible for oversight of FEMA's acquisition mission, providing pre- and post-award contracting oversight and the development and monitoring of acquisition policy. Our goal is to ensure the swift acquisition of required materials, while ensuring good stewardship of public funds. My testimony will provide data and an overview of FEMA's implementation of the Federal SDVOSB Program which will outline how FEMA engages SDVOSBs to meet its 3 percent SDVOSB participation goal, as well as a discussion of a FEMA acquisition set-aside for competition among SDVOSBs.

The SDVOSB Program

As implemented in Subpart 19.14 of the Federal Acquisition Regulation (FAR), the Veterans Benefits Act of 2003 established the SDVOSB program to provide enhanced Federal contracting assistance to SDVOSB firms. Under the program, contracting officers are authorized to conduct sole source or set aside acquisitions for SDVOSBs. In addition, Executive Order 13360 further reinforces the need for procurement opportunities for SDVOSBs.

The statutorily mandated prime and subcontracting goal for SDVOSB participation in Federal contracting is not less than 3 percent of all federal contract dollars. In order to be eligible for a set-aside or sole-source SDVOSB contract, the SDVOSB must be at least 51 percent owned and controlled by one or more service-disabled veterans who are also active in the daily business operations of the firm. The SDVOSB must incur a mandatory percentage of the cost of the contract performance that can range from 15 percent to 50 percent depending on the type of goods or services being contracted.

FAR Subpart 4.12 provides that all prospective contractors shall complete an annual Online Representations and Certifications Application (ORCA) in conjunction with their required registration in the Central Contractor Registration (CCR) database. These annual updates serve as a self-certification for contractors. Prior to the award of a contract, a contracting officer will verify that an offeror's ORCA data is current, accurate, and complete.

FEMA'S SDVOSB Program

I would like to spend a few moments discussing FEMA's progress in meeting both the competitive contracting initiative goals and SDVOSB program goals. I will highlight both our achievements and the areas we are working to improve. As a measure of our commitment to enhancing small business opportunities, FEMA has designated a full-time Small Business Specialist whose primary responsibility is to increase contracting opportunities for small businesses concerns, service–disabled veteran-owned small businesses concerns, woman-owned small businesses concerns, historically underutilized business zone small businesses concerns and small disadvantaged businesses.

As noted above, the FY 2010 annual goal for award of procurement dollars to SDVOSBs is 3 percent. As of June 30, 2010, FEMA had already awarded $8.4 million in contracts to SDVOSBs. This represents 2.56 percent of its available procurement dollars. While this is shy of the 3 percent annual goal, the percent awarded has increased every year – it was 2.03 percent in FY 2009 and 1.95 percent in FY 2008 – and we are confident that the Agency will meet or exceed its target by the end of this year.

One challenge we face regarding SDVOSBs involves the activation of pre-positioned disaster support contracts. Such contracts are an operational necessity, as they allow FEMA to apply urgently needed and readily available contract capabilities immediately in support of disaster response operations. However, when those pre-positioned contracts (the vast majority of which were awarded to large businesses) have to be activated for disasters, they inflate the number of large business procurement dollars and have a negative effect on the percentage of SDVOSB procurement dollars. Recognizing this challenge, both DHS and FEMA continue our aggressive efforts to increase contracting opportunities to SDVOSB vendors. We now have a pre-positioned contract dedicated solely to SDVOSB prime contractors – the DHS Program Management Administrative Clerical and Technical Services (PACTS) contract – which can provide necessary support for mission needs. FEMA also deploys Local Business Transition Teams to disasters to encourage a timely transition to local small businesses after the initial disaster response.

Additionally, FEMA senior and small business acquisition officials attend monthly vendor outreach sessions and small business conferences throughout each fiscal year in an effort to ensure that SDVOSBs and other socio-economic firms are aware of contracting opportunities at FEMA. This fiscal year, DHS sponsored a monthly vendor outreach session only for SDVOSBs. We also publish a "how to do business with FEMA" brochure and provided a link at www.fema.gov to other information for prospective vendors. Our advance acquisition plans are posted to the DHS Federally Integrated Databases Online (www.fido.gov) to give small businesses, including SDVOSBs, an opportunity to see upcoming acquisitions. Through our Vendor Liaison Program we set up meetings between SDVOSBs (and other socio-economic firms) with program officials, allowing SDVOSBs to discuss their services or products directly with potential users. Since 2008, we have received requests from thirty-three SDVOSBs for meetings. This fiscal year we have already arranged for seven meetings between SDVOSBs and appropriate FEMA officials.

FEMA's mission is to support our citizens and first responders to ensure that as a nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards. The first priority of FEMA during the initial phase of a major disaster is to provide relief to survivors in the most efficient and effective way possible to save lives and property. To meet this mandate, FEMA has competitively awarded a number of advance contracts to large businesses capable of responding to a disaster within 72 hours of a Presidential declaration. Although FEMA's goal is to use competitive strategies wherever possible, we also are required, pursuant to Section 307 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, to transition contracts to local large and small

businesses as soon as possible once the recovery phase has begun. As of June 30 2010, FEMA competed 85.5 percent of its fiscal year 2010 procurement dollars. FEMA is proud of this accomplishment.

FEMA Award of SDVOSB Contracts

The October 2009 Government Accountability Office (GAO) Report GAO-10-108 reviewed contracts awarded to SDVOSBs to determine whether cases of program fraud and abuse existed, and if the program has effective fraud-prevention controls in place. GAO reviewed SDVOSB contract awards and in addition, also reviewed protests filed with SBA since the program's inception in 2003, as well as allegations of fraud and abuse sent to FraudNET. They also posted queries on several veteran advocacy-group Web pages seeking information about potential fraud or abuse. GAO received over 100 allegations, and selected 10 of those cases for further investigation. Of those 10 cases, the report identified that FEMA had awarded two SDVOSB contracts to two companies that did not qualify as SDVOSBs

A review of the history of this acquisition indicates that the contracts were for ground maintenance/repair services that had been publicized on the Federal Business Opportunities (FBO) webpage on May 12, 2006. The solicitation clearly stated the acquisition was limited to firms residing or primarily doing business in the State of Louisiana, and was set-aside for competition among SDVOSBs only. By the submission of their offers, both companies were represented as SDVOSBs. Both companies were awarded contracts. A Small Business Administration protest alleging the ineligibility of these two companies to compete for the work was filed in May 2007 by an interested party. Both companies were required to submit

documentation to rebut the allegations levied in the protest. Neither company provided such documentation and the Director for Government Contracting, SBA, notified the companies that they were ineligible to compete for government contracts set aside for SDVOSBs. Following this determination, a settlement between FEMA and the companies was reached wherein FEMA discontinued work with both companies and ordered them to cease all contract-related operations by Aug. 31, 2007. FEMA did not pursue a suspension or debarment action against either entity. However, FEMA continues to investigate these alleged status misrepresentations.

The report also identified FEMA as having awarded another contract under the same May 12, 2006 solicitation to a third company, which claimed to be a small business. While the owner of the company in question was a service-disabled veteran, the business was large and should not have been represented as a SDVOSB. As GAO reported, this contractor was not a small business; however, their self-certification in the CCR reflected their firm as a small business. Again, FEMA continues to investigate the alleged size status misrepresentation and will take appropriate actions when the investigation is complete.

