DOING BUSINESS WITH THE GOVERNMENT: THE RECORDS AND GOALS FOR SMALL, MINORITY AND DISADVANTAGED BUSINESSES

(111–59)

HEARING

BEFORE THE

SUBCOMMITTEE ON
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

SEPTEMBER 17, 2009

Printed for the use of the
Committee on Transportation and Infrastructure

U.S. GOVERNMENT PRINTING OFFICE

52–278 PDF WASHINGTON : 2009

For sale by the Superintendent of Documents, U.S. Government Printing Office
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CONTENTS

Page

Summary of Subject Matter vii

TESTIMONY

Amirian, Ray, Nastos Construction Company, District of Columbia Small Business Winner, 2009 34
Ayers, Stephen T. AIA, Acting Architect of the Capitol 4
Giordano, Catherine President/CEO, Knowledge Information Solutions, Inc. 34
Hansen, Jacob, Director, Acquisition Management Division, Federal Emergency Management Agency 4
Mosier, Roger, Vice President of Facilities, The John F. Kennedy Center for the Performing Arts 4
Riggs, Tamela, Deputy Assistant Commissioner for Vendor Alliance and Acquisition, General Services Administration, Public Building Service 4
Rouse, Terrie S., Chief Executive Officer for Visitor Services, Capital Visitor Center 4
Stephenwoof, Rosalind Styles, President and CEO, Capitol City Associates, Inc. 34
Watley, Rudy, Supplier Diversity Program Manager, Office of Equal Employment and Minority Affairs, The Smithsonian Institution 4
Zingeser, Joel, Associated General Contractors of America 34

PREPARED STATEMENTS SUBMITTED BY MEMBERS OF CONGRESS

Carnahan, Hon. Russ, of Missouri 54
Norton, Hon. Eleanor Holmes, of the District of Columbia 55
Oberstar, Hon. James L., of Minnesota 59

PREPARED STATEMENTS SUBMITTED BY WITNESSES

Amirian, Ray 60
Ayers, Stephen T. 62
Giordano, Catherine 74
Mosier, Roger 91
Riggs, Tamela 94
Rouse, Terrie 104
Stephenwoof, Rosalind Styles 108
Watley, Rudy 113
Zingeser, Joel 116

SUBMISSIONS FOR THE RECORD

Ayers, Stephen T. AIA, Acting Architect of the Capitol: .....
Chart entitled, ″Smithsonian Institution Contract Awards to Small and Small Disadvantaged Business Fiscal Years 2004- 2008″ 66
Chart entitled, ″Status of SI Supplier Diversity FY 2009 Goal Accomplishments 67
Memorandum of Understanding between the Small Business Administration and the Architect of the Capitol 68
Hansen, Jacob, Director, Acquisition Management Division, Federal Emergency Management Agency, responses to questions from the Subcommittee 79
Riggs, Tamela, Deputy Assistant Commissioner for Vendor Alliance and Acquisition, General Services Administration, Public Building Service: .....
Chart entitled, ″FY 2009 PBS National Capital Region Preliminary Small Business Goaling Achievement″ 98
Responses to questions from the Subcommittee 99
Rouse, Terrie S., Chief Executive Officer for Visitor Services, Capital Visitor Center, responses to questions from the Subcommittee 106

Page

Watley, Rudy, Supplier Diversity Program Manager, Office of Equal Employment and Minority Affairs, The Smithsonian Institution, responses to questions from the Subcommittee 115

ADDITION TO THE RECORD

The Associated General Contractors of America, Ken Simonson, Chief Economist, fact sheet 122
Thor Construction, Richard Copeland, Chairman, written testimony 123

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September 15, 2009

SUMMARY OF SUBJECT MATTER

TO: Members of the Transportation and Infrastructure Committee

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

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

PURPOSE OF THE HEARING

The Subcommittee on Economic Development, Public Buildings, and Emergency Management will meet on Thursday, September 17, 2009, at 1:30 p.m., in room 2167 of the Rayburn House Office Building to examine the small business programs of the Architect of the Capitol (AOC), the General Services Administration (GSA), the Federal Emergency Management Agency (FEMA), the John F. Kennedy Center for Performing Arts (Kennedy Center), and the Smithsonian Institution (Smithsonian).

BACKGROUND

The small business policy of the United States is that each agency shall have an annual goal that represents, for that agency, the maximum practicable opportunity for small business concerns, coordinate and cooperate with government procurement officers to better utilize the unique capabilities of American small businesses, and for the Small Business Administration (SBA) to otherwise act as an advocate for the concerns of small businesses.

The Federal Acquisition Regulations (FAR) govern the process by which the Federal Government procures goods and services. With respect to small business concerns, the FAR, under title 48 Code of Federal Regulations (C.F.R.) part 52.219.8, states that:

> It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems.

Various laws frame small business activities in the Federal Government. The three laws outlined below are the cornerstones of small business policy in the Federal Government.

- The Small Business Act of 1953 (P.L. 83-163) created the SBA as an independent agency within the Executive Branch to encourage the use of and protect the interests of small businesses. Its purpose was to aid, counsel, assist, and protect the interests of small business concerns in order to preserve free competitive enterprise, ensure that a fair portion of the total purchases and contracts for supplies and services for the Federal Government is placed with small businesses, and to maintain the national economy.

- The Small Business Act of 1958 (P.L. 85-536) amended the Small Business Act of 1953 and created the Small Business Investment Corporation, which focused on providing capital and equity investment to small business. P.L. 85-536 also established that each agency shall have an annual goal that represents, for that agency, the maximum practicable opportunity for small business concerns, small business concerns owned and controlled by service disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women to participate in the performance of contracts let by that agency.

- The Act to amend the Small Business Act and the Small Business Investment Act of 1958 (P.L. 95-507), which was enacted in 1978, made major revisions to the Small Business Act. P.L. 95-507 redefined minority firms as "socially and economically disadvantaged" businesses, authorized the SBA to purchase the preferred securities of a minority small business investment company, make loans to State and local development companies, establish a small business and capitalization program for socially and economically disadvantaged businesses, and perhaps most importantly, establish an Office of Small and Disadvantaged Businesses in each Federal agency having procurement powers.

I. Architect of the Capitol

Although the AOC is not covered by the Small Business Act, the office has actively engaged in small business contracting. In 2007, the AOC initiated efforts to attract and increase small business participation while being consistent with the values of full and open competition. As part of this outreach effort, the AOC created a database of small businesses that have conducted business with the AOC, or have self-identified as small businesses interested in future opportunities. The AOC has stated that "since starting the program, the AOC has awarded 11 small business

contracts worth more than $10.5 million. These contracts range in value from $121,000 to $2.9 million and provide services ranging from janitorial services to website development."[1]

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

- "Small Business Concerns: 28 percent
- Small Disadvantaged Business Concerns: 8 percent
- Women-owned Small Business Concerns: 5 percent
- HUBZone Small Business Concerns: 3 percent
- Service-disabled Veteran-owned Small Business Concerns: 3 percent"[2]

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

II. General Services Administration

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

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

The following agency-wide goals are in effect for fiscal years 2008-2009:

- 38 percent for prime contracts awards to Small Business;
- 8 percent for prime contract awards to Small Disadvantage Business (including 8(a) Business);
- 5 percent for prime contract awards to Women-owned Small Business;
- 3 percent for prime contracts awards to HUBZone Small Business; and
- 3 percent for prime contract awards to Service-Disabled Veteran-Owned Small Business.[3]

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[1] See AOC, *Small Business Fact Sheet* (2008).
[2] *Id.*
[3] GSA, *Small Business Fact Sheet* (2008).

Each GSA region is responsible for developing and implementing outreach programs. Outreach efforts include activities, such as small business fairs, trade group seminars, pre-award and post-award small business opportunity fairs, and other forums that promote the utilization of small business as contractors. As explained by the GSA:

> These events are intended to provide an opportunity for small business to meet with agency representatives to discuss their capabilities and learn of potential procurement opportunities. Additionally they promote partnering and teaming opportunities for small and large businesses.[4]

III. Federal Emergency Management Agency

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

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

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

IV. John F. Kennedy Performing Arts Center

The Kennedy Center is not covered by the Small Business Act, but is committed to awarding a fair portion of its government purchases to small, minority and disadvantaged business enterprises. The Kennedy Center looks for opportunities to offer contracts to such businesses. Given the Kennedy Center's relatively small budget, the opportunities for such awards are limited; however, each contracting action is evaluated as to its suitability for a small, minority, and disadvantaged business opportunity in accordance with the guidance provided by the Small Business Act, and

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[4] *Id.*

[5] FEMA, *Small Business Fact Sheet* (2008).

subsequent amendments. In addition to such ongoing efforts, the Kennedy Center has established Basic Ordering Agreements with five small businesses for general construction services, including life safety work on the roof terrace, and security upgrades at the parking garage lobbies.

V. Smithsonian Institution

The Smithsonian is not an "agency" as defined in the Small Business Act, 15 U.S.C. § 632(b), and the Administrative Procedures Act, 5 U.S.C. § 551(1), and therefore is not subject to the statutes and Executive Orders governing small business and Small Disadvantaged Business (SDB) requirements. However, the Smithsonian abides by the spirit and intent of these various statutes and Executive Orders on all projects where Federally-appropriated dollars are spent. In addition, the Smithsonian applies small business goals in all procurement actions, to the greatest extent practicable. The Office of Contracting (OCon) and the Office of Equal Employment and Minority Affairs (OEEMA) monitor and implement the Institutions programs in this area.[6] According to the Smithsonian:

> It is Smithsonian Institution policy that, to the maximum extent practicable, and within the context of the Institution's contracting needs, small businesses and SDBs should be provided opportunities to compete for and be awarded Smithsonian procurements and contracts for which they qualify and are able to meet performance requirements.[7]

In accordance with Smithsonian directives and policy, the Director of OCon and the Smithsonian Supplier Diversity Program (SDP) Manager establish annual small business and SDB utilization goals. Consistent with SBA procedures, these goals are established considering guidance provided by the SBA, the SBA nationwide small business goals, SDB utilization goals, and annual goals established by individual Smithsonian units. These targets are also based on the established goals for a percentage of the number and dollar amount of subcontracts awarded by Smithsonian prime contractors to small businesses and SDBs in previous years. The SDP Manager obtains SBA review of the Smithsonian-proposed goals on a biennial basis. According to the Smithsonian:

> When the SBA recommends changes to the Smithsonian proposed goals, the SDP Manager confers with the Director of OCon, prior to entering discussions with the SBA to adjust the Smithsonian-proposed procurement goals. Information regarding the Institution's current goals for small business and SDB utilization is published separately by the Office of Equal Employment and Minority Affairs.[8]

According to Smithsonian practices, at the beginning of each fiscal year, this information is updated and revised goals are established. There are periodic reviews and progress reports are prepared. These reports look at progress in terms of the number of procurement actions taken and

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[6] According to the Smithsonian, "[t]he Office of Equal Employment and Minority Affairs (OEEMA) is responsible for outreach to the small/disadvantaged business community and for advocacy within the institution. OEEMA also monitors and reports on equal employment opportunity (EEO) and small and disadvantaged business (SDB) initiatives. OEEMA coordinates with the Smithsonian Office of Contracting."

[7] Smithsonian Institution, *Smithsonian Directive 216* (2005).

[8] *Id.*

the total value of awards made by the Smithsonian units to small businesses and SDBs, and by the number and dollar value of subcontracts that Smithsonian prime contractors award small businesses and SDBs during each fiscal year. Following the SDP Manager's review, these reports are then provided to the SBA in accordance with the Smithsonian's external report review and clearance procedures.[9]

PRIOR LEGISLATIVE AND OVERSIGHT ACTIVITY

On March 6, 2008, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing to review the goals and small business plans of the agencies under the Subcommittee's jurisdiction. Small businesses are central to today's economy; small businesses create most of the jobs and these jobs tend to remain in the United States. During uncertain economic times, Federal contracting and procurement become even more important to small business.

[9] *Id.*

WITNESSES

PANEL I

Ms. Tamela Riggs
Deputy Assistant Commissioner for Vendor Alliance and Acquisition
General Services Administration
Public Building Service

Mr. Jacob Hansen
Director, Acquisition Management Division
Federal Emergency Management Agency

Mr. Rudy Watley
Supplier Diversity Program Manager
Office of Equal Employment and Minority Affairs
The Smithsonian Institution

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

Mr. Stephen T. Ayers, AIA
Acting Architect of the Capitol

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

PANEL II

Ms. Rosalind Styles Stephenwoof
President and CEO
Capitol City Associates, Inc.

Mr. Joel Zingeser
Associated General Contractors of America

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

Mr. Ray Amirian
Nastos Construction Company
District of Columbia Small Business Winner - 2009

DOING BUSINESS WITH THE GOVERNMENT: THE RECORD AND GOALS FOR SMALL, MINORITY AND DISADVANTAGED BUSINESSES

Thursday, September 17, 2009

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

The Subcommittee met, pursuant to call, at 1:55 p.m., in Room 2167, Rayburn House Office Building, Hon. Eleanor Holmes Norton [Chair of the Subcommittee] presiding.

Ms. NORTON. I apologize for the delay. Votes delay and continue to delay. Since I vote on some matters on the House floor, I finished those matters on which I vote. The Ranking Member is still allowed to vote on some matters that I am not allowed to vote, although his people don't pay as many Federal income taxes as mine do per capita, as I shall remind him, but these are the last votes of the day. So I only hope with all the arrangements Members make to leave that he will be able to come.

This Subcommittee is pleased to welcome our witnesses today. We look forward to hearing the testimony of our small business witnesses concerning their experiences in contracting with the Federal Government. And we are also pleased to receive the testimony of agencies within the jurisdiction of this Subcommittee about their goals and accomplishments for small businesses and for minority-owned, minority-women-owned and our disadvantaged businesses.

The subject of today's hearing could not be more timely or important because of the government's critical interest in ensuring that small minority and women-owned businesses are given an equal opportunity for Federal contracts.

According to information supplied us by the Department of Justice, there is strong evidence that these small businesses continue to face barriers in numerous areas of business that unlawfully limit their opportunities. For example, minority and women-owned businesses experience discrimination from business lenders, are charged higher prices for essential materials, are intentionally subjected to unnecessarily high bonding requirements, and are excluded from subcontracting opportunities by prime contractors. Robust implementation of the Federal programs enacted to support these businesses is necessary to ensure that the government does not unlawfully and unconstitutionally participate in or perpetuate these barriers.

Today's hearing is a follow-up of our March 6, 2008, hearing on the subject when we alerted our agencies that we would be holding annual oversight hearings on issues and progress in small business contracting. Among the issues we addressed last year were bundling of contracts by Federal agencies that makes it difficult for small businesses to compete, the benefits of competing on the GSA schedule, small business outreach by Federal agencies, and how agencies account for small business participation in procurement. We look forward to examining agency efforts to address these as well as new issues that may have arisen.

This Subcommittee places a strong emphasis on business, small businesses, because they are central to the U.S. economy, particularly during what is now being called the Great Recession. The Federal Government as the largest small business contractor has a special obligation to this indispensable sector, especially in today's economic turndown. The roughly 25 million small businesses in the United States account for 50 percent of the Nation's private nonfarm gross national product; however, they receive only 20 percent of Federal contracts. Women make up 30 percent of the small business owners nationally in 2008, but received only 3.4 percent of contracts. Minorities own 18 percent of small businesses nationally, but receive only 6.8 percent of Federal contracts in 2008.

Because most of the jobs created by small businesses remain in this country, their formidable job creation power has premium value for our economy and for the American people. Small businesses with fewer than 500 employees accounted for 64 percent of the 22.5 million net new jobs between 1993 and the third quarter of 2008, according to the Small Business Administration. Of course, many Federal contracts necessarily go to large contractors, so Federal agencies are in the best position themselves to analyze their contracts in order to make a fair and practical allocation of contracts that should go to small businesses under the law.

We are particularly interested in how agencies make these allocations, considering that small businesses are responsible for the lion's share of new jobs. Unfortunately, however, the difficulty of establishing and maintaining small businesses, even in the best of economic times, means that many of these businesses and the jobs they generate do not survive; however, they are quickly replaced by new risk takers, characteristic of successful entrepreneurship in this country.

The Small Businesses Administration said in a recently released report to the President that the recession's credit freeze in the short-term funding market had a particularly harmful effect on the ability of small businesses to operate.

The American Recovery and Reinvestment Act provided an important opportunity for the Federal Government to offer a lifeline to small businesses in this tough economy. As of August 14, 2009, the SBA reports that 23.7 percent of the 8.37 billion in Recovery Act contract dollars have gone to small businesses, and those Federal agencies have been meeting disadvantaged business category goals with stimulus spending as well.

SBA reports that 10.6 percent of contracts are awarded to small disadvantaged businesses, 87 percent to aid a firm, 6.4 percent to

HUBZone firms, 4.3 percent to women-owned firms, and 3.1 percent to service-disabled-veteran-owned firms.

How have the businesses under our jurisdiction, this Subcommittee's jurisdiction, used stimulus funds or other funds available to them to help fill the gap for small businesses in today's economic climate? In stimulus funding alone the General Services Administration is receiving approximately $5.5 billion, the Federal Emergency Management Agency, or FEMA, is receiving $210 million, and the Smithsonian is receiving $25 million. We will be interested to know the number and type of opportunities for small business contracting that have been generated by agencies under the jurisdiction of this committee.

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

For minority and women-owned businesses, there is an additional 14th Amendment constitutional obligation carried out in Federal law by Title 6 of the 1964 Civil Rights Act and by other Federal legislation to assure that Federal dollars do not fund discriminatory activities. In Fullilov v. Klutz, the Supreme Court found that Congress had the authority to remediate historic discrimination by contracting through, quote, —″prospective elimination of barriers to public contracting opportunities,″ end quote.

Tough competitive standards must be enforced for small businesses and small disadvantaged businesses as for large contractors; however, targeting Federal procurement contracts and subcontracts for small businesses and for management and technical grants, educational and training support, as well as security bond assistance are obligations under the law.

Although the Small Business Administration has oversight for encouraging small business participation by Federal-sector agencies, only continuing and regular oversight by the authorizing and appropriation committees with whom we will be working on these issues in concert can hold individual agencies accountable to implement the small business policies of the Federal Government. We believe that this Subcommittee has the obligation to increase the momentum established with our first hearing, considering the so-called Great Recession that has seized the country and most of the world.

The agencies before us today have submitted information to our Subcommittee on their progress in meeting the requirements of Federal law. Three of these agencies, the Architect of the Capitol as a legislative agency, the Smithsonian Institution, and John F. Kennedy Performing Arts Center, technically are not covered by the Small Business Act, but to their credit voluntarily abide by the law.

We will be happy to hear from all the Federal agencies for which we perform oversight, General Services Administration, the Fed-

eral Emergency Management Agency, the Architect of the Capitol, the Capitol Visitors Center, the Smithsonian and the John F. Kennedy Performing Arts Center. We offer our thanks in advance as well to our small business witnesses.

Our first panel consists of the Federal witnesses, and we can proceed left to right. Thank you. Our first witness, Tamela Riggs, Deputy Assistant Commissioner for Vendor Alliance and Acquisition, General Services Administration, Public Building Service.

TESTIMONY OF TAMELA RIGGS, DEPUTY ASSISTANT COMMISSIONER FOR VENDOR ALLIANCE AND ACQUISITION, GENERAL SERVICES ADMINISTRATION, PUBLIC BUILDING SERVICE; JACOB HANSEN, DIRECTOR, ACQUISITION MANAGEMENT DIVISION, FEDERAL EMERGENCY MANAGEMENT AGENCY; RUDY WATLEY, SUPPLIER DIVERSITY PROGRAM MANAGER, OFFICE OF EQUAL EMPLOYMENT AND MINORITY AFFAIRS, THE SMITHSONIAN INSTITUTION; ROGER MOSIER, VICE PRESIDENT OF FACILITIES, THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS; STEPHEN T. AYERS, AIA, ACTING ARCHITECT OF THE CAPITOL; AND TERRIE ROUSE, CHIEF EXECUTIVE OFFICER FOR VISITOR SERVICES, CAPITOL VISITOR CENTER

Ms. RIGGS. Thank you. Good afternoon, Madam Chair.

Ms. NORTON. Could you turn your mike on or put it closer to you?

Ms. RIGGS. Better?

Ms. NORTON. A little bit.

Ms. RIGGS. Now——

Ms. NORTON. Say something, and we will know.

Ms. RIGGS. Okay. Testing.

Ms. NORTON. Okay. That is good.

Ms. RIGGS. Thank you. Good afternoon, Madam Chair and Members of the Subcommittee. Thank you for the opportunity to appear before you today to discuss the General Services Administration's record and goals for small minority and disadvantaged businesses. I am Tamela Riggs, Deputy Assistant Commissioner for the Public Building Service's Office of Acquisition Management at GSA, and it is my pleasure to be here today.