In the cases of the first two companies, where those awards were protested and the misrepresentation detected, FEMA discontinued work with the companies. In an effort to minimize the potential for fraud and abuse in the SDVOSB program and to assure that legitimate SDVOSBs reap the benefits of this program, FEMA is exploring working with the Department of Veterans Affairs to use the VetBiz database for purposes of validating eligibility for the SDVOSB in the future. In the meantime, FEMA has continued to investigate all three instances. FEMA will address SDVOSB misrepresentations as appropriate. FEMA takes seriously our

charge to be a prudent steward of taxpayer dollars and welcomes the opportunity to improve our processes and policies to ensure that we promptly and conclusively address fraud, waste, and abuse at all stages of the contract and procurement process. We will continue to work closely and collaboratively with the U.S. Small Business Administration and the Veterans Administration to look for opportunities to improve in this regard.

Thank you. I look forward to addressing your questions.

TESTIMONY OF

JEANETTE L. BROWN

DIRECTOR, OFFICE OF SMALL BUSINESS PROGRAMS

U.S. ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON SMALL BUSINESS

CONTRACTING AND TECHNOLOGY SUBCOMMITTEE

JULY 15, 2010

Chairman Nye, Ranking Member Schock, and Members of the Committee, thank you for providing me with the opportunity to appear before you today to discuss the U.S. Environmental Protection Agency's (EPA) performance with the Service Disabled Veteran Owned Small Business Program (SDVOSB).

Background

To assist veterans, particularly service disabled veterans, in playing a greater role in the economy of the United States by forming and expanding small businesses, Congress enacted the Veterans Entrepreneurship and Small Business Development Act (VESBDA), establishing the

Service Disabled Veteran Owned Small Business (SDVOSB) Program in 1999. VESBDA defined SDVOSBs as businesses that are: small, pursuant to Small Business Administration (SBA) size standards; at least 51 percent owned and controlled by service disabled veterans; and the management and daily business operations are controlled by one or more service disabled veterans. VESBDA also established a three percent federal government wide procurement goal for SDVOSBs.

To further enhance business opportunities for SDVOSB entities, Congress enacted the Veterans Benefits Act (VBA) in 2003. VBA enables SDVOSB firms to receive sole source and restricted competition contracts for goods and services used by the U.S. Government. According to VBA requirements, the anticipated award of sole source contracts will not exceed $5 million for manufacturing and $3 million for other contract opportunities. Congress enacted this statute after data collection from more than 60 federal departments and agencies showed that more than half of them reported no procurement dollars expended with SDVOSBs since the enactment of VESBDA.

At EPA, it is the mission of the Office of Small Business Programs (OSBP) to support the protection of human health and the environment by advocating and advancing the business, regulatory, and environmental compliance concerns of small and socioeconomically disadvantaged businesses and minority academic institutions. OSBP works to ensure that the Agency meets its goals with respect to the SDVOSB program.

EPA's SDVOSB Accomplishments

Since the enactment of VBA in 2003, EPA's accomplishments with the SDVOSB program are as follows[1]:

Fiscal Year	Service Disabled Veteran Owned Small Business Dollars	Service Disabled Veteran Owned Small Business Percentage
FY 03	$58,871.11	0.0058%
FY 04	$132,150.00	0.0131%
FY 05	$10,101,532.61	0.7670%
FY 06	$21,534,656.05	1.9760%
FY 07	$56,417,870.18	4.1189%
FY 08	$57,028,525.32	4.1834%
FY 09	$155,705,931.31	8.9392%
As of 3rd Quarter FY 2010	$52,371,618.11	5.6191%

Keys to EPA's Success with the SDVOSB Program

The Agency's commitment to SDVOSBs is strong. The Agency's progression towards meeting and exceeding the three percent SDVOSB goal has been steady since 2003, with increases each year thereafter. The Agency has exceeded the SDVOSB goal for the last three years, and is on target to continue this pattern of success for fiscal year 2010.

[1] Data is taken from the Federal Procurement Data System, Next Generation (FPDSNG). FPDSNG is a contract data reporting system that centralizes the collection, storage, and dissemination of contract data for the government, congress, and the public.

In January 2006, EPA's OSBP implemented a plan to manage and measure our efforts to improve our performance in meeting our small business goals in all socioeconomic categories, including SDVOSBs. The plan includes the following elements:

- Clear communication from the head of the Agency reinforcing the importance of meeting our small business goals;
- Internal small business performance measures established as a part of Government Performance Results Act (GPRA) requirements;
- Consistent dissemination of data from the Agency's Office of Acquisition Management (OAM), tracking Regional and program office progress on a quarterly basis;
- Internal and external outreach and training by OSBP on the utilization of small businesses including an annual small business counseling session specifically for Veteran Business Owners that attracts 80 to 100 attendees; and
- An internal recognition program which provides visible recognition for those offices and Regions meeting their small business performance measures.

Our strategy has made a tremendous difference in increasing the Agency's performance in striving to meet all of our socioeconomic goals. Some of our most significant achievements are in the SDVOSB category. EPA has been recognized by the Veteran Administration's Center for Veterans Enterprise as a recipient of its "Champion" award for commitment to the SDVOSB program.

EPA SDVOSB Success Stories

EPA has a proven track record for awarding multimillion dollar contracts to SDVOSBs. For example, in 2007, EPA awarded a woman owned SDVOSB, Golden Key Group, LLC with a $5.5 million contract. This firm, located in Clifton, Virginia provides human resources support services to EPA.

In another example, in 2008, EPA awarded a $100 million contract to Vision Technologies, an SDVOSB in Glen Burnie, Maryland. Vision Technologies supports and manages EPA's Office of Research and Development's network servers and data storage, voice and data networks, and information technology security. This contract was procured under the GSA Veterans Technology Services Governmentwide Acquisition Contract (GWAC), a $5 billion small business set aside contract for SDVOSB information technology firms.

This year, EPA awarded several contracts including a $20 million Remedial Action Contract to Los Alamos Technical Associates, Inc. (LATA), an SDVOSB in Ohio. LATA will provide environmental and engineering services to support EPA's remedial planning and oversight activities in New York, New Jersey, Puerto Rico, and the Virgin Islands.

Also this year, Polu Kai, an 8(a), minority owned, SDVOSB located in Falls Church, Virginia was awarded EPA contracts providing a range of services including Underground Injection Control Field Inspection Services and Soil Remediation. These contracts total close to $6 million.

OSBP's Review of Agency Procurements

EPA follows procedures set forth in the Federal Acquisition Regulation (FAR) to review procurement requests to ensure that small business concerns are fairly represented in the procurement process, specifically FAR Part 19 – Small Business Programs.

OSBP reviews the procurement requests in the following areas:

- Contract Bundling;
- Correct sole source dollar thresholds;
- North American Industry Classification System (NAICS) Code applicability;
- Appropriateness of market research;
- Applicability of subcontracting clauses for the selected method of procurement;
- Inclusion of the statement of work in the package;
- Inclusion of the procurement in the program office's acquisition plan; and
- For full and open acquisitions over $550,000, make recommendations to the Contracting Officer that subcontracting past performance be used as an evaluation factor in the procurement process.

Additionally, in accordance with the FAR, the local SBA Procurement Center Representative reviews the procurement package and the Agency's acquisition recommendations over $100,000.

EPA Office of Acquisition Management Process for Verifying Vendor Status

Contracting officers within EPA's Office of Acquisition Management (OAM) are responsible for verifying the status of vendors. The Agency follows procedures set forth in the FAR regarding a vendor's representations and certifications, specifically, FAR Part 4.11 – Central Contractor Registration, Part 4.12 – Representations and Certifications, and Part 19 – Small Business Programs. FAR Part 4 – Administrative Matters, sets out procedures for vendors to self certify their size status and the policy and procedures for frequency and updates of a vendor's Online Representations and Certifications Application (ORCA) company profile. FAR Part 19 – Small Business Programs, lays out the policies and processes as specified by SBA for a vendor's small business certification and verification.

For preaward review, the acquisition community relies on the Central Contractor Registration (CCR) and ORCA to verify the status of contractors prior to making award. The information in ORCA is updated as necessary, at least annually, to ensure they are kept current, accurate, and complete. All representations and certifications are only effective for one year from date of submission or update to ORCA.

Also, prior to award, an award notice is posted on EPA's site containing information on the award, including the vendor. At this time, interested parties may come forward to protest the size standard claimed by the potential awarded offeror. These cases are then turned over to SBA to review and make a determination.

EPA does not have or utilize an Agency database that identifies SDVOSBs. However, EPA utilizes the self certifications of vendors provided within CCR and ORCA. The CCR is the primary registrant database for the U.S. Federal Government. CCR collects, validates, stores, and disseminates data in support of agency acquisition missions, including Federal agency contract and assistance awards. Assistance awards include grants, cooperative agreements and other forms of federal assistance. A company wishing to do business with the federal government under a FAR based contract must be registered in CCR before being awarded a contract. In addition, vendors must maintain their CCR records annually. ORCA replaces most of the paper based representations and certifications with an internet application.

CCR and ORCA are complementary systems. ORCA reuses data pulled from CCR and populates many of the required representations and certifications. Then, the vendor completes the remaining representations and certifications with the understanding that with each solicitation they are certifying to current, accurate, and complete information.

EPA follows the procedures outlined in FAR Parts 3, 4, and 19 with respect to misrepresentations involving contractor code of ethics, ORCA certification, and small business certification. These FAR sections lay out the policies and processes a contracting officer should follow when a misrepresentation occurs.

Conclusion

We are proud of the fact that EPA has been able to meet, and exceed, the federal goal for SDVOSBs for last three years. We look forward to continuing our work with this Committee, our partners, and the public to ensure an economically and environmentally healthier country for all Americans, through the utilization of small business.

Thank you again for inviting me to testify here today, and I look forward to answering your questions.

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

Joseph G. Jordan
Associate Administrator
Office of Government Contracting & Business Development
U.S. Small Business Administration

Before the
Subcommittee on Contracting and Technology
U.S. House Committee on Small Business

Service-Disabled Veteran-Owned Small Businesses Program

July 15, 2010

Chairman Nye, Ranking Member Schock and distinguished members of the subcommittee: It's an honor to testify before you today on the SBA's deep commitment to veteran entrepreneurs and small business owners.

This past year, our Administrator has made veterans a priority in each of the SBA's core mission areas: the three Cs of capital, counseling, and contracting.

With regards to access to capital, the SBA hit a milestone on July 4th with nearly half-a-billion dollars in SBA's Patriot Express loans over just three years to veterans, reservists, service members and their spouses.

Within our counseling programs, the SBA has doubled the number of Veteran's Business Outreach Centers to 16. We also joined with six leading universities around the country to support an Entrepreneurship Bootcamp for Veterans with Disabilities who are returning from the wars in Iraq and Afghanistan.

Today, I've been asked to focus on the steps we've taken to help veteran and service-disabled-veteran-owned small businesses (SDVOSBs) access Federal contracting opportunities.

As you know, the SBA works with federal agencies to increase contracting opportunities for small businesses. Our goal is to ensure that not less than 23 percent of the total value of all eligible prime contract awards for each fiscal year go to small businesses. Within that, the federal government has a number of additional sub-goals, including three percent of the total value of all prime contract awards for each fiscal year for SDVOSBs. In addition, the Federal government has a three percent subcontracting goal for SDVOSBs.

Agencies have made great strides in recent years. In FY07, 1% of prime contracting dollars went to SDVOSBs. That rose to 1.5% – or $6.5 billion – in FY08, and we expect that based on preliminary data from FY09, there will be yet another significant increase both in percentage and in dollar amount. Still, we know that we have work to do and are committed to ensuring that the federal government hits its goals for all small business groups – including SDVOSBs.

One of the reasons we know that we can improve further is due to our efforts with respect to Recovery Act Contracting. This time last year, the Vice President, Commerce Secretary Locke and our Administrator made a strong interagency push to ensure that Recovery Act contracts were going to veterans, minorities, women and other groups.

We've been tracking this data, and I'm very pleased to say that the federal government has awarded 5 percent of Recovery Act contracts to service-disabled veteran-owned small businesses. And I want to thank the other agencies represented here today for their contributions to that accomplishment.

Building on our success under the Recovery Act, we're examining which of our actions were most effective: from our 300 outreach, training, and matchmaking events in the course of 90 days… to our online contracting training modules that were used by tens of thousands in just a matter of weeks… to our close coordination with every agency receiving Recovery Act funding. Ultimately, we want to identify best practices and integrate them into our regular, day-to-day fiscal year contracting efforts.

More recently, this commitment to veteran-owned small businesses has been renewed by the President himself. In April, he ordered the creation of two task forces: one on small business contracting and another on veterans' business development.

Today's discussion lies at the intersection of those two efforts, and Administrator Mills and I – as well as others throughout the Administration – are working to create formal recommendations that should be delivered to the President in the coming weeks.

And I should note that we're building on the accomplishments that have already been made by our Office of Veterans Business Development.

For example, in FY2009, we provided training to 290 contracting officials at five major agencies as well as 2,000 service-disabled-veteran-owned (SDVO) small businesses. So far this fiscal year, we've trained 150 more contracting officials, 1,900 more veterans, and more training events are planned.

Overall, we've made progress over the past year, but as the GAO reminded us last year, there is more we can do. Our goal-related improvements must be accompanied by policies and procedures that root out any fraud, waste, or abuse in this important program. SBA is focused on ensuring that only legitimate SDVO small business concerns benefit from the SDVO small business program.

That's why we have developed a comprehensive approach to rooting out fraud, waste, and abuse. We are collectively focused on all three stages of the contracting oversight continuum: Certification, Ongoing Surveillance and Monitoring, and Enforcement. We have already made improvements in all three areas – even when, like in the case of the service-disabled veteran owned small business program, it operates via a self-certification process.

We are handling more protests than ever before, and the protest process is working. While the number of protests is increasing, the percentage of firms determined as ineligible through protests is declining.

We are also working more closely than ever with the Veteran's Administration (VA), our General Counsel's office, our suspension and debarment official, our Inspector General, the Department of Justice, and many other key stakeholders. I want to thank our partners at the VA who are here today who are critical partners in this effort.

I should also note that the President's FY11 budget submission asks for $2 million that will help us with eligibility and certification efforts across our contracting programs.

My commitment to you today is that we will continue to move forward with diligence and speed in strengthening our efforts to eliminate waste, fraud and abuse.

Finally, we share the concerns of many SDVOSB contractors on the issue of parity, which is perhaps the most pressing issue facing this community.

A recent court decision attempts to place the HUBZone set aside program above SBA's other small business contracting programs, including the SDVOSB program. If this decision were applied throughout our contracting programs, it could essentially re-direct billions of dollars away from SDVOSBs as well as 8(a) and women-owned small firms. Moreover, it could create confusion within the contracting community, which could result in all small businesses losing opportunities for Federal contracts.

That's not fair, and it wasn't the intent of Congress. That is why the Administration supports a legislative effort currently underway to make the relatively simple clarification in statutory language: replacing "shall" with "may" in HUBZone's language. This would give contracting officers the discretionary authority to select, based on market research, the most appropriate small business program when reserving a procurement for exclusive small business participation. We urge Congress to act on this issue with urgency – especially given that a large portion of contracting dollars are obligated in the final quarter of the fiscal year and missing out on just 1% of contracting opportunities means $5B in lost revenue to Small Businesses.