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

GSA's focus on small business starts with their agency leaders, who recognize the importance of small businesses in our Nation's economy and in helping the Federal Government to accomplish its work. We know that small businesses bring new and innovative solutions to government challenges, and that a successful and strong small business community is integral to job creation, community empowerment and economic revitalization.

Our agency works hard to improve small business access to our procurement programs. GSA has continually increased its efforts to purchase products and services from small business, which has led to not only meeting our small business goals, but exceeding them.

The Small Business Act establishes for Federal executive agencies an annual goal of awarding 23 percent of prime contract dollars to small businesses. At GSA in fiscal year 2008, over $1.8 billion, or 38 percent of all prime contract dollars, went to small businesses. We are proud that in 2008 we surpassed the small business statutory goal and all of the socioeconomic goals that were set for our agency.

GSA's Public Building Service procures services related to real estate. PBS's largest contracting areas are repair and alteration of buildings, construction of buildings and operations and maintenance. In fiscal year 2008, of the more than $2.4 billion eligible in those areas, 1.2 billion, or 50 percent of the dollars, was awarded to small businesses.

GSA's Federal Acquisition Service creates procurement vehicles that cover more than 4 million commercial products and services and has a strong record of helping other Federal agencies achieve small business contracting. The FAS Multiple Awards Schedules Program offers small businesses a tremendous opportunity for potential work with Federal, State and local governments. I am happy to report that 80 percent of all scheduled contracts are with small businesses. In fiscal year 2008, using these scheduled contracts, Federal agencies awarded over $13 billion in awards to small businesses, which is approximately 36 percent of the total dollars spent in that program.

Within GSA there are many resources available to help small businesses and to provide them with useful information. In addition to the support provided through FAS and PBS, our Office of Small Business Utilization provides direct support to the small business community. They have resources, small business technical advisors in each of our 11 regional offices as well as our headquarters. And our GSA Web site, GSA.gov, provides valuable information and links to a variety of resources and small business information.

GSA has consistently demonstrated its commitment to small businesses, and we are proud that we were able to exceed our goals in 2008. Additionally, we are very excited to be part of the efforts under the American Recovery and Reinvestment Act. We recognize, however, that the large influx of funding for recovery projects, while increasing the overall amount that GSA is able to award to small businesses, may negatively impact our percentage goals. For example, many of our construction projects funded by the Recovery Act by nature of their size and complexity are unlikely to be won by large businesses. Therefore, GSA has significantly increased its small business outreach and education efforts to heighten the small business community's awareness of Recovery Act contracting opportunities.

GSA also remains committed to negotiating aggressive small business subcontracting plans with prime contractors. We are now publicizing prime contractors' contact information on line at GSA.gov and hosting partnering events that provide opportunities for small businesses to present qualifications and form relationships with prime contractors.

Madam Chairwoman, our agency is strong, innovative and determined to find new and promising ways to ensure that the small

business communities continue to partner and excel when working with us.

I thank you for the opportunity to appear before you today, and I will be happy to answer any questions which you may have.

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

The next witness is Jacob Hansen, Director, Acquisition Management Division of FEMA.

Mr. HANSEN. Chairwoman Norton and Members of the Subcommittee, thank you for the opportunity to appear before you today. I will submit a written statement for the record in the near future. In addition to my oral statement, I will be pleased to respond to any questions you may have today.

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. FEMA's procurement goal is to use competitive strategies while also providing local and socioeconomic business contracting opportunities whenever and wherever possible.

I am proud to report that FEMA has competed 85.5 percent of its procurement dollars to date in fiscal year 2009. This is up from 78.1 percent competition statistics in fiscal year 2008. This is a major accomplishment, and FEMA leads all DHS components in the percentage of procurement dollars awarded through competition thus far in fiscal year 2009.

Form should follow function in addressing diversity on emergency management contracting. Accordingly, FEMA is working to develop an organization that more closely reflects the diversity of our stakeholders. Further, the businesses with which we choose to work and invest taxpayer money to build our capabilities must also reflect this mission. As a measure of our commitment, FEMA has dedicated a full-time small business specialist whose primary responsibility is to increase contracting opportunities for small, minority and disadvantaged business. The position is currently being filled by a senior member of my staff as we look for an experienced permanent replacement. It is anticipated the position will be filled during the first quarter of fiscal year 2010.

Having a dedicated small business specialist helps to institutionalize and focus attention on the small and minority contracting efforts, as well as helps to maintain a level playing field.

FEMA continues to work to meet and exceed our socioeconomic contracting goals. In fiscal year 2007, for example, FEMA awarded $485 million to small businesses. This amount represented approximately 33 percent of the Agency's total procurement dollars awarded in that fiscal year, thus exceeding the then small business goal of 30 percent set by DHS. However, in fiscal year 2008, while FEMA increased awards to small businesses to $495.3 million, that figure represented only 26.8 percent of the Agency's total procurement dollars, which was less than the 31.9 percent goal for fiscal year 2008.

As of September 15th, 2009, in fiscal year 2009, FEMA has awarded $405.5 million to small businesses, which represents 29.5 percent of the Agency's total expanded procurement dollars, just under the 31.9 percent target for this year. Hopefully the next 2

weeks we will continue to see an increase in the percentage of contract dollars awarded to small businesses as the end of the Federal fiscal year typically tends to be very busy.

The reason why FEMA did not meet its goal in fiscal year 2008 is largely attributable to Hurricanes Ike and Gustav, as FEMA thought it necessary to activate a significant number of preposition contracts, all of which were awarded competitively to large businesses.

With respect to the areas in which FEMA has exceeded its goals, slightly more than 6 percent of the procurement dollars have been awarded to women-owned businesses, and approximately 5.6 percent of procurement dollars have been awarded to small disadvantaged businesses.

FEMA will continue to work to meet the Agency's service-disabled-veteran-owned small business, SDVOSB, and historically underutilized business empowerment zones, the HUBZones, small business goals of 3 percent respectively. To date in 2009, FEMA has awarded 2.9 percent to SDVOSBs, and has awarded 1.03 percent to HUBZone small businesses.

It is worth noting that the small minority and disadvantaged business investments made in fiscal year 2009, approximately 22 percent were for professional services, 20 percent were for management support services, 14 percent were for ADP and IT services, and 5.1 percent were for housekeeping services.

As the Subcommittee considers how well FEMA is working with small minority and disadvantaged businesses across the procurement continuum, we urge you also to take note of how we are engaging the private sector, whether large or small, across the Homeland Security landscape. FEMA continues to aggressively pursue initiatives with the private sector and business community on various fronts to build a stronger emergency management system. These initiatives include, one, the FEMA Private Sector Division of External Affairs established a dialogue with the private sector year round. Working with acquisitions and other FEMA programs, the division increased awareness among private-sector audiences of all sizes of key resources on how to do business with FEMA, disaster preparedness and recovery information, training, and other resources.

The division also maintains an on-line portal with resources and training for businesses of all sizes—that address is www.fema.gov/private sector—as well as a growing distribution list of almost 18,000 subscribers nationwide who received private-sector preparedness tips and other updates. The division also developed and piloted a basic training course for disaster reservists who work with the local businesses in declared disasters.

Two, FEMA is building new and enhancing existing preparedness partnerships.

Three, FEMA is soliciting private-sector participation in a development and refinement of the National Response Framework and the National Preparedness System.

Four, FEMA is creating stronger and more vibrant public/private partnerships through programs and initiatives, namely, the Citizens Corps, Ready Business, and the FEMA Donation Management System and other national, regional, State and local planning exer-

cise and training efforts. These efforts foster open lines of communication with our Homeland Security partners and the business and nonprofit communities.

We are leveraging the resources and expertise of our partners in the private and nonprofit sectors even above and beyond the important role they have always played in the past. It is important, however, to give some contextual perspective on the opportunity and challenge involved in effectively engaging the private sector in emergency management.

The magnitude and complexity of the business community, with its varying needs, capabilities and capacity, makes coordination a daunting challenge and will require a sustained and long-term effort. Through its Private Sector Division of External Affairs, FEMA continues to build a network with nongovernmental organizations; business and trade associations; and local, regional and national Chambers of Commerce, and anticipates making continued significant progress in integrating the private sector as a full partner in incident management. We know that the worst time to build private-sector relationships is during a disaster. Thus, we are building them today in a sustainable and ongoing manner.

Thank you for the opportunity to speak about FEMA's record and goals in working with small, minority and disadvantaged businesses.

Ms. NORTON. And thank you, Mr. Hansen.

Now, my good friend and the Ranking Member has been good enough to stop by after the last vote and people clear out of Dodge. And he has got to clear out for a plane, so I am interrupting the testimony, if you will forgive me at this time, to hear the Ranking Member's statement, with appreciation that he did stop by before running off.

Mr. DIAZ-BALART. Thank you, Madam Chairwoman, and I thank all the witnesses. I apologize for the interruption. I also want to thank the Chairwoman for always being so kind and understanding. Thanking you also for holding this very important hearing.

Small business obviously—the Small Business Act directs the Federal Government to protect the interests of small businesses in order to preserve the competitive enterprise and free market, and a fair share of Federal Government contracts are awarded to small businesses. And obviously nobody can deny the importance of small businesses to our economy and to strengthening our economy.

Also, we all know, unfortunately, that the national unemployment rate has risen to 9.7, the highest since 1983. Florida's unemployment rate is even above the national average at 10.7 percent. And the Chairwoman knows Florida very well, has been there a number of times. So job creation has to be a priority.

Obviously, when you look at job creation, it is small businesses. That is who creates jobs. So obviously small businesses have also developed more patents per employee than larger businesses, for example, which much greater number coming from the smallest firms, smallest companies and smallest firms, with fewer than 25 employees. Not only do they create jobs, but they are also innovators.

In Florida, small businesses account for more than 99 percent of the State's employers, and they provide 44 percent of private-sector jobs. Those are astonishing numbers. When you want to incentivize the economy, and you want the job creation, you have to look at small businesses. And those numbers are very plain.

Now, despite the importance of protecting the interests of small businesses, unfortunately many government agencies are continuing to really fall short of their goals for contracting with small businesses. Last year only 1 of 24 agencies scored by the Small Business Administration met all of its small business contracting goals. I am very pleased, however, that GSA met its 2008 goals. That is a step in the right direction, and we are very proud of that. But despite this progress, we need to continue to pressure agencies to continue to work with small businesses to achieve those goals.

Obviously, in addition, agencies must ensure that contracting practices are fair, they are accessible, and they are transparent, obviously to maximize small business participation. And as I stated a little while ago, supporting small businesses is crucial, always is crucial, but particularly now with the unemployment rate as high as it is. And again, as I said a little while ago, if you want to create jobs, you have to look no farther than small businesses.

I want to thank you all for being here today. I apologize that I do have to step out. And again, thank you, as always, for being so courteous with me.

Ms. NORTON. Thank you very much, Mr. Diaz-Balart.

Now we go on to Mr. Watley.

Mr. WATLEY. Good afternoon, Chairwoman Norton. My name is Rudy Watley, and I am the Supplier Diversity Program Manager in the Office of Equal Employment and Minority Affairs at the Smithsonian Institution. On behalf of the Institution, let me express my appreciation to you for holding this hearing on the use of small, disadvantaged, minority and women-owned small businesses in Federal contract operations. And let me thank you for inviting the Smithsonian Institution to participate in this discussion and share with you a few of our Supplier Diversity Program achievements and ongoing initiatives.

The Smithsonian is the world's largest museum and research complex. With 19 museums, 9 research centers, 137 million artifacts, 18 libraries and the National Zoo, the Smithsonian stands out as a unique entity and a leader in science, research, history, art and culture.

The Smithsonian Institution is a trust instrumentality of the Federal Government that has been a public-private partnership since its establishment 163 years ago. Its mission is the increase and diffusion of knowledge, and the support of the administration and Congress is essential to the achievement of this mission. The Institution's leadership believes that diversity and inclusion are integral components of the mission, and it is expressly committed to diversity in all aspects of its workforce and business operations.

Diversity and inclusion have long been a part of the Institution's strategic plan and performance plan, our policy statements and directives. Doing business with small, minority and women-owned business is a reflection of that commitment. Over the past 3 years, the institution has spent roughly 40 to 50 percent of its contract

and procurement dollars with small businesses, and, as indicated in the materials attached to my written statement, you can see that the Institution has consistently achieved and exceeded all of its procurement preference goals except one, service to disabled-veteran-owned small businesses. Our SDVOSB goals, like SBA's governmentwide goal, is 3 percent, and over the past year we increased our use of these firms from 1 percent in fiscal year 2007 to 2.8 in fiscal year 2008. We have made progress, and we are actively pursuing and zeroing in on projects that can be performed by these firms.

As shown in the chart provided for fiscal year 2009, we have exceeded and more than doubled our accomplishments. These accomplishments speak for themselves. Specifically we have spent 49 percent of our Federal contracting dollars with small businesses, a whopping 20 percent with small disadvantaged businesses, 12 percent with 8(a) small disadvantaged businesses, 10 percent with women-owned small businesses, and we found a way to exceed our HUBZone goal with 5 percent of contracting dollars to help HUBZone firms.

While achieving our procurement goals for service-disabled-veteran-owned small business remains a challenge, we are actively pursuing opportunities to do business with these firms.

The success of the Smithsonian Supplier Diversity Program is the result of unwavering commitment from the top, starting with the Secretary. Dedication and collaboration from all managers and perseverance on the part of all procurement officials are the ingredients that makes the program work as well as it does. I am pleased to say that the collaborative relationship among the Supplier Diversity Program, our Office of Contracting, Procurement and Property Management, as well as the major buying units at the Smithsonian is exemplary.

Let me share with you some of our supplier diversity accomplishments this year. Thirty-eight percent of our American Recovery and Reinvestment Act funds allocated to the Smithsonian were spent in contracts with minority small businesses. Specifically, 9.5 million of the 25 million the Smithsonian received in Recovery Act funds were obligated to 8(a) small businesses. Using our Supplier Diversity Program infrastructure, we were able to move swiftly to galvanize and employ these firms to participate in this great opportunity. This is a testimony to the effectiveness of our program and the Institution's commitment to supplier diversity.

Let me share one more example of the success of the Smithsonian's commitment to supplier diversity that I believe will have historic significance. As the result of aggressive outreach initiatives, minority-owned firms were identified and competed in the design competition for the new National Museum of African American History and Culture, and the winning firm is minority owned. We are currently in negotiation with a minority firm to perform the architecture and engineering design services for the new museum. We are particularly proud of this accomplishment.

In closing, let me reiterate, as evidenced by our accomplishments, the Smithsonian Institution's commitment to diversity throughout its operations remain strong, and we will continue to engage a wide array of small disadvantaged, minority and women-

owned firms, as well as service-disabled-veteran-owned firms in our business relationships.

Thank you again for this opportunity to share our story, and I am happy to answer questions.

Ms. NORTON. And thank you, Mr. Watley.

The next witness is Roger Mosier, Vice President of Facilities, John F. Kennedy Center for the Performing Arts.

Mr. Mosier.

Mr. MOSIER. Good afternoon, Madam Chairwoman. My name is Roger Mosier, and I serve as Vice President of Facilities for the John F. Kennedy Center for the Performing Arts.

The Kennedy Center is unique in that it serves the dual purpose of being the national cultural center and the memorial to President John F. Kennedy. Each year the Kennedy Center reaches over 2 million people with more than 2,000 performances in all performing arts disciplines. Every season our focus is on developing programming that achieves national and international acclaim as is befitting our role as the national cultural center. We appreciate the committee's interest in the promotion of small businesses. I will provide an overview of the Kennedy Center's efforts in this regard.

In fiscal year 2009, the Center received direct Federal funding of $36.4 million for operations and maintenance and capital repair. While our contracting activities are small in comparison to the agencies appearing with me, we are committed to awarding a fair portion of our Federal purchases to small minority and disadvantaged business enterprises. The Kennedy Center continually looks for opportunities to offer contracts to small businesses. Given our relatively small budget, the opportunities for such awards are limited; however, each contracting action is evaluated as to its suitability for small, minority or disadvantaged business opportunity.

In general, the Center's Chief of Contracting serves as our small business advocate. In addition, project managers and other contracting officers representatives are also advocates for this program due to our track record of successful work with small businesses.

Regarding operations and maintenance funding, many basic services and minor repair contracts are awarded to small businesses, including minority businesses, disadvantaged businesses. These contracts range in size from $3,000 for sign language interpretation for Federal employees to approximately $2 million for housekeeping service. On an ongoing basis the Center utilizes small businesses for services such as elevator maintenance and inspection, asbestos abatement, indoor air quality monitoring, artwork and textile maintenance, pipe organ maintenance, emergency generator maintenance, fire pump maintenance, and various mechanical and electrical equipment inspection, repair and maintenance services. Additionally, supplies such as carpet, air filters, paint, light bulbs and many more are regularly purchased from small businesses.

For construction projects, from capital projects to major maintenance, we utilize small businesses for both consulting and contracted services. For professional services we have contracted with small businesses for architectural and engineering services, cost estimating, and contraction scheduling review.

For general construction work we have awarded a number of contracts to small businesses ranging in size from $20,000 to nearly

5 million. These have included recently completed work to upgrade life safety systems on the Center's Roof Terrace level and a project to paint the exterior columns of the facility. Both of these projects were completed within budget and on schedule.

This summer we awarded a construction contract of $4.9 million to a small business for the renovation of the concert hall support spaces, including practice rooms, rehearsal rooms, lockers and offices. This project is one the largest capital projects we currently have in progress.

Most recently we awarded approximately $1.8 million in miscellaneous life safety work to a small business for construction work, and that is just getting under way.

The Center has also established open contracts with small disadvantaged general contracting businesses participating in the 8(a) program. These contracts are utilized for minor repair and significant maintenance projects that typically cost less than a quarter million.

The Center has worked with 8(a) firms for many years and currently has four 8(a) firms under indefinite delivery and indefinite quantity contracts. This summer 8(a) firms refurbished the Center's coat check room, renovated the African Room, and repainted a significant portion of the concert hall ceiling.

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

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

While not every contract can be awarded utilizing these small business vehicles, many of the capital projects outlined in our 5-year comprehensive building plan are of a size and complexity that fit within the services we obtain through our small business relationships. The Kennedy Center's capital plan includes a number of relatively smaller infrastructure projects that we have been able to award to small businesses.

In summary, our experiences with small minority and disadvantaged businesses have proven to deliver a successful outcome in a variety of areas, including services, supplies, consulting and construction. As a result we are proactive in seeking out opportunities for the appropriate award of small business contracts. We appreciate the Subcommittee's interest in this program and for including the Kennedy Center in this discussion this afternoon. Thank you.

Ms. NORTON. Thank you, Mr. Mosier.

The next witness is Stephen Ayers, the Acting Architect of the Capitol.

Mr. AYERS. Thank You, Madam Chairwoman, for inviting me here today to discuss the AOC's efforts to increase procurement opportunities for small businesses. We have made tremendous progress in our efforts to implement programs that enable and encourage small businesses to effectively compete for AOC contracts.

Specifically I have directed our staff to implement two programs to actively award contracts to companies that reflect the diversity of our country, above and beyond the standard requirements of Federal regulations. These include a small business set-aside program for small purchases between $5,000 and $100,000, and a small business subcontracting program for construction contracts exceeding $1 million. Additionally, we have recently partnered with the Small Business Administration to further utilize small business programs.

On August 10th, SBA Administrator Karen Mills and I signed a Memorandum of Understanding to establish the roles and responsibilities of each of our agencies in the implementation of the use of small business programs at the AOC. The Memorandum of Understanding, while preserving the separation of powers between the legislative and executive branches, establishes the support activities, roles, and responsibilities necessary for the AOC to fully utilize small businesses identified under the SBA Act and SBA's regulations.

Our Small Business Subcontracting Program, which was launched in August of 2007, requires large businesses that are awarded construction contracts exceeding $1 million to submit and adhere to a small business subcontracting plan. This plan includes goals for prime contractors recruiting small businesses as subs, and they must meet or exceed the Small Business Administration's statutory goals for Federal executive agencies.

When contracts are awarded to large businesses under this program, we require each one to submit a semiannual progress report detailing how well they are achieving the prescribed goals. On October 1st of this year, our Small Business Set-Aside Program will be fully in effect for small purchases between $5,000 and $100,000. Under this program our contracting officers make every effort to identify and use small disadvantaged, women-owned, veteran-owned, and service-disabled-veteran-owned small businesses.

Along with these programs, we continue to reach out to identify small businesses that are currently working with the AOC or are interested in competing for work with us in the future. We also continue to reach out to new vendors, and the data received is used to identify small businesses that can compete for our requirements. Vendors not previously used by the AOC can also submit literature to our Small Business Office, and they can find information on that on our Web site.

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

Madam Chair, the AOC is leading the way in the legislative branch in encouraging small disadvantaged and women-owned businesses to effectively compete for contracts. We are working to

meet or exceed our goals through the three major initiatives I mentioned, the Small Business Set-Aside Program, the Small Business Subcontracting Program, and our partnership with the Small Business Administration. We obviously have a vested interest in supporting small businesses in order to help facilitate competition and to support local communities in a sustainable way. We look forward to our continued work with this Subcommittee and the Congress to ensure that our efforts result in strong small business participation in future AOC solicitations.

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

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

The next and final witness is Terrie Rouse, the Chief Executive Officer for the Capitol Visitor Center. Ms. Rouse.

Ms. ROUSE. Thank you, Madam Chair, for inviting me to participate.

Ms. NORTON. Please put your microphone closer or turn it on.

Ms. ROUSE. Is that better?

Ms. NORTON. That is.

Ms. ROUSE. Thank you, Madam Chair, for inviting me to participate in today's hearing.

As the Capitol Visitor Center prepares to welcome its 2 millionth visitor, we are on track to double the number of visitors to the Capitol as compared with previous years. We are pleased at this outcome, and even more pleased to report that the average time a visitor waits before entering the facility is 6 minutes. This compares with a wait that could have stretched to several hours in recent years.

The Capitol Visitor Center is also providing the public with opportunities to experience Congress' rich history in the Exhibition Hall, which will feature approximately 50 new historic documents beginning October 12th. From today through September 23rd, we will host a series of public programs to celebrate Constitution Week at the Capitol.

The Visitor Center's goal to work with and develop new opportunities for small and minority businesses is in line with the goals of the Architect of the Capitol. My staff and I have worked aggressively to hire personnel and award contracts to individuals and small companies that reflect the diversity of our country. I believe that such an effort enhances our ability to serve Congress and all who visit the U.S. Capitol.

Specifically regarding our procurements, the Capitol Visitor Center team follows the policies of the Office of the Architect of the Capitol. As we move forward, we are incorporating the aims of the Small Business Program, which Mr. Ayers discussed in his testimony.

At the present time, based on our continued and internal assessment of products in our gift shops, more than 70 percent of the merchandise is produced by small business vendors. Approximately 25 percent of our vendors are women-owned businesses. As we are still in the ramp-up phase of operation, we are constantly reviewing our merchandise and our vendors in order to make sure that we are offering our visitors high-quality merchandise from a variety of vendors.

We will be working with officials in the Small Business Administration and the Government Printing Office to explore opportunities for increasing the percentage of minority, disadvantaged and small business vendors who are contributing to our gift shop inventory. One of the goals is to hold a small business fair and invite vendors to speak with gift shop representatives regarding their products and their potential for sales at the Visitor Center gift shop.

The gift shops are also developing a purchasing strategy to enable the Capitol Visitor Center to showcase merchandise representative of the States and territories of the United States. We expect that the results of the strategy will be apparent in the gift shops by spring 2010 during our busiest visitor season. Attracting small minority and disadvantaged businesses will play a major role in the development and success of the strategy.

We have also reached out to merchandise and trade organizations, including the Museum Store Association and the producers of the New York International Gift Fair, for information on minority-owned businesses in order to further expand our reach and support of these businesses.

Madam Chair, you have my commitment that I will continue to work to ensure that we do business as much as possible with small minority and disadvantaged businesses. Thank you, and I am happy to answer any questions.

Ms. NORTON. Well, I am very pleased first to welcome my good friend and neighbor in the region, who, unlike the Ranking Member and others on the committee, didn't have a plane to catch and cared enough about this matter to spend at least a little time with us today. And I want to welcome Representative Edwards, who tells me she doesn't have an opening statement at this time. So I will proceed with questions.

I appreciate that your testimony shows that agencies are making an effort, and as I indicated, we could not have anticipated that the effort would have been ever so much more necessary. Nobody has a dime to spend except the Federal Government these days. I know you know that; we are the only game in town. And the only reason we have money to spend is because we can write checks with money not in the bank. Therefore, people are really looking to us to make sure that it all gets done.

I want to ask the same question for those of you who have stimulus all the way down. Some of you, I have to say there is nobody who cares about your general jurisdiction except me, and that is because I represent the District of Columbia and in many ways the region. It is an extremely rich region for minority businesses, women-owned businesses and small businesses generally. So it is doing better because the Federal Government is expanding; therefore, we are probably going to put an extra burden on you and ask you to try even harder than you already have.

So in stimulus funds, let us just get it on the record, given when—and I know that we have had an issue in our larger Committee about outlays versus obligations. I think I would be satisfied with obligations at this point. I want to know for those who have stimulus funds what the percentage is. You can give me small businesses, because this hearing is about small businesses generally. It

is about small women-owned businesses, it is about small minority-owned business, and it is about small disabled-veteran-owned businesses. So if you want to break those down, be my guest, but I want to know what percentage of stimulus funding, the stuff that is being pumped into the economy as I speak, has gone to any of those categories.

I will begin with Ms. Riggs.

Ms. RIGGS. Thank you, Chairwoman.

Ms. NORTON. A little louder.

Ms. RIGGS. A little louder. Yes, thank you.

Of our recovery, you know, GSA received the 5.55 billion. We have awarded to date approximately 1.3 billion. Of those contracts, of the 1.3-, we see about 48 percent of our contracts going to small business. Numberwise in terms of contracts, they are competing very well.

Ms. NORTON. Say that again.

Ms. RIGGS. I say in terms of the number of contracts that we are awarding for recovery, the small businesses are competing very well. Just barely under 50 percent are going to small. Dollarwise, however, we see far more dollars going to the large with recovery because so many of our dollars are going to the large construction projects. So we will see.

Ms. NORTON. And I appreciate that, and I also appreciate because you are doing the biggest construction project in the history of the United States and happen to be doing it right here in the District of Columbia, DHS, and it will be going on for years. But as I go down the line, first, when you indicate what your dollars are, I appreciate, for example, that you are abiding by the notion of setting aside. You set aside, I think, $5 million for small businesses, or is it small disadvantaged businesses? Which is it? Five million dollars has been set aside for small or small disadvantaged businesses. Which is it?

Ms. RIGGS. I apologize. I do not have that exact number.

Ms. NORTON. It may be small businesses. I have no argument with that.

But let me tell you a complaint I have already received. This complaint is applicable to each and every Federal agency. A $50 million contract to do the electrical work has already been awarded. We received a complaint from an electrical contractor that, well, you awarded it to—first of all, the business is Clark Construction. See, I call names out in this place; that is how you track people. Fine. This is an excellent company. They competed for it, and they received it. They competed for—then we competed the contract, the electrical contract, very lucrative contract today, $50 million in one region.

The complaint came from a small electrical contractor. When he called to try to compete as a subcontractor—I picked GSA because I received a complaint, but I assure you this is the kind of complaint we hear from small contractors all along. This is how they evade the small disadvantaged business and small business contract. This guy who has the electrical contract, Dynalectric—called his name out. Glad you got it, got it fair and square. But the subcontractor said when he then went to say, now we are ready to be a subcontractor, he was told, well, we already have our subcon-

tractor, and therefore there is nothing for the rest of you. Out of $50 million, this is the message I get. Now they are going to have to come in and see me to correct the record, but this is the message I get. I know I have got a requirement. I am going to meet it in the most amenable fashion I can. I got me a either a disadvantaged business or small business; maybe even in good faith says, Dynalectric, we worked with them in the past, and so we know they are good. Later for all the rest of you out there, no matter what your record is, no matter how you would compete.

That may not be what is happening, but, Ms. Riggs, should $50 million in electrical contract—by the way, Dynalectric gets to keep what isn't given to the subcontractor. And one of the abuses that we believe we see is, shall we say, preconceived small businesses who kind of—help us out here. Even some of the complaints, go pay off small businesses, don't even get to do it as long as the goal is reached. Don't think that with a billion dollars—and I can tell you there is one Member and only one Member who struggled for that money for GSA. I don't intend to use that $1 billion to defeat this practice, to the extent it exists, to call out people who are doing it, so that in the other agencies across the government, not necessarily those who are here, we send the message we are going to break that abuse. Technically within the law; outrageous violation of the intent of Congress.

So it suggests to me, since he thought he was getting away with this, that GSA just looked at the bottom line and didn't raise the issue until this electrical contractor got in touch with this Member of Congress.

What can you tell me, Ms. Riggs?

Ms. RIGGS. I can tell you that, generally speaking, we are being very attentive and growing aggressively moreso each day with our subcontracting plans, and not only monitoring the submission of the subcontracting plan, but also the adherence to that plan. With St. E's, I do not have—St. Elizabeth's development—I do not have the specific information that you have about that company.

Ms. NORTON. You don't even know about this. In the biggest contract you have, you have no—do you know of this complaint?

Ms. RIGGS. I am not personally aware of that.

Ms. NORTON. Well, when do they get up to your level, Ms. Riggs?

Ms. RIGGS. The folks in our project areas may very well, and in fact the contracting officer is here with me.

Ms. NORTON. Where is the contracting officer? Step to the table, contracting officer. We are really here to try to find out some information. We are tired of hearing the complaints. Agencies have not been held accountable. The best way to hold them accountable is to take the DHS mammoth—and $1 billion, that is only the first, it is going to be $5 billion before it is all over, DHS. Do you know of the Dynalectric contract and of the complaint that came from their electrical contractor?

Ms. ECHOLS. Yes, ma'am, the subcontractor—the contractor that you are talking about did give me a phone call.

Ms. NORTON. What has been done, if anything, to make sure that there is not a pass-through to a favored minority or small business given this complaint?

Ms. ECHOLS. The project executive and I, we actually had the general contractor, Clark Design/Build come in. We actually had a roundtable discussion to let them know that we weren't going to tolerate this kind of action.

Ms. NORTON. Let me thank you. Say your name again, please.

Ms. ECHOLS. Bonnie Echols of the General Services Administration, St. Elizabeth's project.

Ms. NORTON. Ms. Echols, you do have some credibility with me, because you have worked with us to try to make sure that minority businesses do have access to this larger-than-ever Federal contract.

But it does suggest to me that, unless one monitors these people as these contracts are given, it is not are worth a darn, shall we say. They have gotten into these habits because committees like us, and certainly the Appropriation Committee, have only monitored—only monitoring is by SBA, and they don't have any jurisdiction.

So we are going to have to ask you, and then I think it should have been reported to Ms. Riggs. She needs to know, because she is in charge of the whole kit and kaboodle, so that she can be on the lookout for this happening elsewhere.

I suspect that this happens throughout the government. Everybody says I know what my goal is. I got at least one. I am not even looking for any others. And then Members of Congress get these complaints, and nothing happens. They don't do anything. And all of y'all are violating the law. And then we are left to try to find and make phone calls. We are not going to do it anymore, not on something as big as this.

So I am going to ask you to develop a procedure—you are doing very well in developing a procedure for hiring, and I thank you for it. I want you to develop a procedure for tracking the subcontracts to see where they go and to inform all the contractors, inform Clark that Clark is going to be held accountable for it. Clark does excellent work. It is going to do excellent work abiding by the law with respect to small business and small minority businesses. And I want to see Clark contracting staff. Because I am going to give them the message myself. I am not going to be sitting in the District of Columbia with people coming to me from Maryland, Virginia, and D.C., and by the way, these contracts are open to people all over the United States, knowing that I am the Chair of the Committeewith complaints. We are going to correct the complaints before they occur. We are not going to be a complaint-tracking service.

Let me go to Mr. Hansen. Stimulus funds, who got stimulus funds in the categories I am speaking of?

Mr. HANSEN. Chairwoman Norton, the $210 million in stimulus funds for FEMA went to firefighter assistance grants.

Ms. NORTON. This is more difficult because here, Mr. Hansen, unlike Ms. Riggs, has to work through the States. And one of the reasons we are holding this hearing is that we know we are, Ms. Edwards and I and this Subcommittee and Mr. Oberstar, are personally accountable, because unlike Mr. Hansen, these people report directly to us. There is no State between us and GSA contracting.

All right, Mr. Hansen, I will be interested to hear how you do it therefore.

Mr. HANSEN. Well, the $210 million were grants to modify, upgrade, or construct non-Federal fire stations. So really none of the stimulus funds came to my acquisition management division.

Ms. NORTON. That doesn't mean you have no responsibility, Mr. Hansen.

Mr. HANSEN. The grants division, we can get that information for you, ma'am, but I would have to go to a different department within FEMA.

Ms. NORTON. These fire grants, and in the other part of our jurisdiction, this is very important to us, what do the States know about their obligation with respect to minority—and what kind of contracts are these, Mr. Hansen?

Mr. HANSEN. Again, ma'am, these are grants handled through our grants department. And I am going to have to go to them to get you more details.

Ms. NORTON. What is funded by these grants, Mr. Hansen?

Mr. HANSEN. In this particular case, it was construction of non-Federal fire stations.

Ms. NORTON. That is what I thought, Mr. Hansen. You can see that it is not a lot of money. And you can see how people under some great compulsion to spend it, because we are putting them under that compulsion, could easily go to the fastest, best in their judgment, quickest way to spend it. So I am going to have to ask you, within 30 days—and you know, the contracting officer should remain at the table, please. We may have other questions for you.

I am going to ask you and Ms. Riggs to get to us, Ms. Echols and Ms. Riggs, through Ms. Riggs, to get to us within 30 days what the record has been thus far in small business contract awarding under the fire grants, the more than $200 million you now have.

Mr. HANSEN. Yes, ma'am.

Ms. NORTON. Thank you, sir.

Mr. Watley.

Mr. WATLEY. Chairwoman Norton, the Smithsonian Institution received $25 million in Recovery Act funds. Of that $25 million that we received, we awarded $9.5 million to 8(a) disadvantaged businesses. There were 11 contracts awarded to these small businesses. And that constituted 38 percent of our Recovery Act dollars. The type of work that was done was construction, general construction, facilities engineering, maintenance contracts. And that is how we spent that money.

Ms. NORTON. That is thus far?

Mr. WATLEY. Thus far.

Ms. NORTON. How have you been able to award—in terms of your overall goals, how does that compare with your overall goals?

Mr. WATLEY. Compared to our overall goals? We included—early on when we got the Recovery Act funds, we included that money in there to make sure that we did. Let me just take a look at the figures we have.

Ms. NORTON. And this is disadvantaged businesses you are talking about, the $9 million.

Mr. WATLEY. To 8(a) small, disadvantaged businesses, that is correct.

Ms. NORTON. While you are looking for that, I understand that Ms. Edwards also has an appointment and may need to leave before I get to her.

So, Mr. Watley, I will come back to you.

Meanwhile, Ms. Edwards may have questions for any of them, any of you, and as long as for as much time she shall consume she may proceed now.

Ms. EDWARDS. Thank you, Madam Chairwoman.

And of course, I won't consume that much time. And I appreciate it. I have another Committee assignment in just a few minutes. And I do thank you for holding this hearing, because you have been incredibly vigilant about our pursuit and our oversight responsibility to ensure that all of our businesses get the fullest benefit of participation, particularly with these stimulus funds.

My question actually goes to sort of a process. I think when small businesses come to me, one of the biggest obstacles that they say they encounter is this procedure that is supposed to result in an efficiency of bundling contracts. And so then that leaves it to the decision-making of a prime contractor about what or whether to subcontract. And then there becomes this sort of ongoing process of, you know, knowing who you know in order to get the contract. And the next thing you know, you look down a list, and it is the same, old folks even though they may be small, minority, and disadvantaged businesses or women-owned businesses, that are getting the same contracts over again.

And so I want to talk about, you know, just the process and get some thoughts, particularly from GSA, about what might be done to loosen that up, to expand the availability of opportunities. And I know it may be an administrative or bureaucratic pain, but I am just tired of looking at the same list of contractors and subcontractors. And you know, you got contractor prospectives out there who have the potential to do really great work for us and increase our level of competition and our knowledge about what some other businesses are doing, but they can't even get a bid in edgewise.

And so help me understand what you are trying to do to open the process and also to do it with a degree of transparency. Too often the complaint, and I think the Chairwoman has spoken to this, the complaint that we hear is that we just don't know and that prospective solicitors don't know and don't understand, and as a result, they may be assuming that they have been left out or cut out or not made an award for reasons that may be perfectly justified, but the level of transparency or the lack of transparency makes it very difficult to understand the process through which these contracts have been awarded. So help me understand that.

Ms. RIGGS. Absolutely. I think we have done a lot to improve the transparency, to use that word. We have significantly increased our outreach to small businesses. And in particular, not only—but in particular new small businesses who are interested in working with the government either as a prime or as a subcontractor. And we have certainly increased our number of personal involvement, our presence at industry outreach events. We have strengthened our Web site materials enormously so those folks who are comfortable using that as a tool have a lot more available to them.

But we have also begun to use different tools. We are now using Twitter, social media to get information out to those communities about business opportunities. So it is still going on FedBizOpps for those who are used to doing that. But we are also putting it out there through Twitter. And we are getting quite a lot of response from that. We actually established a vendor-specific support line that vendors can call into and speak to a human and ask them for help and ask them questions about the procurement process. And through that we are reaching a lot of folks, teaching them how to find out more about who our primes are. We have published that list, and we will continue to, of our prime contractors on the Web site, but we are also teaching small businesses how to go into the Federal Procurement Data System, FPDS, and look for our primes to see what we are buying and in turn what they may be able to provide.

Ms. EDWARDS. But what really compels the primes to open the doors? You know, if there is one significant contract, what really compels that prime contractor to open their doors? And I am not talking about meeting a goal that GSA might set forward, but expanding business opportunity and their knowledge of other businesses there. And it just doesn't seem to me that we—I am not quite sure whether the rules are in place, and certainly the law is not in place that compels our prime contractors, particularly on these huge contracts, to really open their doors to other vendors. And then please don't leave out the question of bundling of contracts.

Ms. RIGGS. Oh, absolutely.

In bundling, in fact, that question was asked at a previous hearing, and so I know we looked, we had, GSA had no bundled contracts last year. We do have one this year that is underway. The procurement is actually underway as we speak in the IT environment. So we have very few, in fact one, but relatively no bundled contracts. What entices the prime——

Ms. NORTON. Would the gentlelady yield? I wonder if any of the rest have any bundled contracts while you are getting an answer to that question.

Ms. EDWARDS. Any of the other agencies?

Mr. AYERS. No, ma'am.

Ms. EDWARDS. And so, well, then how would one become a subcontractor then? Because you have subcontractors. Mr. Hansen?

Mr. HANSEN. Well, first on the topic of bundling, that is counter to my leadership philosophy. To really, truly have a small business program, it has got to be a cultural event within an organization.

And I can give you a practical example. I recently hired a new chief of contract operations in charge of my contract operations who served in the past as the director of small business programs for the Department of Defense. And he served as the associate administrator for government contracting and business development of the Small Business Administration. This is my top layer of leadership. It takes that type of leaders in your organization to build that culture within the organization to let your workers know what is expected. Small Business and FEMA is exactly where we want to go. I don't want to bundle contracts; I want to unbundle them.

Ms. EDWARDS. Any of our other witnesses?

And then I think, lastly, and Madam Chairwoman, I am going to have to slip out, on the question of transparency, I heard GSA's response. I want to hear from our other agencies about the methods that you have put in place to ensure not just that we here in the committee have a sense of what you are doing, but that the business community, the small business community, really has a sense that they are getting a fair shake.

Mr. WATLEY. Well, Congresswoman, for Smithsonian, one of the things we do is take our referrals from small businesses directly to the large businesses and pass that information on to them. What I do in the supplier diversity program is I negotiate with our Office of Contracting, and more often for construction projects our facilities unit, the subcontract plan prior to the contract award. And we include the percentages in. And after those percentages are included in the contracts, then we refer those small businesses that are interested, the electricians, the trades folks to our contractors.

Ms. EDWARDS. Thank you.

And Ms. Riggs, before I leave, can you tell me that, once you do these kind of outreach efforts to small businesses, how do you track the ones that actually come back and eventually awards are made to them? Do you track that?

Ms. RIGGS. We do not currently. And that is something that we are putting into place.

Ms. EDWARDS. Because, I mean, the question is, how do you know that all of this outreach business is really effective?

Ms. RIGGS. Absolutely. And particularly now that we are using so many different tools, we really want to know which ones are most effective in reaching them. So we have began to capture the feedback that we are getting from the vendors, and certainly on return calls telling us the results of the conversation. But we are looking to put something more formal into place.

Ms. EDWARDS. That would be great, because I have to share with you, when I talk to our small businesses, they say, oh, yeah we go to those seminars and outreach things all the time, never gotten a contract. And so it would be helpful I think on an ongoing basis for the Chairwoman and this Subcommittee to really hear from you, and that is each of you, what is the real result of your outreach efforts? Because otherwise, I would say, why bother to spend the money on outreach if no one is ever going to get a contract? Thank you.