Thank you for your time and I look forward to your questions.

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TESTIMONY OF

Mr. John H. Kobelski

President and CEO Andromeda Systems Incorporated

Small Business Contracting and Technology Subcommittee

Thursday, July 15, 2010

Good morning, Chairman Nye, and Members of the Committee. My name is John Kobelski, President and CEO of Andromeda Systems Incorporated, a Service-Disabled Veteran-Owned Small Business (SDVOSB). Our company provides maintenance engineering, logistics, and information technology services to both government and commercial entities. I am pleased to be before the Committee today, testifying on behalf of Service-Disabled Veteran Business Owners.

I am a small business owner, and a disabled veteran, who proudly served my country as an enlisted member of the United States Air Force from 1967 through 1971, serving in Viet Nam from October 1968 through September 1969; and as a Naval Flight Officer and an Aeronautical Engineering Duty Officer with the United States Navy from 1974 through 1990. I am a graduate of Louisiana Tech University (BS 1973 on the GI Bill) and the Naval Postgraduate School (MSEE 1980). Since my retirement in 1990, I have been employed by several government

service contractors both large and small, and, in 2005, my entrepreneurial spirit drove me to establish Andromeda Systems Incorporated (ASI) with my partner John W. Henson, a fellow Viet Nam era veteran, who served in the United States Navy from 1973 to 1976. Mr. Henson, who has been a service contractor since 1977, had hired me as a senior engineer when I left the Navy in 1990, and since then we had discussed the possibility of starting our own company. After finding sufficient start-up capital, ASI was incorporated on September 21, 2005.

Currently, I am also serving as the Vice President of the Service-Disabled Veteran-Owned Small Business Council, Virginia Beach, Virginia Chapter working exclusively for the promotion of Service-Disabled Veteran-Owned Small Businesses.

I was asked here today to testify at a hearing of the U.S. House of Representatives, Committee on Small Business, Subcommittee on Contracting and Technology. My testimony is about improving contracting opportunities and preventing fraud for SDVOSBs. SDVOSBs have not been afforded the same opportunities as other small businesses in the set-aside program with respect to federal contracts, and there is rampant fraud and abuse within the community such as falsifying certification and acting as fronts for larger corporations. I would like to address these problems, identify some of the causes, and offer suggestions that

may improve the process.

My Testimony:

Drawing from my experience of over 20 years as a service contractor, one re-occurring reason expressed by agencies for not issuing set-aside competitive contracts, especially in the case of SDVOSBs, is that they cannot find enough qualified companies in their searches to justify the set-aside competition. I understand that federal acquisition regulations require there are two qualified SDVOSB companies to warrant an SDVOSB set-aside competition. I find it hard to believe that out of over 17,000 SDVOSB companies listed in the Central Contractor Registration (CCR), an agency cannot find two qualified to perform most any services contract.

In my personal search of the CCR for SDVOSBs using our own company's North American Industry Classification System (NAICS) code of "541330" and "Services" as filters, the Small Business Administration's (SBA) database search returned 5,060 firms that possessed that capability. Of those 5,060 firms, surely there are two that would be qualified to perform just about any service within that NAICS code. The standard rationale provided by contracting organizations is that their market research, typically in the form of Requests for Information (RFI) or Sources Sought Requests (SSRS), did not reveal a sufficient number of qualifying companies to have the procurement issued as a competitive set-aside. For example

a major DoD agency recently issued four solicitations and one pre-solicitation that each required the same capabilities at six different sites. After reviewing the sources sought submissions, the agency, with no explanation, released only one of the four solicitations as an SDVOSB set aside. How could the same requirement with companies responding similarly to all warrant different results? Additionally, one of the results indicated that no 8(a) company was considered capable; however, one site released a solicitation as an 8(a) set-aside competition. If capability is the rationale, how was a solicitation released as an 8(a) set-aside when not one company was qualified as capable?

In our company's conversation with the small business advocate located at one of these major facilities that plans to release the solicitation as a Small Business Set-aside competition, we were informed that the contracts department had not shared the market research with the Small Business Office as the normal process required. It concerns my fellow SDVOSB owners, and me, that a communication lapse such as this could occur. At least three or even four of these solicitations could have easily come out as SDVOSB set asides. There needs to be more communication within and between agencies in sharing market research. One solution would be an SBA SDVOSB coordinator that can bridge the agencies in all aspects of the program.

Another reason given by government agencies for not setting aside a contract is that the magnitude of the procurement disqualifies or increases the performance risk for several RFI responders. This again is disheartening to SDVOSBs. I was employed by a Section 8(a) small disadvantaged business in 1999 that had less than 20 employees when we bid on and won a ten-year, $150 million plus, Indefinite Delivery, Indefinite Quantity (IDIQ) contract. The contract execution was flawless, and indications are that the performance over the past 10 years has been nothing less than excellent. If an 8(a) or other SDB could be allowed to prove themselves and show that the size of a company does not always correlate to a performance risk level, then why does it appear that SDVOSBs across the board have not been afforded that same opportunity?

As a result of that contract and other growth, this SDB has graduated from the 8(a) program and the small business ranks. The 8(a) quotas are apparently being met by most, if not all government agencies, so why can't it be the same for SDVOSBs? Is it because the 5% set aside quota for Section 8(a) certified companies is law and not just an executive order? The solution here is to put teeth into Executive Order 13360 and make it a law.

The third reason, and probably the most compelling, is the political climate that surrounds all procurements. Our company responded to a Sources Sought Request for an engineering procurement last year and was found qualified, but

because we were the only SDVOSB that responded, and there were no small businesses that "qualified," the procurement came out as "unrestricted." Going against the odds, we decided to bid on it regardless of its unrestricted status. After the initial round of evaluations, we were notified that we were in the competitive range and were requested to submit a best and final offer. We submitted new responses for apparent deficiencies that were found in our proposal's initial review. Even though our bid was over $1 million lower than the winning bid, we were not selected. In the "de-brief" we were told that we had submitted unsatisfactory responses in the "Best and Final" and were deemed unsatisfactory. It appeared to be a very blatant effort to disqualify us in favor of another contractor that we believed was far less qualified to perform the work and more expensive. Rumor within the industry was that the winning team included a sub-contractor that a member of the agency's technical evaluation committee wanted.

Qualified SDVOSBs are out there, but the agencies issuing the contract requirements are not providing them the opportunities to get the work. One solution would be to re-structure the Sources Sought Request process. Small businesses do not have the staff or resources to answer "mini-proposals" that are put out as sources sought or RFIs to only be advised they are unqualified or not capable to do the very work their company has experience in doing, or is actually currently doing for other agencies or commercial activities. The process needs to

be streamlined and instead of 10 page RFI responses, use a one page response and follow up with oral communication with potential SDVOSBs. A review of past performance at this phase may even be beneficial. One reason why we established the SDVOSB Council in 2009 was to provide qualified sources to federal agencies for competitive set asides. We have contacted numerous agencies and offered to help them in searches for qualified SDVOSBs.

On the sub-contracting side, unrestricted companies have often approached us about bidding on government contracts to fulfill their Small Business Sub-contracting requirements usually 20% to 25% of the contract value. Although we have responded to the requirements of the primes' proposals, we have seen very little, if any, work from these contracts that were won by our team. It appears that, in our experience, very few, if any of these small business sub-contracting plans are being enforced, being it SDB, 8(a), Woman-Owned, Hub Zone, or SDVOSB. Without oversight or penalties for large prime contractors working on federal projects, the practice of ignoring SDVOSBs will continue.