Thank you, Madam Chairwoman.

Ms. NORTON. Thank you very much, Ms. Edwards, for those important questions.

Remember, Ms. Edwards and I are saying that a contractor has to make sure that he meets the standards of the Federal Government, very high when it comes to building or doing any service for the Federal Government. But to meet that. If the lesson we get back is, to meet it, I am going to use the same subcontractor in perpetuity, you are doing nothing to carry out the congressional intent to increase and for that matter help train small businesses, because they do get contracts. And if a small business gets a contract and begins not to perform up to your expectation, you are supposed to yank that contract. You are supposed to have things in the subcontract that makes that possible.

But the failsafe notion, which we believe has been abused even further, that people have gotten a subcontract to meet the requirement and then didn't even do the work, nobody better try doing that on a billion dollar project at the DHS. We understand that having familiarity with a subcontractor who has performed well means you want to go back to that subcontractor. But how in the world do you know that there is no other subcontract electrician in this region or in this country except the one you have used, Dial Electric? How in the world can you say, especially since so many are out of work, that you got the one and only who can live up to the standards of the Federal Government? That is where our patience runs out and where we do not believe outreach is occurring. I want to just say that Ms. Echols has already shown that there are ways to increase the numbers because of the GSA workshops which went on, as I recall it, for 2 days for several sessions. And at the end, is this not true, Ms. Echols, small businesses qualified at the end for 8(a) contracting? Am I correct on that? Or how did that work?

Ms. ECHOLS. You are correct, yes.

Ms. NORTON. So what she did was to essentially sit them there, and by the end of it, if you had met all that it took to indicate that you had, you were an 8(a) contractor, having sat through. Now of course that is going to increase the number of contractors. Some may have come back or already were just to refresh. But we are either going to be hearing—and the gentlewoman said that we hear complaints that people didn't get contracts. We are going to continue to do that.

If my answer is simply, I know, but the contractor, the electrical contractor did award X number of electrical contractors, I am going to tell them, look, you can't expect every electrician in the region to have received a contract. And if there are goals to be met, then the goals have to go to where the small businesses are. They are at the subcontracting stage.

Mr. Watley, would you continue so we can more quickly go through this?

Mr. WATLEY. In fiscal year 2009, we awarded $158 million; $18 million was awarded to D.C. contractors, and $6 million was awarded to small businesses in the District.

Ms. NORTON. You have presaged a question I am going to ask not for rendition here because you weren't asked to bring region-specific information to this hearing, but I will ask you within 30 days, each of you, to supply me with the percentages awarded in this region. And the reason I pick out this region is it is the National Capital Region, and it is where you would expect more people to come forward. I want it by region, by State, by District of Columbia, Maryland, and Virginia, and by category, percentage and dollar amount. Names of contractors would give me a sense of whether or not the same contractors are simply getting the same business over and over again.

Again, I do not mean to say that that shouldn't happen. I mean to say, though, when you have a mammoth contract like the electrical contract, and you can find only one person is a red flag that is going to go up.

Mr. Mosier, your answer on stimulus broken down by those categories.

Mr. MOSIER. Madam Chairman——

Ms. NORTON. And would each of you, by the way—you can't perhaps do this right now, but I want last year versus end of fiscal year now or up to this point. You won't be able to give me the end of the fiscal year. You will only be able to give me if it is up to the quarter or give me up to the quarter of last year, so that we will have some sense of whether or not agencies are doing their best to make up for the losses—you can't make up for them all—that small businesses are encountering in mammoth amounts in contracting.

Mr. Mosier.

Mr. MOSIER. We have not received any stimulus funds.

Ms. NORTON. Mr. Ayers?

Mr. AYERS. The Architect of the Capitol has not received any stimulus funds either.

And to answer your second question, last year, in fiscal year 2008, we awarded 19.5 percent of our contracts to small businesses. And this year through September 2nd, we have awarded 35.7 percent of our contracts to small businesses.

Ms. NORTON. Now, how about disadvantaged small businesses?

Mr. AYERS. That went from 3.2 percent last year to 4.9 percent this year.

Ms. NORTON. Thank you.

Ms. Rouse?

Ms. ROUSE. As a jurisdiction of the AOC, we don't——

Ms. NORTON. Oh, you are included within the AOC. Of course.

Ms. ROUSE. Yes, ma'am.

Ms. NORTON. Now, one way to get at this subcontracting abuse is to make greater use of the GSA schedule, a multiple award schedule. How many of you make use of that schedule, that GSA schedule where the small businesses are? Not all of them; some of them are with contractors. But the GSA schedule is full of contractors, harder to get on because you have got to do a whole lot of show who you are and how good you are in advance. But for that reason, you would think that a Federal agency would particularly be interested in the GSA schedule.

So why don't we just start with Ms. Riggs on that one.

Ms. RIGGS. Yes, ma'am. We use schedules quite heavily. And we have used schedules for recovery work as well.

Ms. NORTON. Of course, you use it as a GSA schedule. I am trying to find out about small business, disadvantaged small businesses, how often you go to—let me be clearer then—you go to the GSA schedule as opposed to going to the subcontractor or contractor who is able, looks, it seems to us, to camouflage a lot of the outreach that you otherwise would require. You go straight to that schedule; don't you get yourself a small business more quickly? And does it work for you with the kinds of contracts you do?

Ms. RIGGS. We do use schedules quite a lot. Most heavily we use them probably in our facility area for facility operations. And they do work for us.

Ms. NORTON. Facility area, you mean for things like——

Ms. RIGGS. Maintenance and repair—I am sorry, thank you—maintenance and repair, alterations, operations. And we do see a mix there of large and small, and it does work very well for us. We also use schedules heavily in the IT area, again with a mix. We have quite a lot of small in our IT area. And our third largest area is for professional services that we purchase.

Ms. NORTON. In 30 days, could you get us that breakdown from the schedule? What is the schedule showing us in small businesses over a period of let's take a year, so we can compare, in small disadvantaged businesses, in small businesses and in small businesses themselves, the use of the schedule and in what kind of services? I am aware, of course, that certain kinds of services lend themselves to the schedule more than others.

For example, Clark Construction is responsible, because he is a general contractor, and therefore Ms. Edwards' questions, for example, there, are more relevant. Although it is not that he couldn't go to the schedule. He might benefit from going to the schedule as well. But the responsibility lies with him.

For you, the responsibility could lie with whether you decide to go straight to the schedule on some matters or to go through a contractor. So I am interested in the use of the schedule. And I am not complaining, although I hear complaints, so that you don't think I simply bring you the complaints we hear from contractors, who call all the time, the subcontractors. I am not complaining, although I would like you to look at what it takes to get on the schedule.

I happen to like government. Therefore I am particularly sensitive when people complain about government, because the people who don't like government, whose names shall go unmentioned, often use the fact that government paperwork and all that goes with it can be so burdensome to try to get rid of a whole lot of what we do. So I am a huge streamline type and am better known in chairing the EEOC for getting rid of the backlog than for things I would rather have on my tombstone.

So I really do—I am interested, particularly in the use of the schedule, and I am interested, and this I don't require in 30 days, but I am going to require it in 60 days, I need you and your staff to look at whether the schedule can be streamlined, how much it can be streamlined and yet meet the high standards of the Federal Government.

Who else is going to speak to the stimulus? I am sorry, was that—schedules, I am sorry.

Mr. Watley, you use schedules?

Mr. WATLEY. The Smithsonian uses GSA schedules. We primarily use them for IT supplies, for office products, janitorial supplies, but not for construction-related requirements.

Ms. NORTON. Mr. Hansen, you know, with FEMA, if you are into quick purchasing, you ought to be going to the schedules like it was yesterday.

Mr. HANSEN. We love the GSA schedules; 19 percent of our acquisitions are off schedule. But keep in mind that doesn't relinquish us of our responsibilities for competition. We actually do competitions on the schedule.

Ms. NORTON. You know everybody on the schedule has already competed.

Mr. HANSEN. You can still do competitions with the members on the schedule to get the best price.

Ms. NORTON. Of course. But that doesn't take a lot of time.

Mr. HANSEN. That does not take a lot of time. They have done a lot of the work up front for us.

Ms. NORTON. So, in Katrina, how often—what percentage of the contracts came off the schedule?

Mr. HANSEN. Can I have my 60 days to respond to that, ma'am?

Ms. NORTON. You will probably need for that.

Mr. HANSEN. Yes, ma'am.

Ms. NORTON. Also for what was the one in Houston?

Mr. HANSEN. Ike and Gustav?

Ms. NORTON. I need to know the use of the schedules. Get me those two hurricanes. But if you simply want to do it by year, and I understand the Katrina problem, I think I would rather have it by year, just like I am asking people to give me, go back to the quarter in 1 year, go to the quarter in this year.

Mr. HANSEN. Yes, ma'am.

Ms. NORTON. Schedules and who else?

Mr. Mosier, you have a high percentage. I cannot believe you don't use the schedules.

Mr. MOSIER. We do. We don't have a huge volume of schedule buys. Our funding of course is solely for the maintenance.

Ms. NORTON. Is what?

Mr. MOSIER. Is solely for the maintenance and upkeep of the facility. So all of our purchases are related to that.

Ms. NORTON. But you talked about some renovation you were doing.

Mr. MOSIER. In very, very rare cases, we might do contracted services through the GSA schedule. But we primarily use it for supplies.

Ms. NORTON. What is an open contract?

Mr. MOSIER. An open contract is I suppose just my way of saying an active contract. It is sort of a blanket purchase agreement or vehicle with a small business that I can continue to tap into.

Ms. NORTON. Schedules, Mr. Ayers?

Mr. AYERS. We make extensive use of the GSA schedules. We find them to be excellent vendors, as well as it is a streamlined acquisition method that saves us time and effort.

Ms. NORTON. So you do make use of the schedules?

Mr. AYERS. Absolutely.

Ms. NORTON. As opposed to going through the contract route?

Mr. AYERS. Yes.

Ms. NORTON. How much? Get me that information over a quarter, please.

Mr. AYERS. Yes, ma'am.

Ms. NORTON. Ms. Rouse, how about you?

Ms. ROUSE. Madam Chair, we do use GSA schedules for some of our—we are talking about the gift shop items. But I will have to get back to you with what percentage that is.

Ms. NORTON. Thank you. Quarter to quarter over a year. I am just trying to get a sense.

Now, I want to ask you something that I have just seen happen, and I was pleased to see it happen, and I want to know how you go about deciding the amount. GSA is to be commended for setting a very important example when it did the preliminary work clearing the land and the like, and I want to know whether it happened off the schedule or how you did it. It was able—I should preface this by saying the more complicated the work in a society that has denied opportunities for minorities and women, the more likely it is that you will see fewer at the very top like contractor. And you will see more in lower reaches of the work. And GSA must understand that, because when it contracted over the past year, according to our figures, for the work, 100 percent of it went to—this is without any hearing or any demand by this Member or any other Member—went to minority—sorry, disadvantaged businesses, and 40 percent to businesses in the District of Columbia.

More recently, GSA, for the next stage, I think a $450 million contract, set aside 5 percent for I don't know if it is small businesses or small disadvantaged businesses. So I want you to break it down for me, how did you decide—and I want everybody to listen—how did you decide so that you were able to get those numbers in small disadvantaged businesses in the beginning, and what are you doing with this $5 million? And how did you even get to $5 million? Because certainly the Committee didn't tell you that that was the number. We wouldn't have known how to tell you what the number was.

Yes.

Ms. ECHOLS. If I am not mistaken, I believe you are talking about Nastos Construction, who did some work out there at the——

Ms. NORTON. We know that they got the disadvantaged business in the District of Columbia.

Ms. ECHOLS. Right.

Ms. NORTON. That was reported to us. Go ahead.

Ms. ECHOLS. Some of the projects that we did solicit, we did use some of the schedules, some of the IDIQs.

Ms. NORTON. Were they on the schedule?

Ms. ECHOLS. Nastos, no. That is a construction firm. Nastos was not on the GSA schedule. That was an 8(a) procurement.

Ms. NORTON. I see.

Ms. ECHOLS. Yes.

Ms. NORTON. So how did you go about finding, and the 40 percent in the district and others went to other places, that—did you advertised this for small businesses or for small disadvantaged businesses? How does it work? Did they have to compete among themselves? How does it work?

Ms. ECHOLS. Pulling firms off of the FAS schedule and then inviting them to submit a proposal to GSA depending upon what project we are working on.

Ms. NORTON. I hope everyone heard that. Inviting them to participate. Others will come forward on their own.

Ms. ECHOLS. And if they hear about it, they are, too, invited to participate.

Ms. NORTON. So you don't exclude others.

Ms. ECHOLS. Yes.

Ms. NORTON. What was the last thing you said?

Ms. ECHOLS. As long as they are scheduled. If it is a scheduled requirement, then they must be a schedule holder under that particular——

Ms. NORTON. How did you get to the $5 million? Tell me about $5 million. You or Ms. Riggs. We read that $5 million of the $450 million I think for this first tranche was set aside for you tell me what, for small business competition? Would you elaborate?

Ms. ECHOLS. I believe you may be talking about the demolition contract that is out there now?

Ms. NORTON. I think that is probably——

Ms. ECHOLS. Right. That was a competitive 8(a) requirement. And what we did, that was at FedBizOpps, and the requirement was that you must be certified through SBA as an 8(a) firm to participate.

Ms. NORTON. All right. Now, this is legal and constitutional. They are making 8(a) contracts compete within the 8(a) category for small business where they have determined that there is an available pool. This is one way, particularly where you know there is an available pool, where those pools historically have not been used; it is a way.

How many of you use 8(a) contracting in that way? Because that is where we get some of the biggest complaints is from 8(a) contractors. How many of you use 8(a) contractors? Would you describe, beginning with Ms. Riggs, your use of 8(a) contractors? I now know—and how did you get to $5 million? Was that based on what you know about the available pool, for example, of people who can do that work within the 8(a) contract pool of contractors?

Ms. RIGGS. I am looking at examples of things that we have purchased from 8(a) contractors last year. Our largest category of work was in maintenance and repair of office buildings. Behind that was construction. And behind that custodial. There is quite a list here, but those are probably our largest categories where we saw dollars going to 8(a) companies.

Ms. NORTON. Now, could I know from the rest of you, do you take some of your stimulus money or other money and say, this money is for 8(a) contractors? And if so, what percentage?

Mr. Hansen, Mr. Watley, et cetera. Mr. Hansen? You of course, you would have to be dealing, not with your grants, but with your other funds that you use. Go ahead.

Mr. HANSEN. Yes, there are a couple of different techniques that you can use to identify 8(a) contractors. One of the easiest ways is to put a request for information out on FedBizOpps, giving it 30 days. If you find out that you have 8(a)s out there that can compete, they will inform you through that process. So that is one technique. We also have a program where, if a contract is already 8(a), we are going to keep it 8(a) because they have already demonstrated they can do the work. We have a policy where we award sole source contracts to 8(a)s up to $3.5 million. But when we have a procurement in excess of $3.5 million, we compete them amongst the 8(a)s.

Ms. NORTON. Would you get us the information over the quarters from 1 year to another how much of that has taken place using your funds? I am interested in the 8(a) so that when somebody calls me I can look down, and I can say, well, FEMA last year

awarded—which means they set aside for 8(a) competition—awarded X percent of 8(a)s. So while you may have had difficulty, contractor X, it may or may not be a problem with the agency they then are calling me to complain about.

Mr. Watley, 8(a) contracts.

Mr. WATLEY. For our Recovery Act dollars, we looked at the opportunities available, but we did not assign a dollar amount that said X amount of the $25 million——

Ms. NORTON. Were those 8(a) contracts?

Mr. WATLEY. Pardon?

Ms. NORTON. Are we talking about 8(a) contracts now?

Mr. WATLEY. The 8(a) contracts that we awarded; we did award that $9.5 million.

Ms. NORTON. If you are saying to the 8(a) contractors, here is $9 million——

Mr. WATLEY. Correct.

Ms. NORTON. —you surely don't pull that out of the air.

Mr. WATLEY. Correct.

Ms. NORTON. How did you get to that number?

Mr. WATLEY. That number came out of the amount that we obligated. We did obligate $9.5 million.

Ms. NORTON. What I am trying to find out, is that just catch as catch can? So you were able to get those impressive numbers without having a specific goal?

Mr. WATLEY. Correct. And so what we did do, though, was we looked at the amount that we had, and we do have IDIQ contracts that were previously awarded to 8(a) vendors. And we said, of the money that we would receive, what dollars and what projects can we award to these 8(a) vendors? And so that was the approach we did rather than identifying a specific amount of money. We looked at the projects, and we looked at the vendors available, and we made the award of those projects.

Ms. NORTON. So based on your past history, you know where to go. Yeah, you know, you are not going to find 8(a) contractors in a number of different categories. You are going to find them in other categories. So you are going to have to knowledgeably do outreach.

Mr. Mosier?

Mr. MOSIER. We are fairly active with 8(a) contracts.

Ms. NORTON. Just get me those figures then. I know you may not have—and Mr. Ayers? Those figures are very important, because you see, I would be particularly embarrassed, you are a legislative branch agency, to hear from constituents in the region that our own legislative branch had difficulty.

Mr. AYERS. The 8(a) program is really a Small Business Administration program. So, to date, we have not made efforts to particularly work or direct work to 8(a) programs. But I think, with our new relationship and agreement that we signed last month with the Small Business Administration, maybe that is a goal we can develop and push for in the future.

Ms. NORTON. You ought to be commended on understanding that though technically, and of course technically we could take steps, technically because there are three branches of government, you are the legislative branch of government; the Federal agencies can-

not oversee you in the sense that we can. That law does not automatically apply to you. But to your credit, you have, to the best of your ability, complied, and you now have a MOU.

Mr. Ayers, I had great problems, you were not the Architect then, when we did this massive buildout. It was just horrific, where we spent all that money. I don't even want to know, because you had so many complaints. We were in the minority. And it was very difficult to deal with that. We are not going to have that again. And if you are not using the 8(a) program the way these agencies are, you are not going to have a lot of success. We want the use of multiple ways. I am after my minority businesses to get on the GSA schedule. The minority contractor—or sorry, he was a small business; he was not a minority contractor, came to me on the electrical. He did the right thing. I am after them to go after the contractors. Contractors sometimes come with some small businesses.

They are supposed to get points, Ms. Riggs, but of course if nobody looks afterwards, why should they care as long as they get their funds? You see me going into such great detail because we will never be spending this kind of money again, I just can't imagine, for decades of the kind we are spending with your agency. Others have smaller amounts. So it is going to be important to know.

Mr. Ayers, would you kindly submit within 30 days a copy of the MOU you have recently signed with the Small Business Administration?

Mr. AYERS. Yes, ma'am, happy to.

Ms. NORTON. And I compliment you for doing that.

Mr. AYERS. Thank you.

Ms. NORTON. You indicated that you did use small business set-asides—or you are going to begin, that is part of it—between $5,000 and $100,000. Is that right?

Mr. AYERS. That is correct.

Ms. NORTON. That is the first time you have done that.

Mr. AYERS. That is correct.

Ms. NORTON. Well, I compliment you for that. I think it is scandalous that the agencies have been doing that and that our own legislative branch—that is why we are going to be doing the oversight. There is not really any way for you to know unless the authorizing or the Appropriations Committee does it.

I will be looking, Mr. Ayers, to see how your subcontracting goals coincide with those of the SBA. What about the vendor database that you and perhaps Ms. Rouse use?

Mr. AYERS. We have an extensive database. When we began focusing on this program, the first thing we did was to send a letter out to all of our known vendors asking them to self-identify whether they were a small business, large business, disadvantaged. We have got that information now, and we loaded it into our vendor database and our financial management system. And certainly several times a week we meet with new vendors.

Obviously, as you know, we have been to your fair both in 2008 and 2009. We have been to three fairs this year. And we get information from small business vendors and load that into our vendor database.

Ms. NORTON. It looks like, Mr. Ayers, that you are in more of a start-up phase, and I don't mean to say you have not been doing

anything, than the other agencies. And therefore, we will be particularly interested in the MOU and how you are going to carry them out. And of course, the GSA experience is so extensive that I would invite you to collaborate with them to save some—to get to some short cuts. And I would like to ask Ms. Rouse, and I understand much of her work comes under the Architect of the Capitol, but I wonder if you set internal goals for small business programs of your own? For example, the Government Printing Office, does that come under your purview?

Ms. ROUSE. What we are trying to do, thanks to the new relationship with the SBA, is use the SBA and GPO as our sort of avenue to find new vendors. Our real interest is trying to work with our procurement staff and SBA to do our first vendor fair at some point between now and the springtime, which will allow us to actually hopefully attract more vendors who want to create or already have products that would be of interest to people in our gift shops. So we think we have some new opportunities. And I think the more people know that we are doing it the more vendors we will get.

Ms. NORTON. Well, you are very visible. And of course and again, I speak to Mr. Ayers and Ms. Rouse particularly since the embarrassment would be to Members of Congress if complaints were to come in your area. It would mean we weren't tending to our own store.

We are going to let you go.

I am going to say to Mr. Hansen that I am particularly interested in how you spend during a disaster. Let me tell you the complaint I get as—I have the primary jurisdiction over FEMA. I am also on Homeland Security. They actually have a much smaller part of the jurisdiction. This is what we hear. Here we have some of the only things left standing in this area are us small businesses, but, they complain, without any way for me to respond, but small businesses here, there, and particularly the bigger contractors are getting all the business. So they really—here I am giving you their complaint. I am not verifying it, but the complaint goes that if they really wanted to help us, they would give the business to the small business person who is up and running and can do it. That is the complaint about FEMA.

Mr. HANSEN. Madam Chairwoman, you will be happy to hear that FEMA has adopted a program called the Local Business Transition Team that we actually deployed this last year to Gustav and Ike. And it is the job of that team to help transition work from the larger corporations to the smaller corporations. It is also the job of that team——

Ms. NORTON. This question went to the smaller corporations in the disaster area who happen to be up and running but see contracts going here, there, and yonder, but not to the area where the money would flow back into the jurisdiction that has been hit.

Mr. HANSEN. That is exactly the intent of this team is then to reach out to the community, to reach out to those small local disadvantaged businesses to teach them how to work in the government, to get them enrolled in the central contractor registry, to help them get DUNS numbers, to show them how they can go on FedBizOpps to see where the opportunities might exist. And in areas that are really devastated, we actually have bid boards, and

we teach the local contractors how to go to the bid boards to compete for those contracts. So this Local Business Transition Team is really a good initiative that I think really gets to the crux of what you are talking about.

Ms. NORTON. You are setting that up now?

Mr. HANSEN. We did in Gustav and Ike, and it has been a promising practice we are going to do in the future.

Ms. NORTON. This is excellent. This is excellent.

Mr. Hansen, could you get to us how that is now working by numbers?

Mr. HANSEN. Yes, ma'am.

Ms. NORTON. We don't know how to translate anything but numbers here. But I very much appreciate it. That is precisely what would be necessary.

First of all, many of the folks will be down just like the residents are down. So this is difficult. To set up something special for it is very important.

I am going to have one question for Ms. Riggs before I give all of you a very important charge.

The question for Ms. Riggs is, since the DHS development, which is only now, it can't even be a third of the money you are going to be spending, but it is currently underway, where we would expect small business opportunities to be unusually plentiful, have you goals or how will you do goals for this development? You are going to be going on—I would be surprised if you are not going on for almost a decade when all is said and done before the first people land there and say, we now, we, 14,000 Federal employees, are there. How are you going to manage small business opportunities for so large a project in terms of goals for the development?

Ms. RIGGS. Well, first, let me voice appreciation for our CO. We are quite fortunate to have a CO who is very aggressive on that project towards small business. And as you can see from her past performance, she has looked for those projects that can be severed from the larger——

Ms. NORTON. Now, I have nothing but praise for Ms. Echols. But what I am afraid of is a—what is the best way to put this?—a step by step notion as opposed to you know exactly what you are going to do there. You are going to be doing building from the ground up. In fact, there is no kind of construction work you are not going to be doing, including reuse, where small contracts will be abundant in the extreme. You are reusing maybe 60 percent of the buildings there. Somebody, if you want to be successful, long before that work begins, is going to have to begin to map out this.

Ms. Echols is an implementer, because I have seen her do her work. Somebody, before you get anywhere close to the next contract, has got to be looking at reuse. I am going to insist that GSA do reuse and construction at the same time. What are you waiting for? We shouldn't be going step by step. We used to not have anything to do with building from the ground up. So I am going to be seeing whether or not GSA can walk and chew gum at the same time. Therefore, I ask about your overall planning for the small business contracting for this project.

Ms. RIGGS. We will see quite a lot of work go to small businesses through subcontracting. But we will also continue to see work go to small businesses as primes——

Ms. NORTON. Ms. Riggs, I know that. See, in testimony terms, that is known as a truism. Is there a plan? Is anybody working on planning for the opportunities that will be available so that contractors and, for that matter, subcontractors will be briefed well in advance of what is going to be required as they tool up to compete for the next one of the many contracts that are going to come out of GSA?

Ms. RIGGS. Yes, ma'am. That team is——

Ms. NORTON. Let me ask you before Congress goes out of session to get me a sense of how you would plan to do small business contracting, considering the opportunities that are going to be available for reuse and for construction. And bearing in mind that, since this is a mammoth contract, the big boys are who are going to benefit most. And, well, they should. They have the necessary expertise. They are putting out much in order to be able to accomplish within the time frames we give them.

But we are as intent on meeting the small business and small disadvantaged business goals as we are on the rest. And they are all tied into this. You are not going to go to the GSA table for all of these people. And I don't ever want to see another Clark Dynalectric complaint in the years that this thing is going to be built. Never want to see it. Indeed, I know of nothing you can do after it has occurred. This presages my next question. Is there anything you can do? Is there any sanction that you know of or have used if you gave a subcontract or small business contract and you found that in fact they were not using disadvantaged contractors, they were not fulfilling, or they were simply not fulfilling what you asked them to do? What do you do then?

Well, you know what? I want to make it unnecessary to answer that question. Because my answer to it is, it is all over then, and we all lose. And I know that there are some counting on it being all over then. Therefore, the most important mission I could leave you with is tracking. Catch the abuse or the failure before it comes home. You are holding the money, friends. Is there any way to withhold money if a contractor fails to meet his goals in subcontracting that you know of? What is it, Ms. Echols?

Ms. ECHOLS. We actually do a hold-back procedure.

Ms. NORTON. Say that again.

Ms. ECHOLS. We actually do a hold-back procedure.

Ms. NORTON. Everybody spell those words, hold-back procedure. Because we don't want to have to call out names the way we did here, call in contractors. Contractors are doing whatever they are doing because the Federal Government has not been tracking, has not been helping. Somebody has a great big contract; he is going to do what we say to. I am not worried about the contractor. So the failure lies with us. And I am trying not to be responsible. And I think you have to inform your small business contractors that you are going to be held accountable before the Subcommittee. You certainly will be held accountable on an annual basis.

And GSA, who is the largest amount, will be held accountable more often than that because we have hearings often with GSA.

And I am prepared to have hearings if we find lapses of which we have not found today. We found much more than good-faith efforts today. We knew that from the SBA figures and how well we were doing. And the administration takes this very seriously.

I have had discussions with the Justice Department, which means to proceed, not in this area, where we are talking about affirmative work, but in areas where we find people in violation of the law, where you may need the Justice Department to back us up. I want to thank all of you for your testimony today. It is very, very helpful.

Please remember the time frames we have set. And please be in touch with staff, because we are here not simply to do oversight but to be helpful to all of you.

And I would like to call the final panel, panel two. This is a very important panel, because agencies come forward simply to tell us what they mean to do and what they believe they have done. And they testify truthfully and in good faith. But we need to put that together with how that experience works on the ground, and therefore, we are welcoming the next witnesses, asking them to quickly be seated, and we will hear their testimony. We are going to go left-right here.

TESTIMONY OF ROSALIND STYLES STEPHENWOOF, PRESIDENT AND CEO, CAPITOL CITY ASSOCIATES, INC.; JOEL ZINGESER, ASSOCIATED GENERAL CONTRACTORS OF AMERICA; CATHERINE GIORDANO, PRESIDENT/CEO, KNOWLEDGE INFORMATION SOLUTIONS, INC.; AND RAY AMIRIAN, NASTOS CONSTRUCTION COMPANY, DISTRICT OF COLUMBIA SMALL BUSINESS WINNER, 2009

Ms. NORTON. And we are going to proceed quickly, beginning with Rosalind Stephenwoof, President and CEO, Capitol City Associates.

Ms. STEPHENWOOF. Good afternoon, Congresswoman Norton. I am excited, to say the least, to be here to be able to testify again before your Committee to talk about the small disadvantaged businesses and your goals for meeting, for assisting us in competing in the Federal marketplace.

Again, I am Rosalind Styles Stephenwoof, and I am President and CEO of Capitol City Associates, Incorporated, an African-American, woman-owned small and disadvantaged business that is located in the esteemed Anacostia neighborhood of Washington, DC.

Capitol City was established solely for the purpose of assisting Federal and local entities, major corporations and private developers to maximize the participation of local developers and businesses within communities to participate in the revitalization of their neighborhoods.

Capitol City has worked with communities in Washington, DC, and now has extended its work in Maryland and northern Virginia, working to negotiate relationships with owners of development projects and establishing partnerships with resident organizations so that the inclusion of local businesses is inherent in the design and construction of projects.

Capitol City also works to develop capacity-building skill-training programs, such as the pre-apprenticeship, apprenticeship, administrative office, property management, communications systems operations training that help people to not only effectively compete for employment during the construction of projects, but also as employees during the operation of the facilities post-construction.

Most of the partnerships implemented written agreements which included a process for monitoring and enforcement. Capitol City is a public-private expert, having successfully assisted the government of the District of Columbia to change the laws governing the participation of local, small, and disadvantaged business enterprises on city-funded projects from a goal to a requirement. And we continue to monitor compliance on Federal, local, and private development initiatives to ensure the full participation of the small, disadvantaged business community in construction-related projects.

Ms. STEPHENWOOF. I offer my congratulations and support to you, Congresswoman Norton, for spearheading this initiative on the Federal level and working to ensure that local residents and businesses are able to participate in the construction marketplace on projects under your purview. I have witnessed firsthand the instrumental role you have played to include the United States Recovery Act dollars in GSA's redevelopment of the St. Elizabeth's West Campus in Southeast Washington. An unprecedented requirement has been included in the solicitation for construction management and the general contractor teams to establish and maintain a plan for preapprenticeship and apprenticeship training programs to be incorporated in their construction plan.

This brings me to my review of the General Services Administration and its support of small business and entrepreneur participation in this historic development initiative. St. Elizabeth's West Campus, as you know, sits in one of the most highly distressed neighborhoods in the country. The state of the economy recently reported that the current recession has lasted longer than any recession since the Great Depression, that the unemployment rate is the highest it has been in 26 years, and that unemployment in the construction industry is at the highest unemployment rate of any industrial section.

In comparison, the residents of the Ward 8 community surrounding this development project have lived with these distressed economic standards for generations. It would be a great disservice for our community if the first recipients of the economic recovery possible from this project provided by the United States does not benefit the residents and local businesses impacted by this multibillion-dollar development initiative.

Over the past 5 years, GSA has facilitated dialogue with the Ward 8 community to gain input and garner support in development of the St. Elizabeth West Campus, but I think GSA can do more to expand its public engagement efforts. In engaging in deeper outreach, they can create smaller work groups, advisory committees and community engagement venues designed to advise residents and local businesses of employment training and business opportunities. They can initiate alternative marketing tools for distribution in communities that are more sensitive to the neighborhood and its constituents.

Providing technical support in partnership with the Small Business Administration, they can provide one-on-one technical to assist small local businesses to achieve Federal certification; conduct assessments of current businesses and provide a roadmap to become competitive in the construction marketplace; and provide financial counseling for businesses and avenues for assistance with bonding, start-up costs, personnel and other business expenses.

The third area is to provide employment and training opportunities: Create partnerships with established local support service programs and training providers to recruit residents for employment. Utilize specialized resident advocacy agencies and organization, such as ex-offender, public housing and human service programs, who are currently subsidized by Federal programs to refer local residents and assist with ongoing counseling services throughout their employment.

The next step to successfully implement these programs and services is accountability. GSA should include a strong monitoring and compliance component. Developers, general contractors and prime contractors have historically maintained as their bottom line having a project come in ″on time and under budget.″ The inclusion of alternative recruitment, training and employment programs and services in their opinion has a negative impact on their bottom line.

GSA and all Federal small and disadvantaged business participation should be a strong requirement, not a goal. All contracts utilizing Federal funds should include strong enforcement language that does not only state possible penalties for noncompliance, but should outline the process for the enforcement of penalties by the withholding of funds and payment of fines. Goals and requirements can only be stated by financial retribution to ensure compliance.

Lastly, I wish to add that since 2005, I have served as the president of the National Association of Minority Contractors, Washington, D.C., Metropolitan Area Chapter. Wearing that hat, I would like to address our organization's concerns regarding the possible implementation of a project labor agreement on any Federal construction project, and especially I am referring to the project at the West Campus.

Over the past 40 years, NAMC has served as an advocate for minority contractors throughout this country. Designed to address the needs and concerns of minority contractors and create parity in the construction industry, NAMC has aggressively pursued equity in contracting for small minority and disadvantaged businesses. Our local chapter also includes women-owned, HUBZone and veteran-owned businesses.

In the Washington metropolitan area, which includes the Federal enclave, we have several significant construction projects planned or under way. Because of the state of the national economy, construction firms and their employees are saturating our area to compete in the construction marketplace. Due to the paucity of minority contractors in the construction industry, our members cannot compete with the established unionized labor force through project labor agreements. If any of these highly competitive fellow contract projects fall under PLAs, an alarming number of minorities and female workers and minority contractors who are living and working

in Washington, D.C., and the surrounding area will be denied access to a vital opportunity for work.

NAMC Washington would like to continue our dialogue with your Committee regarding the implementation of a PLA. We can provide you with statistical data from the U.S. Department of Labor, which outlines the status of journeyman employees by race and gender within each construction trade, which will validate the significant disparity in the construction trade by race and gender.

We are committed to work with this Committee to craft a process for the local minority and women-owned businesses are at the forefront of the redevelopment of our cities and our neighborhoods.

Capitol City Associates and the National Association of Minority Contractors, Washington, D.C., Metropolitan Area Chapter, stands ready to assist your Committee to increase the participation of small and minority businesses doing business with their Federal Government.

I thank you for your time.

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

Next, Joel Zingeser, Associated General Contractors of America. Mr. Zingeser.

Mr. ZINGESER. Thank you, Ms. Norton, and it is a pleasure to be here and an honor. My name is Joel Zingeser, of Grunley Construction, where I lead the firm's strategic planning, business development and sustainable design and construction efforts.

For over 50 years our firm has specialized in renovations, restorations and modernization of large-scale government and commercial buildings, including office, laboratory and educational facilities. In addition, we construct new facilities and additions to existing buildings for both public- and private-sector clients.

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

As the Committee considers the changing Federal procurement landscape, AGC offers the following points for consideration. Regarding contracting reform issues, AGC supports procurement reform to improve delivery of Federal construction services. Reform of the Federal procurement process should recognize construction's unique melding of industry sectors, while ensuring the government is using the most cost-effective method of procurement.

AGC is working to foster a business climate that enhances opportunities for all businesses. Construction is an intensely competitive industry, and we believe that competition penalizes any firm that resorts to discrimination. To succeed, construction firms have to focus on price, quality and reliability.

Our members recognize the benefits that the 8(a) program and the Disadvantaged Business Enterprise programs have to contractors who qualify for these programs. We also have growing concerns about the need for Federal decisionmakers to address the challenges small businesses that do not qualify for special preferences are also facing in today's harsh economic conditions. We be-

lieve that current Federal rules need to be updated to generate more collaboration, mentoring and assistance no matter who is the business owner.

AGC would like to discuss issues surrounding a wide range of concerns and recommendations we have for improving the Federal market.

At this point I would like to refer the Subcommittee to my submitted testimony. Topics include AGC's positions on contract bundling, the HUBZone Program, and Alaskan Native contracting.

I would also like to highlight a few other points. Subcontracting goal achievement. Current SBA rules require small business set-asides and establish small business goals to be met by large businesses to assure that significant portions of Federal procurement dollars flow to small business firms, but the rules for keeping track and measuring the actual flow of dollars to small businesses do not take into account the actual amounts that flow down below the first-tier level of subcontracting. Within the construction industry, the bulk of work is performed by subcontractors who in turn hire second-tier and third-tier firms to perform elements of the project. Under the current system, if an other than small business is included as a first-tier subcontractor, the prime contractor is not asked to report further dollars that are going to small businesses below the first-tier subcontractor. This is because the contracting agency is not allowed to take credit for those dollars towards its goals. Allowing prime contractors to report small business subcontracting at all tiers would demonstrate true small business participation on a Federal contract and would show more accurately how the construction industry supports and is dependent upon small businesses.

The shift to Electronic Subcontracting Reporting System, the ESRS, by the Federal Government provides the opportunity to correct this problem. The system has the capability or can be made to have the capability to track and report small business subcontractors on multiple tiers. Yet current rules do not encourage the prime contractors and their subcontractors to account for total small business participation at all tiers. AGC recommends Congress direct a change to the system through legislation to potentially help all parties track the dollars flowing to all small businesses.

The Federal Acquisition Workforce. Recruitment, retention and training of the government workforce should be a high priority for both government and industry. As you can already see from the concerns about contracting bundling, which I submitted in the testimony, an understaffed Federal Acquisition Workforce is suffering from the pressures of an already challenging procurement environment. The shrinking acquisition workforce is an ongoing problem and will exacerbate as the number of procurements continues to grow.

About one Federal acquisition professional in eight already is eligible to retire, and that will rise to more than half the workforce by 2016. The average retirement eligibility for contracting professionals will increase from 29 percent in fiscal year 2011 to 50 percent in fiscal year 2016.

We fear that the Federal Government workforce challenges may only get worse in the coming years. In order for the government to meet its many missions, it will have to do a better job of recruiting, hiring and training new employees. Given that the government's purchase of good and services is at an all-time high, it is essential that the government acquisition positions be fully staffed. This problem needs to be addressed in the near term to avoid the negative ripple effects that a strained workforce can have on all facets of contracting.

Agency consistency. As a matter of policy, AGC recommends that agencies with large regional offices continue to work to promote the implementation of uniform agency policies that will provide greater consistency in the construction process. Many of our members have repeatedly found wide variances in regional operations, contract administration and administrative practices. Such can produce serious administrative and communication problems, and can discourage contractors from continuing to work in the Federal market. We are pleased that the General Services Administration has worked very hard to ensure consistent communication and consistency between regional offices over the past several years, and hope that trend continues into the future.

Project labor agreements. At the outset AGC wishes to explain its overall position on PLAs. AGC neither supports nor opposes PLAs per se. What AGC strongly opposes is government-mandated PLAs on any publicly funded construction project. AGC is committed to free and open competition in all public construction markets and believes that publicly financed contracts should be awarded without regard to the labor relations policy of the government contractor. AGC believes that neither a public owner nor its representative should mandate the use of a project labor agreement that would compel any firm to change its labor policy or practice in order to compete for or to perform work on a publicly financed project. AGC further believes that the proper parties to determine whether to enter into a PLA and to negotiate the terms of a PLA are the employers that employ workers covered by the agreement and the labor organization representing the employer/employee relationship—I am sorry, and the workers covered by the agreement since those are the parties that form the basis for the employer/employee relationship, have a vested interest in forging a fair and stable employment relationship, and are authorized to enter into such an agreement under the National Labor Relations Act.

AGC has submitted comments on the July 14th, 2009, proposed rule that would implement Executive Order 13502 to determine the effect this proposed rule will have on Federal procurement policy and the cost of doing business with the Federal Government. We would be pleased to share a copy of our comments with the Committee.

That really concludes my formal comments. I am pleased to answer any questions to the Chair.

Ms. NORTON. Thank you, Mr. Zingeser.

Next is Catherine Giordano, who is president of and CEO of Knowledge Information Solutions, Inc. Ms. Giordano.

Ms. GIORDANO. Good afternoon, Chair Holmes Norton. I am the CEO of Knowledge Information Solutions, Inc., located in Virginia

Beach, Virginia. We are an information technology value-added network integrator with a full range of products and services to create, manage and secure networks. We are an 8(a) women-owned firm.

I am appearing here today on behalf of Women Impacting Public Policy, a national bipartisan public policy organization representing well over a half million women and minorities in business, including 49 associations that partner with us. Thank you for holding this hearing and for inviting me to testify.

Let me first mention I had the opportunity to testify on the very same topic last year, March of 2008, and I am pleased to give you an update on these small business contracting issues that are so important to women-owned businesses and WIPP members.

The most pressing issue for women-owned businesses in the procurement arena is the failure of the SBA to implement a women's procurement program. As this Subcommittee knows, Public Law 106554, which was passed in 2000, established a Women's Procurement Program because Federal agencies were not meeting their 5 percent women-owned contractual goals. In fact, the government has never met the 5 percent goal for women. The highest number that it has ever achieved is 3.4 percent. For 7 long years the Women's Procurement Program suffered from inaction, and in 2007 and 2008, the SBA proposed a program that was unacceptable to the women's business community and, frankly, was considered an insult by women business owners.