Bundling, or combining many contracts into one, has hurt many small businesses and in particular the SDVOSB. Many agencies say that they can save dollars by bundling contracts and issuing them as unrestricted lots, and the small business can reap the benefits of the required small business sub-contracting plan which should provide at least a healthy percentage to all set asides. We do not

believe there is a cost savings at all in bundling. It may be cheaper to issue one contract vice many, but the cost is in the performance and not the issuance. As indicated earlier, the large prime's Small Business Sub-contracting plans are hardly ever enforced, and very little, if any, work flows down to the SDVOSB whose burdened rates, or costs, are normally significantly lower. To further magnify the issue, bundling ensures high dollar requirements which then allows agencies to say that due to the level of effort, small business are not capable of performing the work because of increased risk.

In order for SDVOSBs to reach parity with the other set-aside programs, laws must be enacted for SDVOSBs, similar to that in the Small Disadvantaged Business community (Section 8(a) of the Small Business Act of 1968). Executive orders are important but in no way do they carry the weight of a *law*. At a meeting I attended a few years ago, the agency's Small Business Advocate made a statement to the effect that the agency made 1.8% of a 3% goal, which was 0.1% better than the year before. She was told, by her superiors, that because it was an executive order and not a law, then any improvement was good. We understand that Congressman Whitman of Virginia has introduced legislation that will make Executive Order 13360 into law and even strengthen it. The House Small Business Committee must get behind this bill if they are serious about bringing parity to the set-asides.

On the issue of fraud and abuse in the SDVOSB Community, there must be an official certification process in lieu of the self-certification now in existence. It appears that the Veterans Administration has started certifying SDVOSBs, via VETBIZGOV. This should also be handled by the SBA and be made mandatory for all businesses that claim to be SDVOSBs, with severe penalties for those that falsify their representation. We also understand that Congressman Nye is developing legislation that will combat fraud/abuse and issue severe penalties for falsifying certification. Congressman Nye's bill would require the Small Business Administration to get more involved with the SDVOSB Community. The legislation would require the SBA to create an Office of Service Disabled Veteran-Owned Small Business Procurement, assign a veteran's procurement specialist in each of its regional offices, create and administer a database of SDVOSBs owned by service-disabled veterans, and develop the program's eligibility criteria. This database will not only combat the fraud and abuse in the program but would also improve contracting opportunities for SDVOSBs by providing a quality source for agencies to use. As congressman Nye stated, ***"If we are truly sincere about honoring our commitment to our veterans, then this program must be more than an empty promise. The goals must be clear, the rules must be enforced, and there must be consequences for those who would defraud our nation's veterans."***

In summary, laws are the key. Everyone jumps to the mention of Federal Acquisition Regulations (FAR) and everything else is a "nice to have." It appears that federal agencies tend to go with the path of least resistance and if it is not a law, just getting by or "we'll do better next year" seems to be the ongoing theme. Also, enforcing contract requirements such as the small business contracting plans, that almost every large business contract has, would really enhance participation of the SDVOSB in federal contracts. Finally, let's bring in a certification and enforcement program that will help eliminate some of the fraud and abuse currently affecting the SDVOSB Community. SBA involvement is critical. It is a shame that some of our best and brightest, especially those coming home from Iraq and Afghanistan, who have given so much to this country, and have so much more to offer, have to play second fiddle to the rest of set-aside community and also have to put up with the fraud and abuse in their current program. Those individuals know the sacrifices, hard work, and determination as much, or even better, than anyone. In fact all veteran small business owners should be given parity at least when it comes to DoD contracts. They can make a difference; and like the 8(a) program, there should be a formal process for certification.

Thank you, Chairman Nye and committee members, for the opportunity to appear before you today. I stand ready to answer any questions you might have.

STATEMENT OF
JOSEPH C. SHARPE, JR., DIRECTOR
NATIONAL ECONOMIC COMMISSION
THE AMERICAN LEGION

BEFORE THE

SUBCOMMITTEE ON CONTRACTING AND TECHNOLOGY
COMMITTEE ON SMALL BUSINESS
UNITED STATES HOUSE OF REPRESENTATIVES

ON

IMPROVING CONTRACTING OPPORTUNITIES AND PREVENTING FRAUD FOR SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES

JULY15, 2010

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JULY 15, 2010

Chairman Glenn Nye, Ranking Member Schock and Members of the Subcommittee:

Thank you for the opportunity to present The American Legion's views on Improving Contracting Opportunities and Preventing Fraud for Service-Disabled Veteran-Owned Small Businesses.

The American Legion views small business as the backbone of the American economy. It is the mobilizing force behind America's past economic growth and will continue to be a major factor as we move well into the 21st Century. Reports show that businesses with fewer than 20 employees account for 90 percent of all U.S. firms and are responsible for more than 75 percent of all new jobs, generated $993 billion in income in 2006, and employ 58.6 million people. There are 27 million small businesses in the U.S. and 99.7 percent of all firms are small businesses.

In FY 2007, the Small Business Administration's (SBA's) Office of Government Contracting reported that of more than $378.5 billion in Federal contracts identified as small business eligible, small businesses only received a total of $83 billion in prime contract awards and about $64 billion in subcontracts. Service-disabled Veteran-Owned Businesses (SDVOBs) were recipients of $3.81 billion, or 1.01 percent of those available contract dollars.

According to opening remarks made by Chair Nydia M Velazquez during a Small Business Hearing in March, "In FY 2009, federal agencies missed their small business contracting goals by 2 percent. Procurement officers will tell you that number is negligible, and no big deal. But while a 2 percent shortfall may not sound like a lot, it ultimately cost entrepreneurs $10 billion in missed opportunity. Or, to put it another way, it cost Americans $10 billion in lost job creation. Small contractors, like all other small firms, create roughly 70% of new jobs. So when their ability to win contracts is compromised, employment numbers are too."

America has benefited immeasurably from the service of its 23 million living veterans, who have made great sacrifices in the defense of freedom, preservation of democracy, and the protection of the free enterprise system. Due to the experience veteran's gain in the military the success rate

of veteran-owned businesses is higher than other non-veteran owned businesses. The current War on Terror has had a devastating impact on our armed forces and has contributed to exacerbating this country's veteran unemployment problem, especially within the Guard and Reserve components of our military. According to the Bureau of Labor Statistics, the June unemployment rate for Iraq and Afghanistan veterans was 11.5 percent, and the unemployment for these veterans during the first six months of 2010 is 12.5 percent. The total number of unemployed veterans of the two wars is approximately 200,000. Furthermore, presently one out of every four veterans who do find employment earns less than 25 thousand dollars per year. Unfortunately, many of the thousands of servicemembers who are currently leaving the service are from the combat arms and non-skilled professions that are not readily transferable to the civilian labor market.

As reported earlier in this statement the best way of combating unemployment is through the creation of new jobs. Small business creates an estimated 65 percent to 75 percent of net new jobs, therefore providing a central element for strong economic growth. Government should assist in the creation of new jobs by encouraging qualified entrepreneurs to start and expand their small businesses, and no group is better qualified or deserving of this type of assistance than our veterans.

Increasingly, the growth and stability of this nation's economy is dependent on the long-term success of the small business networks across the country. However, during a time of war there is much to be accomplished. Ironically, for too many years, the very men and women who served in uniform, stood ready to fight, and if necessary die in order to protect and preserve our free enterprise system, are summarily ignored by the Federal agencies responsible for meeting their small business needs.

The U.S. Small Business Administration has the responsibility of supporting veteran business owners, yet the office empowered to oversee our programs remains critically understaffed, underfunded, and still marginalized despite laws championed by The Small Business Committee to further empower veterans' entrepreneurship programs.