There were two major flaws in the proposed program. One, the SBA chose the narrowest method of data analysis by the Rand Corporation and identified only four NAICS codes that would be subject to restricted competition.

Two, an agency was required to perform an internal audit of its past contracting actions to show it is rectifying past discriminatory contracting practices before any contract could have qualified for a set-aside. We believe this would have set forth a new legal standard which would have been damaging not only to this program, but potentially every women business enterprise program in the country.

Thankfully with the influence of many Members of the House and Senate, including the Chair of this Subcommittee, the SBA-proposed program was not implemented. But we have reason to be more optimistic this year. The new SBA Administrator Karen Mills is now working to propose a new program and a simultaneous withdrawal of the previous program. The SBA hopes to have a program in place by the end of the year, which would give women-owned businesses a real chance to compete for stimulus dollars.

We have urged the SBA to take another look at the Rand Corporation disparity study and expand the eligible industries to more than the narrow definition proposed in the past. In fact, the Rand Corporation study suggests that up to 87 percent of the industry categories could be eligible for the program if the SBA chose to use that interpretation. WIPP is working closely with the SBA to ensure that the Women's Procurement Program will serve to assist the Federal Government in finally meeting its women-owned goals.

The Federal Government's ability to meet small business goals is making progress; however, it is far from impressive. The 2008

numbers show that the percentage of contracting to small businesses has dropped to 21.5 percent. The women-owned goal number has remained at 3.4. However, the number of agencies that met the women-owned contractual goal increased from 10 to 14 agencies from 2006 to 2008.

I wish I had good news with respect to subcontracting and bundling, but the challenges in these two areas continue to plague the small business community. WIPP continues to believe that if you list us, use us. Small businesses spend thousands of dollars in staff resources to be part of the subcontracting plan on a prime contractors bid. We believe prime contractors should utilize small businesses unless they no longer meet the requirements. There should be penalties assessed for violating the subcontracting plans. With respect to the contract bundling, to our knowledge there had been no new studies since OMB's 2002 report, which states for every $100 awarded on a bundled contract, there is a $33 decrease to small business.

A new concern for small business is insourcing. While we certainly understand the policy as it relates to the practice of awarding large sole-source contracts to major corporations, the unintended consequence for small business contractors is they are losing opportunities in the subcontracting front and losing their employees to the government.

We believe the Federal Government should make a deeper commitment to contracting directly with the small businesses. We certainly do not believe the administration intended government agencies to poach small business employees who are working at their sites, but we worry about the consequences of this policy. WIPP urges the Committee to take a closer look at this issue.

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

I thank you for your time.

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

Ray Amirian, Nastos Construction Company. And congratulations, Mr. Amirian, on being the District of Columbia Small Business of the Year 2009. You may proceed.

Mr. AMIRIAN. Thank you. Thank you, Madam Chair, for inviting me to participate in today's hearing. My name is Ray Amirian, I am vice president for operations at Nastos Construction, Incorporated. We are a registered disadvantaged small minority business located in the District of Columbia. This year marks our 16 years in business. We have made steady growth as a company from the very beginning in 1993. Much of that progress has been due to the large number of construction projects that have been made available by the government to such companies as ours, and the considerable help for small business that has been available from

the Small Business Administration and numerous other Federal and State agencies.

The District government has been especially helpful. The government set-aside program for small minority and disadvantaged business, specifically the 8(a) program, has been especially helpful, and we have made every effort to work within those guidelines to the best of our ability.

The Federal Government has been an especially rich source of funding as many of its buildings are aging and in need of remodeling, or in some cases more dramatic reconstruction.

In the process of working on many of these projects over the years, Nastos has become specialized in the repair and remodeling of historic structures. These have included numerous buildings on the St. Elizabeth campus, including the 140-year old brick wall surrounding it; and most recently the 70-year old D.C. National Guard Armory on which we are currently replacing all mortar that has accumulated over the years and replacing it with mortar that exactly matches the original mortar with which it was built.

Due to the recent downturn in the economy, whereas we earlier bid against four to five local companies for government jobs, we now sometimes find ourselves bidding against as many as 20 companies from as far away as Ohio Valley when local projects become available. Nonetheless, Nastos remains strong and competitive during the present downturn, and we attribute most of it to the thoughtfulness and special programs made available by the Federal and the State government.

On behalf of Nastos Construction, I wish to thank you and Members of the Committee for having me here today.

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

Let me go to my first question, which is for you. You talk about and expressed an appreciation for the quantity of contracts that have been available through GSA. What type of work have you done for GSA?

Mr. AMIRIAN. In the last 8 years, under the 8(a) program, we have done numerous projects that include the design and build of the plaza at Health and Human Services, Department of Labor, and National Nuclear Regulatory Commission headquartered in Bethesda. We have done office renovations for GSA headquarter buildings, and roof replacement at Department of Labor, and on average every year we have done between 2- to $4 million worth of renovation projects under 8(a) program.

Ms. NORTON. So all of this has been 8(a) work?

Mr. AMIRIAN. Yes, ma'am.

Ms. NORTON. That $4 million was what percentage of your work, for example, annually?

Mr. AMIRIAN. That is $4 million annually, but GSA represents almost 40 percent of our volume.

Ms. NORTON. And you are located right here, so you are alert to the opportunities available, and you clearly have taken advantage of them.

Mr. AMIRIAN. Yes, ma'am.

Ms. NORTON. Are you—and indeed this is for all of you. Are you, Mr. Amirian, and do any of you know of firms that are benefiting

from the stimulus funding, small business firms or small minority business firms? Mr. Amirian, have you?

Mr. AMIRIAN. No, I don't.

Ms. NORTON. Not yet.

Mr. AMIRIAN. Not yet.

Ms. NORTON. Mr. Zingeser, surely somebody. Mr. Singer has already received some of the stimulus funding. Do you know of any through the association?

Mr. ZINGESER. Well, I can speak for Grunley Construction. We have been the recipient of three projects that were funded with ARRA money. These projects were the continuation of phases or options for continuation of work that was awarded under prior competitive bids. The three projects are the Mary Switzer Building, which phase 2 is funded with ARRA funds, at $43 million approximately; the Hoover joint venture Department of Commerce building, that is a joint venture with Gilbane Construction, the total is about 158 million; and the Department of the Interior's headquarters building, phase 5, approximately $34 million. So there is a total in terms of Grunley's portion of the joint venture of about $156 million worth of work that is again being funded under ARRA funds.

All of those contracts have small business plans and programs, subcontracts and goals to be met. And as I say, they are in the process of proceeding. Those awards were made at the end of June, the ARRA funds, roughly.

Ms. NORTON. Mr. Zingeser, we are going to give you time to do this, but I would like you within 6 months of today to report how those funds in turn have been distributed to subcontractors, contractors beneath yourselves, and to disadvantaged business contractors.

Mr. ZINGESER. Will you let me report second and third tier?

Ms. NORTON. Yes.

Mr. ZINGESER. Okay.

Ms. NORTON. In fact I am going to ask you—I was befuddled by that part of your testimony. I am interested, this whole hearing is about so-called second and third tier in one sense.

Could you give me your sense of why the second and third tier contractors are not—"not allowed," according to your testimony on page 3, for subcontracting goal reporting? So it would be like only you?

Mr. ZINGESER. The way the—I don't work for an agency.

Ms. NORTON. No, I understand. Surely they must have said something to you, like you said to me, can I report. You must have said that to them, and what did they give you as the reason?

Mr. ZINGESER. Here is the general understanding that I have, which I would suggest is probably the understanding that the industry has. An agency has small business goals within the contracts that they award. You are required when you compete for this work to submit either with your submission or immediately after a small business plan. That plan outlines what percentage of the subcontracts are going to be awarded to small business, and then, within that, what percentages will flow down to the other special categories.

Ms. NORTON. Tier 2 and 3?

Mr. ZINGESER. No, no, to the subcontractors. I am talking strictly now the subcontracts.

Ms. NORTON. Only subs.

Mr. ZINGESER. The subcontractors, okay.

Then the process begins, the work begins, and reports are due. The reports that are due come from us to the agency. They used to be forms 294 and 295, I believe were the names, and now there is the ESRS system for doing it, electronic. Very, very high potential to get good information an get it quickly.

What we are asked to report is at the subcontractor level only whether those are small businesses or not or other special categories. We are not asked to report about what happens below that. And I will talk about that in a minute. When we report—the reason we are only asked to report, and this is my supposition, is because the agency does not get credit with the Small Business Administration towards the goals——

Ms. NORTON. Because?

Mr. ZINGESER. —at any level except the first tier.

Ms. NORTON. Because?

Mr. ZINGESER. Because either the law says it, the rules say it, there is policy. I don't know. I will leave that up to other——

Ms. NORTON. Is it a paperwork problem? Do they think there will be too much paperwork going down the line? But you say a lot of this would be captured easily.

Mr. ZINGESER. If that was the case, it would not be hard to get that information.

Ms. NORTON. We could capture this pretty easily now?

Mr. ZINGESER. I think so.

Ms. NORTON. We are certainly going to find out.

Mr. ZINGESER. Okay. The reason this is so important is because the goals of the small business program and all the subsets are to get money flowing to small businesses. This is what we want to do. These are the social-economic-political goals.

Ms. NORTON. And many of these subcontractors are not small businesses, right?

Mr. ZINGESER. Well, here is the point on that. Let us take one of these $100 million renovation projects. The buildings exist, so where is the money going? What kinds of things are happening in those buildings? An awful lot is happening in the mechanical, in the electrical areas of upgrading and modernizing the building, building the performance levels up in term of energy reduction and so forth. Those companies that can do the 30 million or 40 million out of that 100- are not small businesses. They don't have the bonding capacity or the means to do it. So there is a large business that will often have that contract. But if you look, it won't take you long to see that they in turn are subcontracting to a second-tier and a third-tier level, and so that 30- or $40 million is absolutely flowing to small businesses, but no one is getting the credit for it politically or otherwise.

Ms. NORTON. Yeah, that is what my Dynalectric example, I think, was all about. They said, you know, 50 million, zap; that all goes to me and one other. Now, that might be efficient in one sense, and the last thing we are going to do is reduce the efficiency, but, hey, licensed contractors? I bet there are a lot of very efficient

licensed, sub sub subs, however you want to characterize them out there, who can do it.

So I get your point, and we are going to find out why they are given no credit, because it seems to me that runs counter to what the law is asking them to do. This is to get to small businesses. If you can't get down to them and get credit for them, then you are going to do what Dynalectric did, stop at the first tier.

Mr. ZINGESER. I would like to just make sure that my words are clear that this is not an agency problem, this is a systemic problem.

Ms. NORTON. No, it is a problem that flows from the way SBA asks the reporting to take place.

Mr. ZINGESER. Correct.

Ms. NORTON. We are not blaming the agencies, we are not even blaming SBA, because guess what? I think the Congress is the ultimate culprit in all of this. We are just trying to get a report on how it occurs, and unless we get it and then hear their explanation, and they may have a good one that we haven't heard, then we won't be able to do anything about it or to at least try.

Now, I wanted—I think this may be gone, but Ms. Giordano, we love having panels with broad representation. If one reads closely, part of your testimony would appear to contrast with Mr. Zingeser's testimony, because he expressed concerns about SBA's requirement that agencies show past discriminatory practices before any contractor could qualify under the program set-aside for minorities and women.

Now, of course, 8(a) contracts would be such contracts, and we know that they are legal and constitutional. And I don't—I want to know if that is your view that is still the case, because I do want to note that I recall—I recall very distinctly the part of your testimony that described—I agree with you it was an insult, particularly to women-owned and small businesses. I don't even think minorities were required to do this. Women were picked out for this. I can only call it discrimination. And women across the board here in the Congress were mortified and as insulted as you were where they implored a contract chapter to somehow, if anything, reduce your eligibility. And we thought it was a joke when we read that they had identified for competition only—now, this is women-owned businesses, everybody—cabinet making, engraving, other motor vehicle dealers, and national security and international affairs. It almost looks like they say, well, where have women most been discriminated against, and therefore we will have the fewest number able to compete.

Ms. Giordano, with the new administration I believe that that has been withdrawn; has it not?

Ms. GIORDANO. To my knowledge, it is being looked at. I believe they are not utilizing those four categories. I believe it has been withdrawn. What they could be looking at, however, is the value of the Rand study showing that 87 percent of the qualifying categories of NAICS' codes could indeed be considered qualified.

Ms. NORTON. Among those that one would choose, then, you could go to as many as 87 percent?

Ms. GIORDANO. You could—well, they left it up to the SBA to make the decision how narrowly or broadly they chose——

Ms. NORTON. That is still under consideration.

Ms. GIORDANO. My understanding, that it is still under consideration; however, it is not actually being implemented as previously stated based on testimony.

Ms. NORTON. The categories—it seems to me that if you propose a rule, you are not supposed to do more harm than good. It seems to me that that is what the last administration did. It was laughable, except it made you want to cry. Why bother if you are going to make it worse? And we will be tracking this with this large amount of funds flowing at least through the GSA and some of the other agencies you have seen.

I hope—whose testimony—Ms. Giordano, did you have any problem with this notion about past discrimination; that is the reason you have an 8(a) program?

Ms. GIORDANO. Well, the way it was designed by the previous administration was first you had to prove before you could even consider placing it in a set-aside environment, which does happen with 8(a)s to some degree because they go out for sources sought, and if they come up with more than three, they know they have the capabilities in the marketplace to perform.

Ms. NORTON. What has to adjust that program, the women's part of that program? You have suggested that you have to set up—have SBA set up a women's procurement program. Do you believe that is the only way to straighten this out, or are there other ways to do so? Because this was operating before the administration put up this barrier, wasn't it?

Ms. GIORDANO. The category of set-aside is not capable of being accomplished under the current program. I look in the mirror, I designate myself a women-owned business, a women-owned small business, but I am not entitled to any of the categories of——

Ms. NORTON. And what is the reason for that, Ms. Giordano?

Ms. GIORDANO. I am not sure I understand the reason the SBA chose to eliminate women-owned small businesses.

Ms. NORTON. Did they ever have women-owned small businesses as a category?

Ms. GIORDANO. Self-professed. There is no procurement program currently in place for women-owned.

Ms. NORTON. The reason you have an 8(a) program is because we have had centuries of discrimination against people of color, and that pushing and pushing and pushing.

Ms. GIORDANO. Yes, ma'am, I am Hispanic, and I am 8(a)-certified woman-owned business.

Ms. NORTON. So you understand that.

Ms. GIORDANO. I understand the 8(a) process.

Ms. NORTON. I know there were horrific abuses at one time found in women-owned contracting with—for that matter minority-owned. If there are abuses, you deal with the abuses, you don't deal with the whole program.

Ms. GIORDANO. Yes, ma'am—I am sorry.

Ms. NORTON. We will be very, very vigilant. If they don't want—have a similar program, then they are going to have to have some way to make sure women-owned businesses are not put in this category or continuing not to meet those very small goals that have been set for women-owned businesses. Women are half the population. Many are not disadvantaged in the sense minorities are.

Their, quote, disadvantage has been particularly horrific because they have been well educated and yet not been able to get the same jobs, and yet not been able to get the same businesses.

That is curable. In fact, it should be more curable since they come out of the same pool of people that White businesses generally do. It should have been more easily curable. And yet minority businesses, because of the historic discrimination, because they pushed and pushed, it looks like they do better in small business contracting. That is amazing, you know. Blacks are 12 percent of the population; women are 50 percent.

I would bet, given the advantages and education and station in life women have, you might expect more women across the board in various ethnic groups than minorities. In fact, it is the other way around. I am not trying to use any group to make sure any other group equals them. That won't happen. That is a very false way to go about it. But this is shameful for women, and I keep getting the statistics not getting any better, and so I am going to be especially vigilant on that.

Ms. Stephenwoof, you say on page 5—no, I am sorry. You say—your mention of St. E's got my attention. You want to expand public engagement. Well, I have looked very closely at what GSA had been doing because it has been right under my very nose, and I have to tell you, they have got people who do nothing, nothing but engage the public, nothing.

They had a small business education forum it must have been 5 years ago. It was way before I got the money out. They are in the community every other day. You have got right at the table an 8(a) business. They have set aside 5 million for the next tranche. You mentioned things like alternative market tools.

So I need—given the fact that given GSA has been doing better than most, I need specifics, because we are in a position to make sure that GSA experiments, tries new things. We are not going to suffer 1 ounce of inefficiency on these projects. No, sir, not with Eleanor the only one up there able to go to the appropriators and say, give me some money. I have to make sure that it all happens. If you say there are some alternative market tools to be used, I need to know what those are. And I don't—and you say—here it is, page 3—specialized resident advocate agency and organization. Well, they have set aside employees who perform this function.

So I need—I am not one to let people spend money to be spending it. I want to spend it on contracts, so I need to know what it is more in specific terms that you think that GSA ought to be doing.

Ms. STEPHENWOOF. Thank you for those questions.

Let me say in very layman's terms GSA has done a phenomenal job. As I said in my testimony, that has been unprecedented for any Federal agency within a community. And you are right. As I participate in this, in public engagement for the past—it has been 5 years exactly that they have had these community forums. What we are trying to do, what I am referring to, is how to get the businesses to the table. The difference between—and also——

Ms. NORTON. Are they brain dead? I mean, here is a billion dollars out there.

Ms. STEPHENWOOF. No, that is true. Everybody is asking. What I was talking about is having the small work groups, because most of the businesses in the community say, I don't know how to compete against the big boys.

Ms. NORTON. Well, just a moment. We—Mr. Amirian wants to comment on this, too. We brought Ms. Echols to the table, who described how after 2 days of intensive work, you become 8(a).

Mr. Amirian is an 8(a) contractor. Well, how do you want to speak to that, Mr. Amirian, before we go back to Ms. Stephenwoof?

Mr. AMIRIAN. What we would like to see, Madam Chair, is GSA not to bundle. For example, St. Elizabeth, there are 45 buildings that——

Ms. NORTON. What did they bundle? Because they testified——

Mr. AMIRIAN. Grouping them together. There are 45 buildings that needs to be renovated. And we see the trend that may be advertised together.

Ms. NORTON. You mean 450 million?

Mr. AMIRIAN. No, 45 buildings on campus at St. Elizabeth that have to be renovated. They are historical buildings. They cannot be demo'd. We would like to see it broken into packages so a small contractor——

Ms. STEPHENWOOF. Exactly.

Ms. NORTON. Wait a minute. You have a sense that all the buildings will be bundled?

Mr. AMIRIAN. Everything I have seen, it is all a billion dollars, $3-1/2 billion projects, nothing has been—I haven't see any jobs advertised as small——

Ms. NORTON. They have not advertised yet for the reuse part, so you are talking about the reuse of the buildings, all that work, that is where your ripest opportunity——

Mr. AMIRIAN. Yes.

Ms. NORTON. As far as I can tell it, I can't—also my recollection, please correct me if I am wrong, is that they said that they would not and do not engage in bundling. Do you say that they do?

Mr. AMIRIAN. No, I haven't seen any specific projects coming out or advertisements. So we just want to make sure before packages are put together, they are bidding for them, that breaking into a smaller size.

Ms. NORTON. I certainly can't imagine that they would be in their right minds to bundle all of those buildings up when those—that is the most remarkable set of small business opportunities on the face of the USA, Earth today, I think. So thank you for that. That will help us to be proactive.

Ms. Stephenwoof, will you resume your——

Ms. STEPHENWOOF. Again, what I would like to be able to reiterate is that the GSA has done a good job of putting the product on the market, but it will be up to the general contractor to work with the prime contractor and, as he said, to be able to solicit and to break those packages up into small pieces so that the smaller businesses can participate.

I was also at the certification program that they had at the Martin Luther King Library, where they were helping to certify the small businesses. What I am talking about is to do a lot more of

that within the communities also, because a lot of businesses that——

Ms. NORTON. Well, they are continuing to do that throughout this project that is going to last for 10 years or so, besides which they have now such a rich number of 8(a) contractors, they won't want for contractors.

Ms. STEPHENWOOF. Every business is not going to be able to have the capacity of 8(a), and all the jobs are not 8(a) requirement.

There is also the disadvantaged business certification. There is small business certification. So those kinds of programs which can be done in conjunction with the Small Business Administration can be done within communities.

Ms. NORTON. There are two more programs you would like to see workshops on; is that right?

Ms. STEPHENWOOF. Exactly.

Ms. NORTON. And one is—let me hear that, please.

Ms. STEPHENWOOF. The Disadvantaged Business Certification Program.

Ms. NORTON. And the second one is?

Ms. STEPHENWOOF. The whole certification as a small business or a HUBZone business, because Anacostia is—well, I understand the District as a whole, but Anacostia is a HUBZone area. The business owners within the community have not been educated about how to become certified as HUBZone, so they can't compete.

Ms. NORTON. Those are very good suggestions. We were so pleased with their 8(a) workshops. We will approach them. In fact, those—if you want to continue to work and to work on other and perhaps even larger contracts than your first contracts, you certainly have got to graduate.

Ms. STEPHENWOOF. You have to graduate to the 8(a) program. And so a lot of businesses that are within the communities, that is the level that they have to start with. They are not ready for the 8(a) level in order to compete.

Ms. NORTON. What is it that they are ready for?

Ms. STEPHENWOOF. They can compete in the disadvantaged business community and the HUBZone community. Of course, self-certification as a small business enterprise.

Ms. NORTON. We also will ask GSA about contracts, and, remember, this is a huge Federal contract.

Ms. STEPHENWOOF. Exactly.

Ms. NORTON. Only so much learning is going to be done on this project.

Ms. STEPHENWOOF. But it gives us enough time.

Ms. NORTON. But I am going to ask them about HUBZone and disadvantaged projects.

While I am on HUBZone, I am going to ask Mr. Zingeser, would you summarize your recommendation on HUBZone? We have had a lot of HUBZone problems in this region, so much so that my good friend, the Chair of the Subcommittee, was about to abolish the whole thing. And then we got a new administration, which I believe is working and has done all kinds of reform of HUBZone. Could you speak to your concerns?

Mr. ZINGESER. The AGC has looked at HUBZone and has made recommendations on the program. The problem that——

Ms. NORTON. Now, let me just say, we were horrified that—let us go to my region. People within my region were using HUBZone, coming in, and there wasn't a minority in sight once they got certified. So when you mess up that way, then the roof falls in on the program.

Of course, a lot of us went to the administration and went to the SBA and went to the Small Business Committee Chair and said, don't throw the baby out with the bath water.

And, Mr. Zingeser, I am aware, I was embarrassed by what the IGs were finding. I could not in good faith say, keep this program up, unless it was like turned on its head, virtually started all over again. But I would like to hear your experience and your suggestions.

Mr. ZINGESER. Well, again, the issues—the objectives of the program make sense; the increased employment opportunities, investment and economic development, and low-income or high-unemployment areas that meet the Federal definition of an historically underutilized business zone. Without getting into it a whole lot more, there are some things that jump out.

Number one, the way the program works, and this speaks to the point that was just made, if you are in a HUBZone in East Sheboygan, you are in a HUBZone, and you can come and compete against the same people that are in the HUBZone where the project is. You don't have to be in the HUBZone where the project is. You can be in a HUBZone anyplace and compete. So——

Ms. NORTON. Wait a minute. Wasn't that because they wanted to bring—yeah, you have people already competing in these areas where there is not a lot of work. This brings employment, and if you were employing people, wasn't the point that if you bring somebody who may not be in the area and may have business, and that person begins to hire people who would otherwise not be employed, that is a win-win, because you can't expect people who are already doing business in a HUBZone, because these zones are per se, by definition, zones where there is not lots of contracting and not lots of employment as well.

So, I mean, if you are not going to have somebody else come in and say, we will do business, and in return for doing business here, we will hire this many employees, how do you break through if the only people you are depending upon are the people already in the HUBZone which are themselves in the same barrel as the residents in the HUBZone?

Mr. ZINGESER. It starts with the notion that, first of all, you must be a certified HUBZone business. And then, once you are, you are free as a HUBZone business to go do business and get all of the benefits of that no matter where the project is. So if there is——

Ms. NORTON. Within the HUBZone you mean?

Mr. ZINGESER. No. No. To go the other way, let's assume there is a HUBZone certified here in the District of Columbia, and the project is New York State, and it is set aside as a HUBZone preference. The company here can go do the project in New York State.

Well, the same is true here. If there is a project in Anacostia, and a HUBZone wants to compete and get the HUBZone preference and they are in Ohio, they can come and be treated the same as

the local firm. Now, that, in my mind, I am a very simple person, doesn't make sense. So that is the definition of how the program works. It seems to me——

Ms. NORTON. So you are saying it is the illusion of reciprocity there?

Mr. ZINGESER. Yeah, I guess the idea that you want to nationally improve HUBZone, the economics in HUBZones, so it doesn't matter where the project is. But in construction, it is a local thing. It really ought to be held for people——

Ms. NORTON. I see what you are saying.

Mr. ZINGESER. So that is a simple idea that——

Ms. NORTON. Not only that, I am very interested in, and again, I will be working with the Subcommittee, I wanted to elaborate your concern. I am not prepared to answer it, because I can see the concern.

Mr. ZINGESER. That is one. The other thing that sort of jumps out is the 10 percent preference. Now, in the construction industry, 10 percent is a lot of money. That is an extraordinary preference. And that essentially means that everybody else is out of the competition, because if you are not——

Ms. NORTON. Let me tell you why it is meant that. Why it is meant that, I believe, based on the, abuse is not the word for it, the fraud I have seen is because they were taking the preference without doing anything within the communities. This wasn't abuse. This was straight out fraud. It was in this region. It was so bad that they were having these all over the United States. I am sure the work is still going on since the new administration then was charged with straightening this out or it goes.

So by the time we have probably our next GSA hearing, I will want to know more, and I ask the staff to bear this in mind, about the progress the administration is doing, that means the SBA, who really was at fault on this, just as they were at fault on the women's program, how far they have gotten in straightening out a program that collapsed of its own weight.

When the Committee Chair of the Small Business Committee—this is a Puerto Rican woman—was so outraged, the Chair of the Committee, that she wanted to abolish the program, I know there is a problem in that program. She comes from a part of Brooklyn which is rich in small businesses, so she has a vested interest in small businesses.

So I am not prepared—because I don't know what is at work—but I certainly appreciate your alerting me, your testimony, both of you——

Mr. ZINGESER. Let me be clear, because from AGC's point of view, 91 percent of the construction companies are small businesses. I mean, 91 percent, according to the AGC's statistics, so——

Ms. NORTON. Look, your point, let me make sure I understand it, your point that this reciprocity when it comes to construction, at least with small businesses, is laughable. You are not like a national construction company.

Mr. ZINGESER. My point would be for the construction industry, if there is such a thing as a HUBZone program, which by the way, if it were abolished in its present form would be a good thing to start over and do it different than it is——

Ms. NORTON. They may be doing that.

Mr. ZINGESER. Okay. But in its present form related to construction, the jobs and the dollars don't go to the local HUBZone companies necessarily.

Number two, the 10 percent preference is out of—it is extraordinary. It is too high in a competitive world. That is a simple statement. Then there are some other points which we can submit if you want.

Ms. NORTON. 10 percent is—those numbers, you will never see those numbers—you remember when people were getting 10 percent of the market? Everybody should scrub 10 percent from their category. We are going to be in a much different economy. That is why I don't even want people to be waiting for the economy to come back. It is going to be very different. It is not going to have anything to do with whether we stimulated it or not. It is just that there has been a sea change. And so those numbers, even in that economy, and I know enough about construction to know what that does. I don't know what the effect was, whether the effect was that they got all the contracts. And it looks like you were doing pretty well; your company was doing pretty well.

Mr. ZINGESER. Again, not all government contracts have HUBZone preferences. But where they do have a preference——

Ms. NORTON. I see.

Mr. ZINGESER. —you have to think very seriously about whether you have a chance at all if you are not a HUBZone. Now, that doesn't mean there shouldn't be a HUBZone program with some set-asides, just like we have 8(a) and other things.

Ms. NORTON. Exactly.

Mr. ZINGESER. These things do have a place.

Ms. NORTON. And in fact, if she looked at, the Small Business Chair looked at 8(a) and said, you know, they found a way to do it. And so one of the things she wanted to do was to say, wipe out HUBZones; go to 8(a) entirely. Because of the reluctance to simply wipe out a program based on fraud, they are now rethinking the program. And staff will report to me on how far they have gotten. The notion of any disadvantage to our companies doing business within the region right now, and all these funds unprecedented are flowing, would be potentially unacceptable. We have all worked together, and minority- and women-owned companies in particular have worked together.

Ms. Giordano, I recall, for example, the problems I had when we were in the minority when we weren't sure that disadvantaged programs, particularly in areas like the authorization, where there is perhaps the largest amount of money in transportation infrastructure, how closely women and minorities worked together. We have been very pleased with how contractors have worked with GSA, even given the strictures that Congress for small, women-owned and minority-owned business had placed on them.

I am former chair of the Equal Employment Opportunity Commission. I did some of my best work with business, because these programs don't work if in fact business feels it is at a disadvantage for doing what the government thinks is the right thing to do to equal the playing field and not to put people ahead of it. That is probably one of the first things I did when I came to the EEOC was

to initiate a negotiation so that not every complaint was there for 2 years. Most of them, by the end of 2 years, weren't any good anyway. They had all fallen away.

And so we took complaints when you first got them, see if we could work out something. Sometimes, as a cost of doing business, an employer would say, it is not worth my time and would do so. Some employers would decide to remain in. We realized that the employer might indeed believe there was no discrimination. At the same time, we would go aside with the minority or the women and indicate what in fact would have to be shown, that the burden lies on the plaintiff.

And so some of the best experiences, this may seem very strange to say, that I had as Chair of the Equal Employment Opportunity Commission was working with the business community so that we worked together and so that we weren't bringing suits left and right. We brought suits, for example, on the basis of worst first so that somebody who—government can't sue everybody—so somebody trying his level best didn't find because he was in sight of some investigator, he got a suit, where his competitor, who wasn't doing as well, hadn't yet been gotten to. We are trying to make sure that these programs reflect that kind of rationality as well when it comes to business. At the same time that we do all we do, we can, especially in the climate of the Great Recession, to bring equality so far as firms are able to show in their work to small business and small disadvantaged business contracting.

I can't thank each of you enough for remaining so long with us. And I assure you that your testimony has been of immense value to us. This hearing is adjourned.

[Whereupon, at 5:02 p.m., the Subcommittee was adjourned.]

OPENING STATEMENT OF
THE HONORABLE RUSS CARNHAN (MO-03)
HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

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

Thursday, September 17, 2009
2167 Rayburn House Office Building

Congresswoman Norton, thank you for holding this hearing today regarding the federal government and the goals for small, minority, and disadvantaged business. I would also like to extend my appreciation to the witnesses for offering their testimonies to the subcommittee as we work to ensure that the government is giving small businesses ample contribution opportunities.

Small businesses are an essential component of our national economy. The goods and services that they supply promote competition and encourage innovation. However, their contributions to our economy as a whole are not mirrored in the public sector, where their share of federal contracts has always been a cause for concern. The government must ensure that small businesses are greeted with navigable channels toward securing federal contracts. While the SBA provides fundamental support for the relationship between small businesses and the federal government, oversight remains a high task that demands due attention from this subcommittee.

The economic meltdown has augmented the importance of federal procurement and contracting for small businesses. I would like our panelists to discuss how the federal practices and policies surrounding small business participation have been modified to account for the economic downturn, specifically with regards to minority and women-owned businesses. Additionally, I would like to hear about the measures that are being taken to ensure that small contracts are not consolidated and given to large businesses, when the individual contracts would normally be reserved for small businesses.

In closing, I'd like to thank the panelists once again for their contributions to the hearing today. I hope that we can continue our cooperation in the effort to promote small, minority, and disadvantaged business participation in federal government contracts.

Russ Carnahan

Eleanor Holmes Norton

STATEMENT OF
CHAIR ELEANOR HOLMES NORTON
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT

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

SEPTEMBER 17, 2009

The subcommittee is pleased to welcome our witnesses today. We look forward to hearing the testimony of our small business witnesses concerning their experiences contracting with the federal government, and we are also pleased to receive the testimony of agencies within the jurisdiction of this subcommittee about their goals and accomplishments for small businesses and for minority-owned, women-owned, and other disadvantaged businesses. Today's hearing is a follow up to our March 6, 2008, hearing on this subject when we alerted our agencies that we would be holding annual oversight hearings on issues and progress in small business contracting. Among the issues we addressed last year were bundling of contracts by federal agencies that makes it difficult for small businesses to compete, the benefits of competing on the GSA schedule, small business outreach by federal agencies, and how agencies account for small business participation in procurement. We look forward to examining agency efforts to address these and new issues that may have arisen.

This subcommittee places a strong emphasis on small businesses because they are central to the U.S. economy, particularly so during "the Great Recession." The federal government, as the largest small business contractor, has a special obligation to this indispensable sector, especially in today's economic downturn. The roughly 25 million

small businesses in the United States account for 50% of the nation's private non-farm gross national product. However, they receive only 20% of federal contracts. Women made up 30% of the small business owners nationally in 2008, but received only 3.4% of federal contracts. Minorities owned 18% of small businesses nationally, but receive only 6.8% of federal contracts in 2008. Because most of the jobs created by small businesses remain in this country, their formidable job creation power has premium value for our economy and the American people. Small businesses with fewer than 500 employees accounted for 64% of the 22.5 million net new jobs between 1993 and the third quarter of 2008, according to the Small Business Administration. Of course, many federal contracts necessarily go to large contractors, so federal agencies are in the best position to analyze their contracts in order to make a fair and practical allocation of contracts that should go to small businesses. We are particularly interested in how agencies make this allocation, considering that small businesses are responsible for the lion's share of new jobs.

Unfortunately, the difficulty of establishing and of maintaining small business, even in the best of economic times, means that many of these businesses and the jobs they generate do not survive. However, they are quickly replaced by new risk takers, characteristic of successful entrepreneurship in our country. The Small Business Administration said in a recently released report to the President that the recession's credit freeze in the short term funding market had had a particularly harmful effect on the ability of small businesses to operate. The American Recovery and Reinvestment Act – P.L. 111-5 (ARRA) provided an important opportunity for the federal government to offer a lifeline to small businesses in this tough economy. As of August 14, 2009, the SBA reports that 23.7% of the $8.37 billion in Recovery Act contract dollars have gone to small businesses and those federal agencies have been meeting disadvantaged business category goals with stimulus spending as well. SBA reports that 10.6% of contracts are awarded to small disadvantaged businesses, 8.7% to 8(a) firms, 6.4% to HUBZone firms, 4.3% to women-owned firms and 3.1% to service-disabled veteran-owned firms. How have the agencies under our jurisdiction used stimulus funds to help fill the gap for small businesses? In stimulus funding alone, the General Services Administration (GSA) is receiving approximately $5.5 billion, the Federal Emergency Management Agency

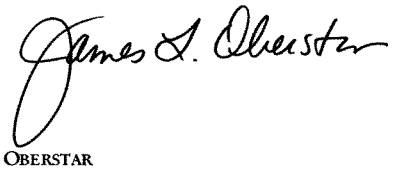
(FEMA) is receiving $210 million and the Smithsonian Institution is receiving $25 million. We will be interested to know the number and type of opportunities for small business contracting by the agencies under the jurisdiction of this subcommittee.

For almost 50 years it has been the policy of the federal government to encourage the participation of small business in federal procurement and contracting. The Small Business Act requires an affirmative federal policy of doing business with small businesses "in order to preserve free competitive enterprise, ensure that a fair portion of the total purchases and contracts for supplies and services for the Government is placed with small businesses, and maintain and strengthen the overall economy of the nation." For minority and women owned businesses, there is an additional 14th amendment constitutional obligation carried out in federal law by Title VI of the 1964 Civil Rights Act and by federal legislation to assure that federal dollars do not fund discriminatory activities. In *Fullilove v. Klutz,* the Supreme Court found that Congress had the authority to remediate historic discrimination in contracting through "prospective elimination of . . . barriers . . . to public contracting opportunities." Tough competitive standards must be enforced for small businesses and small disadvantaged businesses, as for large federal contractors. However, targeting federal procurement contracts and subcontracts for small businesses, and for management and technical grants, educational and training support, as well as surety bond assistance, are obligations under the law.

Although the Small Business Administration has oversight for encouraging small business participation by the federal sector agencies, only continuing and regular oversight by the authorizing and appropriation committees can hold individual agencies accountable to implement the small business policies of the federal government. We believe that this subcommittee has the obligation to increase the momentum established with our first hearing, considering "the Great Recession" that has seized this country and most of the world. The agencies before us today have submitted information to our subcommittee on their progress in meeting the requirement in federal law. Three of these agencies - the Architect of the Capitol, as a legislative branch agency, the Smithsonian

Institution, and the John F. Kennedy Performing Arts Center – technically are not covered by the Small Business Act but, to their credit, voluntarily abide the law.

We will be happy to hear from all of the federal agencies for which we perform oversight: the General Services Administration, the Federal Emergency Management Agency, the Architect of the Capitol, the Capitol Visitors Center, the Smithsonian, and the John F. Kennedy Performing Arts Center. We offer our thanks our small business witnesses as well.



STATEMENT OF
THE HONORABLE JAMES L. OBERSTAR
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT
HEARING ON "DOING BUSINESS WITH THE GOVERNMENT:
THE RECORD AND GOALS FOR SMALL, MINORITY AND DISADVANTAGED BUSINESSES"
SEPTEMBER 17, 2009

Thank you, Chairwoman Norton for holding today's hearing.

The timing of today's hearing is not random. Our country faces troubling economic times. One of the most effective ways to help stimulate the economy is through government contracting and procurement. As we all know, small businesses employ about half of the Nation's workforce. The Federal Government can stimulate the economy not only with its short-term funding programs, but also with its day-to-day procurements and its contracting clout. Thus, the government's procurement and contacting programs provide a vital link between employment and Federal dollars.

The witnesses we will hear from today will discuss a variety of small business programs that not only stimulate economic activity, but also describe how these programs target spending in areas where it is most needed.

I extend a warm welcome to today's witnesses and look forward to hearing their testimony.

RAY AMIRIAN
Presentation to Congress
9/17/09

My name is Ray Amirian. I am Vice President for Operations at Nastos Construction, Incorporated. We are a registered Disadvantaged Small Minority Business located in the District of Columbia.

This year marks our 16th year in business. We have made steady growth as a company from the very beginning in 1993. Much of that progress has been due to the large number of construction projects that have been made available by the government to such companies as ours, and the considerable help for small businesses that has been available from the Small Business Administration and numerous other Federal and State Agencies. The District Government has been especially helpful.

The government's Set Aside Programs for Small Minority and Disadvantaged Business specifically 8(A) program have been especially helpful, and we have made every effort to work within those guidelines to the best of our ability.

The Federal Government has been an especially rich source of funding as many of its buildings are ageing and in need of remodeling, or in some cases more dramatic reconstruction.

In the process of working on many of these projects over the years, Nastos has become specialized in the repair and remodeling of historic structures. These have included numerous buildings on the St. Elizabeths Campus, including the 140 year old brick wall surrounding it, and most recently, the 78 year old District of Columbia National Guard Armory on which we are currently replacing all mortar that has accumulated over the years and replacing it with mortar that exactly matches the original mortar with which it was built.

Due to the recent down turn in the economy, whereas we earlier bid against four or five local companies for government jobs, we now sometimes find ourselves bidding against as many as twenty companies from as far away as the Ohio Valley when local projects become available.

Nonetheless, Nastos remains strong and competitive during the present downturn, and we attribute most of it to the thoughtfulness and special programs made available by the Federal and State Governments.

On behalf of Nastos Construction, I wish to thank you, ladies and gentlemen, and thank you for having me here today.

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

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

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

September 17, 2009

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

The AOC has made tremendous progress since I last testified before the Subcommittee about our efforts to implement a program that enables and encourages small-disadvantaged and women-owned businesses to effectively compete for AOC contracts.

As you know, Legislative Branch agencies are not subject to the Small Business Act, and therefore, do not have authority to set aside procurements for small businesses. AOC procurement statutes, for example, require that all our procurements over $100,000 be competed on a full and open basis. However, in 2007 and 2008, I directed our staff to implement several pilot programs to actively award contracts to companies that reflect the diversity of our country above and beyond the standard requirements of Federal regulations.

I am pleased to report that on August 10, 2009, I signed a memorandum of understanding (MOU) with the Small Business Administration (SBA) to establish the roles and responsibilities of each agency in the implementation of the use of small business programs at the AOC; thereby formalizing our efforts.

The MOU, while preserving the separation of powers between the Legislative and Executive branches, establishes the support activities, roles, and responsibilities necessary for the AOC to fully utilize small businesses, identified under the Small Business Act and the SBA's regulations, to the maximum extent practicable when awarding small purchase contracts. In addition, the SBA's subject matter expertise will be used to strengthen, expand, and foster contracting opportunities for small businesses.

The MOU is effective for three years and is just one of the AOC's efforts to encourage small business participation in its procurement process. This program will be effective beginning October 1, 2009, and we are now training Agency staff on the policy. A Federal Register notice on October 6, 2008, notified the vendor community of this effort, and they were given the opportunity to provide comments on the draft policy.

Other AOC initiatives include: a Small Business Subcontracting Program for construction contracts greater than $1 million awarded to large businesses; a Small Business Outreach Program, and a Small Business set-aside for procurements between $5,000 and $100,000 that utilizes the flexibility of our existing AOC procurement authority.