The Department of Defense (DOD), who will have the responsibility of directing more than six and a half billion dollars of stimulus infrastructure, continues to be satisfied with an embarrassing, less than 1 percent achievement of the federally mandated 3 percent SDVOB contracting goal. Especially important to note is that all of the stimulus money has been dedicated to construction and infrastructure improvement, and these are two of the strongest areas of SDVOB ownership according to the Federal Central Contractors Registry.

Additionally, the Army Corps of Engineers combined appropriations to improve and construct VA hospital and medical facilities adds up to nearly $6 Billion. All totaled, there will be more than $12 Billion spent just out of the stimulus package alone, and the omnibus 2009 appropriations increases that amount by more than $4.3 Billion for the Army Corps in Construction and Maintenance, and additional billions in DOD spending.

With the more than $20 Billion dollars being spent on veteran and military related projects, The American Legion finds it unconscionable that veteran business owners remain at the back of the

line when competing for Federal contracts according to the Federal Acquisition Regulation. The Office of Veterans Business Development received less than $750,000 out of the $2.1 Million they were scheduled to receive in 2008, a mere 35 percent of their authorization.

And while this country struggles to regain economic stability, The American Legion fails to understand why our nation's veterans continue to be overlooked while they continue to serve this nation as business owners and employers.

Small Business and the Credit Crunch

Small businesses are another casualty of the credit crunch caused by the ongoing financial crisis. By the end of 2008, more than half of the nation's small businesses looking for credit were unable to obtain a loan. This credit freeze will force many businesses to shut their doors, while others will be unable to expand. In either case, it means a loss of American Jobs. Congress should implement current efforts to thaw the credit market for small businesses by establishing a direct lending program within the SBA. This program could provide loans to small businesses that can't otherwise find credit, thereby potentially saving or creating tens of thousands of American Jobs.

During the fourth quarter of 2008, 70 percent of banks reported tightening their lending standards for small firms. As a consequence, fewer than half of the small businesses that tried to get a loan in the fourth quarter of 2008 were able to get one. When small businesses tried to obtain a new line of credit, only three in ten succeeded. The credit crisis is hitting small businesses across the board, including those that have been current in their payments and have no ties to high-risk sectors of the economy such as housing.

From November 2007 to November 2008, more than one quarter of small businesses reported a decline in the number of jobs at their companies. In December 2008, only one in eight small businesses said they planned to hire new employees in the next twelve months, a 48 percent drop since August 2008. In addition, the number of small businesses filing for bankruptcy rose 54 percent from 2007 to 2008.

The 7(a) loan program is the SBA's largest and most used lending program. Under this program, SBA provides a guaranty of up to 85 percent for loans provided by private-sector to small businesses. But because 7(a) loans are offered through private-sector banks, which are reeling from the current crisis, small businesses may not be able to get the relief they need. From the first quarter of 2008 to the first quarter of 2009, the number of loans approved by the 7(a) program dropped 57 percent. Moreover, the SBA is expected to guarantee only about 10 billion dollars in loans this year, down from its historic norm of 20 billion dollars per year.

To help ease the credit crisis for small businesses, The American Legion urges Congress to establish a direct lending program through the SBA. This effort would offer low-interest loans to otherwise healthy veteran-owned and service-disabled veteran-owned business that are having trouble obtaining the credit they need for necessary operating expenses or expansion.

Legislation and Veterans Federal Procurement Opportunity

The American Legion seeks and supports legislation to require a 5 percent goal, with set-asides and sole source authority for Federal procurements and contracts for business owned and operated by service-disabled veterans and businesses owned and controlled by veterans. This includes those small businesses owned by Reserve component members who have been or may be called to active duty, or may be affected by base closings and reductions in our military forces.

The American Legion has encouraged Congress to require reasonable "set-asides" of Federal procurements and contracts for businesses owned and operated by veterans. The American Legion supported legislation in the past that sought to add service-connected disabled veterans to the list of specified small business categories receiving 3 percent set-asides. In addition, The American Legion believes that raising the priority level of Service-Disabled Veteran Business owners in the Federal Acquisition Regulation by changing "may" to "shall" and further by eliminating the "Rule of 2" would allow these individuals to be awarded more contracts within the federal system. The American Legion seeks to support legislation that supports and develops veteran and service-disabled veteran-owned businesses, while providing them equal opportunity to start and/or grow a small business, including establishing numerical goals for all veterans to compete in government procurement.

Preventing Fraud

The Center for Veterans Enterprise

The Department of Veterans Affairs' Center for Veterans Enterprise (CVE) according to its website "is designed to improve the business climate for veterans, to minimize access barriers and to inform the public about the benefits of working with veteran-owned small businesses." In addition, CVE provides opportunities for veteran-owned small businesses by collaborating with like-minded individuals and organizations who believe that veterans in business are still serving the American public. They work and link with partner organizations to provide local support to veteran-owned small businesses, because they are the face of a local economy. They also support acquisition teams through procurement coaching, free market research, awareness briefings and provide awards for noteworthy achievements. Their goal is to provide smart business information for those veteran-owned small businesses that are in search of starting their business or continuing to grow their business.

P.L.109-461

Former President Bush signed P.L. 109-461 on December 22, 2006, The Veterans Health Care, Benefits and Information Technology Act of 2006. This law not only pertains to important health care benefits, but also outlining how VA will deal with veteran-owned small businesses in the area of contacting opportunities. Some of the provisions contain in this law are as follows:

- Establishes a set-aside and sole-source award mechanism for Veteran-Owned Small Businesses;
- Requires the Secretary of Veterans Affairs to establish prime and subcontracting goals for SDVOSBs and VOSBs;
- Requires registration SDVOSB and VOSB firms in VA.
- Requires VA to verify ownership and control of the company and the status of veteran owners. Providing ownership and control information to VA is optional and veteran may continue to sell to VA without verifying their status. However, participation in the set-aside and subcontracting program is limited to eligible businesses registered Veterans Information Page (VIP); and,
- Provides for debarment from VA acquisitions of those firms willfully misrepresenting their status.

VA'S IMPLEMENTATION OF PUBLIC LAW 109-461

In March 2007, Scott Denniston, then Director of VA's Office of Small and Disadvantaged Business Utilization (OSDBU) is quoted as stating in his department's local newsletter *Small Business Advocate* that "a major challenge to implementing P.L. 109-461 will be educating and training VA's workforce of the significant changes brought by the law. To that end, OSDBU is available to provide training to acquisition professionals, program officials engineering officers and personnel, purchase cardholders and anyone else involved in the acquisition process that could use this training."

Challenges:

- Over the past 10 years, VA has built CVE through non-appropriated funds. CVE markets themselves as a technical training and assistance center that maintains a database of veteran-owned small businesses. With regard to CVE's technical assistance capabilities, this effort represents a negligible impact locally and virtually no impact nationally. CVE maintains one small assistance center in Washington, DC where they see a small amount of clients and field phone calls;
- Takes anywhere from one month to one year to have a company registered with VA. One veteran complained after registering, he was deleted from the data system a few months later;
- Veterans cannot register multiple businesses at one time, and owners must work full time in their registered business;
- Qualifications of CVE staff questioned;
- A 10 case Government Accountability Office study proved approximately $100 million in SDVOSB sole-source and set-aside contracts through fraud and abuse of the program;
- The website is not user-friendly and needs to be improved; and,
- Not enough communicating between veteran-owned small businesses on the website.

Observations:

CVE's marquee program is their VIP database. As the only Federal database focusing strictly on veterans-owned small businesses, the VIP database has established itself as the premiere

database for veterans in the country. CVE has successfully promoted this database commercially, as well as cross agency and has established a strong foundation and infrastructure that can easily be interwoven into other Federal databases such as the Central Contractors Registry (CCR).

VA and the Small Business Administration (SBA) should develop a comprehensive partnership to assist veterans who are interested in participating in Federal procurement. CVE should maintain the database (VIP) and verify accurate veteran/service-connected disabled veterans' status. SBA should retain the responsibility for validating the business ownership, size standards, and structural integrity of the business. SBA should have direct reporting and input authority to the VIP database through the Office of Veterans Business Development once this information is collected. VA should maintain the eligibility status regarding veteran status. SBA is responsible for verifying all other socioeconomic categories for the purpose of Federal procurement. SBA already maintains the infrastructure, expertise and established regulatory guidance to include the veterans' population within their authority.

I would like to mention that these observations have come from The American Legion's National Small Business Task Force. This Task Force is made up of veterans who are successful business owners, Federal agency officials and The American Legion leaders. Their mission is to gather information, data and research regarding the current and future economic status of veteran businesses. These individuals are the very individuals who should be using the CVE and are a part of the database that CVE is maintaining.

In-sourcing

The American Legion is concerned about the Administration's direction toward in-sourcing and how that is affecting small business. The Office of Federal Procurement Policy issued a proposed policy letter in March that defines functions that are "inherently governmental" and therefore should be performed by federal employees. It also calls for federal agencies to give special consideration to using federal employees for functions that are closely associated with inherently governmental functions, and it asks agencies to make sure they have enough employees in-house to manage functions that are critical to the agency's operations and mission.

The American Legion believes the push to in-source thousands of contractor positions could have severe repercussions for small businesses, particularly veteran and service-disabled owned businesses, across the nation and force small businesses to scale back positions or go out-of-business. Listed below is an example of the impact and unintended consequences of in-sourcing on small businesses submitted by one of our Small Business Task Force Members.

Fort Huachuca, AZ

A. Companies affected:

a. Oak Grove Technologies: Service-Disabled, Veteran-Owned Small Business
b. ISIS: HubZone, small business
c. Highland Ties: Service-Disabled, Veteran-Owned, SDB, HubZone, small business

B. Impacts (35M HUMINT Instructor)

a. Eliminated the NRCC contracts which dropped the Companies listed above off the Human Intelligence Collector Instructor contract (BAE and Akima also lost but are not a part of these talking points).
   i. **262** current contractor positions
   ii. **190** contractor positions eliminated (83 NRCC Contract)
   iii. **72** contractor positions remain – all to large businesses on the War Fighter Focus (WFF) Contract (Raytheon, General Dynamics, Oberon, AGM)
   iv. **83** positions will be in-sourced. Leaving a total of 155 instructor positions
   v. **107** individuals out of a job.
b. Human-Training, Joint Center of Excellence (HT-JCOE) and the 111th MI Brigade training contracted under WFF. We are not sure what the contract strategy will be when future contract work is needed for the United States Army Intelligence Center of Excellence (USAICoE) MI training. With the WFF contract currently in place it would be simple to just add any additional work under the WFF contract and not compete this future work. So where does this leave the small businesses in Sierra Vista, AZ when it comes to future MI work on Fort Huachuca? The Service-Disabled, Veteran-Owned Businesses?
c. Small businesses had a very good retention and fill rate on the HUMINT contract. OGT had a 100% fill rate for over 4 years with very little turnover. WFF's turnover rate was approximately 28%. The information that has not been shared by Ft. Huachuca with the businesses affected by these cuts:
   i. What was the decision making process and criteria used to select what contracts and what slots were to be removed not only from the 35M HUMINT Instructor contract, but for the other courses as well: Counterintelligence Special Agent Course (CISAC); 35G, 35T and the 35F.
   ii. What was the final cost analysis from the overall analysis when cutting these slots: was the final decision based on the best cost for the government; or was the decision based on eliminating the additional contracts and consolidating all work under one – making the contract management much simpler? Would like to see how WFF costs compare to small businesses on the same contract doing the same work.
d. Competition. Has the overall quality of service a contractor provides impacted by the existence of competition? Our small, but fully dedicated and highly capable companies have encouraged an environment of healthy competition which in turn has required all contractors involved to strive to provide the highest levels of quality performance and efficient service possible. This is likely one of the reasons that small businesses were awarded the contracts in the first place. The one large existing company had already demonstrated they were not likely to fill positions during a surge with quality employees in a timely manner. Eliminating our companies from the possibilities of future competition will likely not encourage any large company having a monopoly to strive to exceed the standard (ISIS).
e. Small Business Loss. An unintended consequence of in-sourcing at Fort Huachuca is the shift of Small Business subcontract positions to Prime contractors in essence putting small businesses at "grave risk" and in one instance shutting the business down. This is not isolated to Ft. Huachuca, since this is a DOD wide implemented program (ISIS).

f. Economic impact. Small Businesses stand to lose 100% of their current contracted/subcontracted work due to in-sourcing and the decisions being made on who to cut and by how much. The Impact on these companies will be devastating. In the case of the 35M HUMINT Instructor contract – OGT, ISIS, BAE, Highland Ties and Akima all were eliminated while WFF remained on contract.

While the Administration's effort to bring contracted jobs back into agencies temporarily addresses some challenges, it is essential the Government foresees the unintended consequences of in-sourcing especially to small businesses, and hopefully not break the back of Small Business which is the effect that is occurring.

Noncompetitive Contracts

The American Legion concurs with National Veteran Owned Business Association's assessment in their statement submitted for this hearing regarding the White House announcement that executive agencies shall not engage in noncompetitive contracts. The press release makes no distinction between the billions of dollars awarded to large businesses such as KBR and Halliburton or the critically important sole source awards to productive and efficient small businesses under the SDVOSB, HUB Zone, or 8(a) programs. Specific guidance needs to be provided to contracting officers as to whether the administration is restricting the use of legitimate contracting mechanisms to support the nation's small businesses, or to restrict multi-billion dollar non-competitive awards to large prime contractors.

The American Legion also agrees that pressures being exerted on the Federal contracting community will probably result in greater use of the General Services Administration's (GSAs) Federal Supply Schedule Program, and while this program holds a higher contracting preference compared to the small business programs, it unfortunately does not allow set-asides for any small business group. The American Legion agrees that expanded use of this program will further diminish opportunities for small businesses, especially small businesses owned by veterans.

Therefore, The American Legion recommends:

- Service-disabled, veteran-owned small businesses set-asides should be allowed under the Federal Supply Schedule Program. Currently, GSA schedules are exempt from FAR part 19. Without this change SDVOSB will be limited in their quest for small business opportunities to compete for Federal contracts.

- Implementation of a coordinated standardize training program for procurement staff that focuses on SDVOSB procurement strategies in their respective agency.

- President Obama should reissue Executive Order 13-360 "Providing Opportunities for Service-Disabled Veteran Businesses" to increase Federal Contracting and Subcontracting opportunities for veterans, and require that its tenets be incorporated into SBA Regulations and Standard Operating Procedures.

- The SBA needs to emphasize Executive Order 13-360 and establish it as a procurement priority across the Federal sector. Federal agencies need to be held accountable by the SBA for implementing the Executive Order and the SBA needs to establish a means to monitor agencies progress and where appropriate, establish a report to identify those that are not in compliance, and pursue ongoing follow-up.

- In order to achieve the mandates of Executive Order 13-360, the SBA must assist Federal agencies to develop a strategic plan that is quantifiable, and will assist them in establishing realistic reporting criteria.

- The American Legion also recommends that the House Small Business Committee embrace and promote development of stronger policy and legislative language that champions the utilization of Veteran-Owned Small Business (VOSB) Joint-Venturing (JV) as a ready solution to the Small Business Spending requirements of the Stimulus Spending initiative.

- Hold the agency leadership responsible for meeting the 3 percent congressionally mandated goal. We recommend the Committee schedule a hearing with all Federal agencies who consistently do not meet their federal procurement goals with SDVOBs.

CONCLUSION

The mission of The American Legion's National Economic Commission is to take actions that affect the economic well being of veterans, including issues relating to veterans' employment, home loans, vocational rehabilitation, homelessness, and small business. Small business continues to be a primary job generator and a major trainer for American employees. The small firm workforce includes more young and entry-level workers than colleges and large businesses combined. It is vital that Veteran-Owned and Service-Disabled Veteran-Owned Businesses receive a fair and proportionate amount of Federal contracts so these veterans can build and maintain successful businesses while they contribute to this down economy.

We look forward to continue working with the committee to enhance entrepreneurship among America's veterans. The American Legion appreciates the opportunity to present this statement for the record.

Again, thank you Chairman Nye and Ranking Member Shock for allowing The American Legion to present our views on this very important issue.

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Testimony of
Stephen J. Hope
President/CEO
Office Automation Systems, Limited
dba OASYS, dba CIAN, Inc.

Before the House Committee on Small Business
Contracting and Technology
15 July, 2010

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Written Testimony before the
U.S. House of Representatives Committee on Small Business
delivered by
Stephen J. Hope
President, CEO
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July 15, 2010
"Contracting and Technology"

Chairman Nye, Ranking Member Schock, and Members of the Committee.

Thank you for inviting me to testify today. My name is Steve Hope, Cryptologic Technician Interpretive Senior Chief Petty Officer, United States Navy (Retired). I retired over 21 years ago after over 20 years of active duty service in the Navy. In 1990 I started my company, a small computer consulting firm with offices now in Peoria, IL and Bowie, MD. I have a service connected disability and run the day-to-day operations of my company.

The full legal name of the business is Office Automation Systems, Limited and we do business as OASYS, Ltd. and CIAN Center, Inc. We are a C-Corporation registered to do business in Maryland, Virginia, West Virginia, the District of Columbia, Florida, and Illinois. We are certified by the Small Business Administration as a Small Business Concern, a Vietnam-era Veteran owned, Veteran-Owned, and Service-Disabled Veteran-Owned entity. We are registered with the Central Contractor Registry (CCR) and Integrated Acquisition Environment's e-Government initiative, Online Registrations and Certifications Application (ORCA). We are an Information Technology corporation specializing in computer network administration, sales, service and support with an emphasis on computer network security, including penetration tests, forensics, incident response and information assurance. We keep the bad guys out of your computer networks.

Over 50% of my employees are veterans and nearly all my employees carry the industry standard certifications (Certified Ethical Hacker, Certified Forensics Analyst, Certified Systems Engineer, Certified Information Systems Security Professional, and others). The Center for Veterans Enterprise (CVE) on behalf of the US Department of Veterans Affairs (VA) has verified my company as a SDVOSBC and we have been added to the Veteran business database (VetBiz). I offer this background information on my company to emphasize that I have done my homework, followed all the rules and regulations, and complied with agency mandates. Nevertheless, I have yet to obtain any benefit or assistance from the government in the terms of primary contracts and awards to SDVO corporations. Fellow IT company presidents of SDVO entities have told me my story is far from unique.

The issue before the Committee has deeply affected the growth of my company and pursuit of doing business with the federal government. While we have many success stories to tell and continue to work under a few government contracts at several federal agencies, to date we have yet to receive a government prime contract nor a Service-Disabled Veteran-Owned Small Business Concern (SDVOSBC) set aside contract. The only work we have done with the

government has been as a subcontractor to 8(a) (SBA's Business Development Program for the socially and economically disadvantaged individuals) certified organizations.

I have read every word of the GAO reports submitted to the Committee, and while I have no first-hand knowledge of fraud, waste or abuse of SDVO contracts, it does not surprise me. I have witnessed it in other Small Business Administration Business Development Programs, but have chalked up our inability to obtain a primary SDVO contract to typical government red-tape, the "good old boy network", and federal regulations that put the onus on the losing contractor protesting a bid to prove any wrong-doing in terms of SDVO status by the winner. I see evidence of the problems all the time. We continually receive calls requesting that we team up with a company in order to win an SDVO set aside contract. It doesn't even seem to matter that we are an Information Technology company not involved in construction or manufacturing (as an example). When questioned about the percentage of work we would be doing and how we would manage the effort, they simply say they are looking for SDVO contract vehicles. We do not respond to, nor have we ever dealt with such unscrupulous companies.

I am not here to add to any confusion or problems facing the Committee, but to offer possible solutions. Here are four points that I recommend for the Committee's consideration

(1) Implementation of a Business Rules Management System (BRMS) – sophisticated artificial intelligence software that will capture, analyze, test, and execute rules and regulations from numerous sources. As indicated in the GAO reports, a little further pre-contract award investigation would have revealed that the 10 cases studied failed to meet all the requirements. The information researched exists in many synergetic and homogeneous databases. Capturing, collating, and analyzing Agency databases will indeed yield the intended results: confirming the eligibility, industry, and possibly involvement in daily operations of the bidding corporations as required by current regulations.

(2) It should be imperative that Contracting Officers interview the bidding finalists and ascertain the particulars of how the operations will be run, and a review of SDVO eligibility should be mandatory. I would have no problem sharing my DD214, letters from the Veterans Affairs Office, or any other requested documentation to a Contracting Officer considering us for a SDVO set aside or sole source contract. This would validate some of the information obtained in the BRMS. The 51% ownership requirement can be verified by numerous state and federal documents business owners are already required to submit annually. The remaining requirement of running the day-to-day operations of the business can be obtained during the interview or by site visits. Currently, many contracts require a contractor site visit pre-contract award (with subsequent annual reviews) for various reasons and are performed by the contracting agency. This additional requirement to visit the finalist's site should be an added to all SDVO awarded contracts.

(3) Something needs to be done to reverse an SBA regulation that makes it imperative that 8(a) minority status contracts remain an 8(a) set aside. The "Once an 8a, always an 8a" Code of Federal Regulations (CFR) 125.504 fights the effort to allow existing contracts to be realigned into the SDVO initiative. This has taken many opportunities away from Information Technology contracts that could be awarded to SDVO corporations. Although well-intended, the "Forever an

8(a)" clause was introduced when Information Technology was experiencing exponential growth. The unintended consequence that has arisen is that 8(a) set asides have a virtual lock on many IT support contracts throughout dozens of federal agencies.

(4) All disabled veterans are already issued a separate identification card by the Department of Veterans Affairs. For veterans indicating they own and operate a business desiring to operate within the SDVO program, additional information can be included in a microchip on the identification card, the presentation of which should be mandated at contract award signing. "Smart card" technology is currently being deployed throughout the federal government, and employs various methods of storing critical information securely. This technology should be extended to include important SDVO identifiers to further eliminate fraudulent claims.

My overall goal in addressing the Committee today is to make myself available and my experiences known to the members. I hope to illustrate how the President's SDVO directive actually affects those business owners attempting to work within the federal contracting system. I respectfully request you consider my recommendations and help us to improve contracting opportunities to Service-Disabled Veteran-Owned companies.

I would like to thank the Committee for the opportunity to testify. I would be pleased to answer any questions.

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