As I noted last year, in August 2007, we launched our Small Business Subcontracting Program, requiring large businesses that are awarded construction contracts or task orders exceeding $1 million to submit and adhere to a small business subcontracting plan. This plan includes goals for the prime contractor for recruiting small businesses as subcontractors, and they meet or exceed the Small Business Administration's statutory goals for Federal executive agencies.

The minimum subcontracting goals are:

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

These goals meet or exceed the SBA's statutory goals for Federal Executive Branch agencies. When contracts are awarded to large businesses under this program, we require each one to submit a semi-annual progress report detailing how well they are achieving the prescribed goals.

On October 1, our Small Business Set-aside Program also will be fully in effect for our small purchases between $5,000 and $100,000 when adequate competition exists among small businesses on such small purchase acquisitions. Within this program we will establish additional sub-goals of eight percent for small disadvantaged businesses and five percent women-owned businesses.

All policies affecting small businesses will be posted on our Internet site so that the vendor community is aware of what they can expect when doing business with the AOC.

Under our outreach program we identify small businesses that are currently working with the AOC or are interested in competing for work with the AOC. We also continue to reach out to new vendors for this information and the data received is used to identify small businesses that can receive requests for quotations for Agency requirements. Vendors not previously used by the AOC can submit company literature to our small business office, which is distributed to AOC offices that have a need for the vendor's services.

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

For example, in April 2009, our staff attended the Office of Small and Disadvantaged Business Utilization's (OSDBU) annual procurement conference, and we are now networking regularly with OSDBU directors. Also in April 2008 and 2009, we had the pleasure of participating in your small business conference, Madam Chair. In June, we participated in the Washington, DC, Metro Expo 2009, Military and Federal Agencies Procurement Conference, in Fort Myer, Virginia.

In addition, we plan to continue participating in any procurement workshops sponsored by the Committee on House Administration, as well as attending other relevant conferences and/or workshops that may be available through other government agencies including the Small Business Administration.

Madam Chair, the AOC is leading the way in the Legislative Branch in encouraging small disadvantaged and women-owned businesses to effectively compete for AOC contracts. This increased competition ensures we receive the best value for taxpayers' dollars while supporting employment opportunities and businesses in our community.

America's small businesses have helped to build this country, and they will continue to provide the products and services that America needs in the future. We have a vested interest in supporting small businesses in order to help facilitate competition and to support local communities. We look forward to our continued work with this Subcommittee and Congress to ensure that our efforts result in strong small business participation in future AOC contract solicitations.

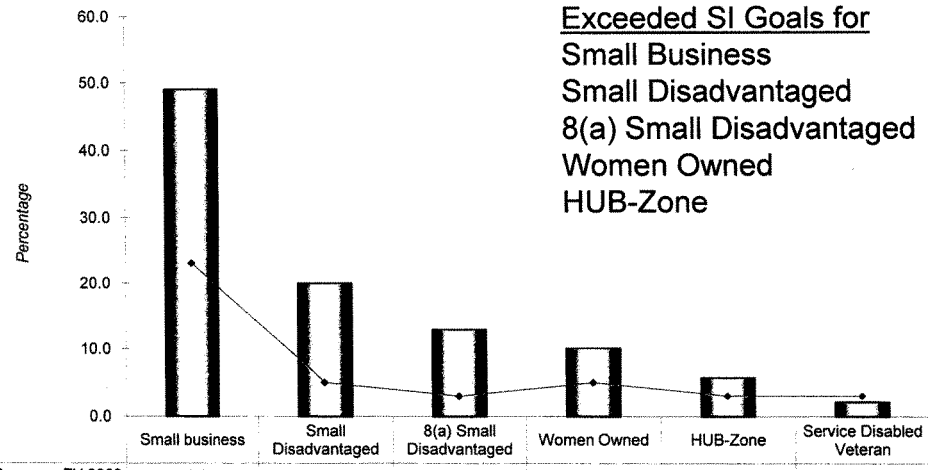
This concludes my statement. I would be happy to answer any questions you may have.

Smithsonian Institution
Contract Awards to Small and Small Disadvantaged Business
Fiscal Years 2004 - 2008

	FY 2006	FY 2007	FY 2008	Government-Wide Goals
	SI Award Dollars	SI Award Dollars	SI Award Dollars	
	% of SI Award Dollars	% of SI Award Dollars	% of SI Award Dollars	
Prime Contracts	$203,585	$198,388	$212,502	N/A
Small Business	$114,608	$102,818	$89,375	N/A
	56.29%	51.83%	42.06%	23.00%
Section 8(a)	$7,602	$13,201	$12,890	N/A
	3.73%	6.65%	6.07%	3.00%
Small Disadvantage Business	$31,634	$43,911	$35,234	N/A
	15.54%	22.13%	16.58%	5.00%
Women-owned Business	$12,822	$27,341	$17,273	N/A
	6.30%	13.78%	8.13%	5.00%
HUBZone Small Business	$3,630	$7,258	$11,336	N/A
	1.78%	3.66%	5.11%	3.00%
Service Disabled Veteran-owned Small Business	$1,102	$2,317	$6,033	N/A
	0.54%	1.17%	2.84%	3.00%

Status of SI Supplier Diversity
FY 2009 Goal Accomplishments

** SI Percent Goals for 2009*
** SI Dollars FY 2009*



	Small business	Small Disadvantaged	8(a) Small Disadvantaged	Women Owned	HUB-Zone	Service Disabled Veteran
SI - Accomp. FY 2009	49.0	20.0	12.9	10.1	5.7	2.1
SI Goal - 2009	23.0	5.0	3.0	5.0	3.0	3.0

SI Dollars ($ in thousands 000) FY 2009 = $139,792	$68,517	$27,951	$18,064	$14,125	$8,008	$3,032

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MEMORANDUM OF UNDERSTANDING BETWEEN THE U.S. SMALL BUSINESS ADMINISTRATION AND THE ARCHITECT OF THE CAPITOL

I. PURPOSE

The purpose of this Memorandum of Understanding (MOU) between the U. S. Small Business Administration (SBA) and the Architect of the Capitol (AOC) is to establish the support activities, roles, and responsibilities of each agency in the implementation of the use of small business programs at the AOC while preserving the separation of powers between the Legislative and Executive branches. Although the Small Business Act, 15 USC §631 et seq. as amended (hereinafter referred to as the "Act") does not require the AOC to use small business programs, the AOC has determined that its procurement authority for small purchases provides the AOC with the discretion to direct small purchases to small business concerns described in the Act and the SBA's regulations. The AOC recognizes that the subject matter expertise for these small business programs resides in the SBA.

II. AUTHORITY AND BACKGROUND

With a goal to strengthen, expand and foster contracting opportunities for small business and provide technical assistance such as size determinations and Certificates of Competency, SBA enters into this MOU pursuant to section 8(b)(1)(A) of the Act, 15 U.S.C. § 637(b)(1)(A), which enables SBA to cooperate with other Government agencies to provide technical and other assistance to small businesses. SBA's specific authority to provide this assistance to small businesses and Government agencies is also found in various sections of the Act including sections 3(a), 8(a), 8(b)(7), 15, 31, and 36.

The AOC is a Legislative branch agency and, as such, is not required to utilize small business programs in the Act. However, the AOC's procurement authority at 2 U.S.C. § 1821 states that purchases and contracts for supplies or services for the Government may be made or entered into only after advertising a sufficient time previously for proposals, except (1) when the amount involved in any one case does not exceed $100,000. This authority allows the AOC discretion in the type of contractor solicited for requirements that utilize small purchase procedures (i.e., those requirements under $100,000). The AOC has determined that restricting those procurements to small businesses is desirable when small businesses have the capability and capacity to perform and there is adequate competition or other safeguards to ensure a fair and reasonable price.

SBA does not anticipate there will be any additional costs for extending its technical assistance programs to AOC. However, should the need arise for AOC to reimburse SBA for any costs associated with providing such technical assistance, the parties agree to execute an Interagency Agreement pursuant to the Economy Act, 31 U.S.C. § 1535.

III. SCOPE

a. This MOU establishes the support activities, roles, and responsibilities necessary for the AOC to utilize small businesses, identified under the Act and the SBA's regulations, to the maximum extent practicable when awarding small purchase contracts. In order to accomplish this, small business set-asides shall be implemented and other small business programs may be utilized. The SBA's subject matter expertise shall be used whenever possible and appropriate and any alternative procedures developed shall parallel the SBA's procedures to the maximum extent practicable in order to minimize the inconvenience to the small business community. The AOC may seek the SBA's and small business community's input on any alternative procedures developed. All existing procedures or processes adopted by the AOC and any alternative procedures developed by the AOC shall be published to the small business community in a commonly used forum, e.g., the Federal Register, and made public on the AOC's internet site. There shall be no prohibitions on the SBA that prevent the SBA's dissemination of information made public by the AOC.

b. Nothing in this MOU shall be construed as the establishment of a priority of any small business program over other small business program(s). The AOC has sole authority to determine which, if any, small business program is utilized for a specific procurement that utilizes small purchase procedures. The AOC reserves the right to use any small business program without regard to the priorities established for the Executive Branch, unless otherwise required by law.

c. The penalties for misrepresentation of size status are contained in the Act and enforcement action is at the discretion of the SBA.

d. The AOC is not subject to the Equal Access to Justice Act and nothing in this MOU shall alter this.

e. Nothing in this MOU shall create any right or benefit, substantive or procedural, enforceable by law against the United States or its agencies, officers, employees, or other person.

IV. RESPONSIBILITIES

a. The SBA:

1. Shall provide subject matter expertise and definitive action in all areas concerning size determinations, including appeals to the SBA's Office of Hearings and Appeals and selection of a North American Industry Classification System (NAICS) code or appeals of the NAICS code selected by the AOC contracting officer;

2. Shall determine the eligibility of concerns to participate in small business programs, including but not limited to, size protests and protests involving status in SBA programs;

3. Shall provide individual nonmanufacturer rule waivers in accordance with 13 CFR 121.1203;

4. May provide for the AOC's award of 8(a) contracts if the 8(a) program is implemented for small purchases within the AOC;

5. May provide search letters and capability statements of 8(a) firms to the AOC, if desired;

6. Shall have the authority to reject a business opportunity for an 8(a) program participant in the event that the procurement is not consistent with the participant's business plan;

7. Shall review and determine the responsibility of small businesses referred under Section 8(b)(7) of the Small Business Act, (the Certificates of Competency Program) for small businesses referred to the SBA after an AOC contracting officer has determined the small business to be nonresponsible for the award of a specific contract;

8. Shall not require subcontracting reports from AOC's Large Business Prime Contractors; and

9. Provide information to its District Offices regarding this MOU and cooperation with the AOC.

b. The AOC:

1. Shall utilize SBA's class waivers of the nonmanufacturer rule whenever possible and necessary and accept the SBA's decision on individual nonmanufacturer rule waivers;

2. Shall, if determining that a small business is nonresponsible, refer the small business to the SBA for a Certificate of Competency;

3. Shall utilize the appropriate North American Industry Classification System (NAICS) code and the SBA size standard that best reflects the supplies or services being procured;

4. Shall abide by an SBA protest determination in reference to small business size and eligibility issues and not award a purchase order or

contract to a concern if the SBA determines the concern ineligible for the preference program utilized in the procurement;

5. Shall provide to the SBA any information on 8(a) contract actions, including modifications, necessary for the SBA's administration of the 8(a) program, when the program is utilized;

6. Shall accept the SBA's rejection of an 8(a) program award when the award is inconsistent with the 8(a) participant's business plan;

7. Shall not use formal source selection procedures (Federal Acquisition Regulation Part 15) in small purchases in conjunction with the 8(a) program;

8. Shall not seek repurchase costs or other damages, unless required by law, on 8(a) contract awards;

9. Shall provide for a referral to SBA for all Certificate of Competency issues;

10. Shall, when utilizing small business programs with dollar limitations or thresholds established in 13 CFR Subparts 121, 124, 125, 126, and 127, comply with those limitations or thresholds to the extent that they are compatible with the AOC's threshold for small purchase limitation and competitive thresholds established by the SBA for the 8(a) program;

11. Shall, if not suspending procurement after protest of a small business issue, notify the SBA of this decision prior to award of the order or contract;

12. Shall comply with any percentages of work to be performed by the prime contractor as established by the SBA;

13. Shall, in each requirement using small purchase procedures that require a written Request for Quotation (RFQ) whether or not required to be advertised, include an NAICS code and corresponding small business size standard in the RFQ.

14. Shall, upon the SBA's or vendor's request, provide a NAICS code and associated small business size standard, for those requirements that do not require a written RFQ; and

15. Shall develop an internal and independent review and approval process for requirements which do not propose the use of small business concern(s).

V. 8(a) AWARDS

a. If using the 8(a) program, the AOC shall comply to the maximum extent practicable with the offering requirements of 13 CFR 124.502. However, due to lack of historical data on the types of contractors to which awards have been made, it may not be possible to identify the businesses as either large business or small business that have performed the requirement previously.

b. Following the SBA's acceptance of an AOC requirement, the contracting officer shall execute the requirement on the OF 347, SF 1442, or other form, as appropriate. The "Issued By" block shall identify the AOC. The cognizant SBA District Office for the participant shall be identified in the award document. The participant name and address shall be listed as the contractor. AOC procurement instrument numbers shall be used (an SBA subcontract number shall not be issued). A single AOC contracting officer signature may be used in executing the contract action.

VI. TERM

This MOU is effective on the date of signature of the last party to sign and shall remain in effect for 3 years unless otherwise terminated by either the SBA or AOC. This MOU may be renewed in subsequent 3 year intervals upon signature of both agencies.

VII. AMENDMENT

This MOU may be amended at any time by mutual written consent of SBA and AOC.

VIII. TERMINATION

This MOU may be terminated by either the SBA or AOC upon thirty (30) calendar days written notice to the other Agency.

IX. ADMINISTRATION

The following persons are points of contact for administrative matters pertaining to this MOU:

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X. ACCEPTANCE

The undersigned parties hereby accept the terms of this MOU:

Stephen T. Ayers, AIA, LEED AP (date) 8/10/09
Acting Architect of the Capitol

Karen G. Mills (date) 8/10/09
Administrator
U. S. Small Business Administration

Statement of Catherine Giordano on Behalf of Women Impacting Public Policy

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

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

September 17, 2009

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Website: www.WIPP.org

Good afternoon. Chair Holmes Norton, Ranking Member Diaz-Balart, and Members of the Subcommittee, my name is Catherine Giordano. I am the CEO of Knowledge Information Solutions, located in Virginia Beach, Virginia, a value added network integrator with a full range of products and services to create, manage and secure networks. We are an 8(a), woman- owned firm. I am appearing today on behalf of Women Impacting Public Policy (WIPP), a national bi-partisan public policy organization representing well over a half million women and minorities in business including 49 associations that partner with us. Thank you for holding this hearing and for inviting me to testify.

Let me first mention that I had the opportunity to testify on this very same topic in March 2008 and I am pleased to give you an update on these small business contracting issues that are so important to women-owned businesses and WIPP members.

The most pressing issue for women-owned businesses in the procurement arena is the failure of SBA to implement a women's procurement program. As this Subcommittee knows, Public Law 106-554, which was passed in 2000, established a women's procurement program because federal agencies were not meeting their 5% woman-owned contracting goal. In fact, the government has never met its 5% contracting goal for women set by Congress. To date, the highest number it has ever achieved is 3.4%.

For seven long years, the women's procurement program suffered from inaction. In 2007 and 2008, the SBA proposed a program that was unacceptable to the women's business community and frankly, was considered an insult by women business owners. WIPP believes that the practical effect of this proposed rule, as it was structured, would have prevented any contracts to be successfully set aside under this program. There were

two major flaws in the proposed program. One, the SBA chose the narrowest method of data analysis by the RAND Corporation and identified only four NAICS codes that would be subject to restricted competition: cabinetmaking, engraving, other motor vehicle dealers, and national security and international affairs.

Two, an agency was required to perform an internal audit of its past contracting actions to show that it is rectifying past discriminatory contracting practices before any contract could have qualified for a set aside. By requiring this additional finding of past discriminatory practices by an agency, we believe the 2007 proposed rule would have set forth a new legal standard which would have been damaging not only to this program but potentially every women business enterprise (WBE) program in the country.

Thankfully, with the influence of many Members of the House and Senate, including the Chair of this Subcommittee, the SBA proposed program was not implemented.

But we have reason to be much more optimistic this year than in the past with respect to implementation of a strong women's procurement program. This SBA, led by Administrator Karen Mills, is now working to propose a new program and a simultaneous withdrawal of the program proposed by the last Administration. The SBA hopes to have a program in place by the end of the year which would give women-owned businesses a real chance to compete for stimulus dollars. We have urged the SBA to take another look at the RAND Corporation disparity study and expand the eligible industries to more than the narrow definition proposed in the past. In fact, the RAND Corporation study suggests that up to 87% of the industry categories could be eligible for the program if the SBA chose to use this interpretation. WIPP is working closely with the SBA to ensure that the women's procurement program will serve to assist the federal government in finally meeting its women-owned goals.

The federal government's ability to meet small business goals is making progress, however, it is far from impressive. The FY 2008 numbers show that the percentage for contracting to small businesses dropped to 21.50%. The women-owned goal number has remained the same at 3.4%. However, it should be noted that there was an increase in agencies that have met their women-owned goal. In FY 2006, only ten major agencies met the women-owned contracting goal. That number increased to fourteen agencies in FY 2008.

While the overall percentage of contracts dropped, more individual agencies are meeting their small business goals. The last time I testified in March 2008, the FY 2006 federal contracting numbers showed that only 7 of 24 federal agencies met the 23 percent small business goal, according to the SBA. The updated numbers for FY 2008 show an increase to 13 out of 24 federal agencies meeting the 23 percent goal.

I wish I had good news with respect to other contracting issues that I mentioned previously- subcontracting and bundling. But the challenges in these two areas continue to plague the small business community. WIPP continues to believe that "if you list us, use us" is an important principle in subcontracting. Small businesses spend thousands of dollars in staff resources to be a part of the subcontracting plan on a prime contractor's bid. We believe prime contractors should utilize the small businesses they include in their subcontracting plans unless the small business could no longer meet the requirements. There should be penalties assessed for violating the subcontracting plans. With respect to contract bundling, to our knowledge there have been no new studies since the OMB 2002 report. I will just cite one statistic- for every $100 awarded on a bundled contract, there is a $33 decrease to small businesses.

A new concern for small businesses is the policy of the new Administration to decrease outside contracting and convert those contracts to government in-house

resources. This is known as in-sourcing. While we certainly understand the policy as it relates to the practice of awarding large sole source contracts to major corporations, the unintended consequence for small business contractors is that they are losing opportunities on the subcontracting front and losing their employees to the government. It seems to us that the only way small business contractors will survive is for the federal government to make a much deeper commitment to contracting directly with small businesses. We certainly do not believe the Administration intended government agencies to poach small business employees who are working at their sites but we worry about the consequences of this policy to small businesses. WIPP urges this Committee to take a closer look at this issue.

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

Federal Emergency Management Agency hearing requests for further information:

Committee: House Transportation and Infrastructure Committee, Subcommittee on Economic Development, Public Buildings, and Emergency Management
Hearing Title: "Doing Business with the Government: The Record and Goals for Small, Minority and Disadvantaged Businesses"
Date: September 17, 2009
Witness: Jacob "Jake" Hansen, Department of Homeland Security, Federal Emergency Management Agency, Director, Acquisition Management Division

Within 30 days: Provide to the subcommittee the percentage of contracts awarded in the National Capitol Region, by state and the district, to small, disadvantaged, and minority businesses. Break this down by category. Provide names of contractors. Provide all of this information for the calendar year up to September 17, 2009.

The Homeland Security Act of 2002 references the National Capital Region as defined by Title 10, United States Code, Section 2674 (f)(2) which provides the following definition:

The term "National Capital Region" means the geographic area located within the boundaries of

A. *The District of Columbia*
B. *Montgomery and Prince Georges Counties in the State of Maryland*
C. *Arlington, Fairfax, Loudoun, and Prince William Counties and the City of Alexandria in the Commonwealth of Virginia*
D. *All cities and other units of government within the geographic areas of such District, Counties, and City*

A summary of awards to Small, Small Disadvantaged (SDB), and Minority Businesses is below. This is based on FPDS data as of 05-October-2009 and reflects award actions from 1/1/09 – 10/05/09. We would note that the categories cited are not mutually exclusive, e.g., some SDB's are not minority-owned. The percentages calculated are against all FEMA awards in the time period. All data include total dollars obligated, including contract modifications.

	Small Business	Small Disadvantaged	Minority Owned
NCR-DC	$ 22,612,548	$ 29,549,428	$ 29,551,589
NCR-MD	$ 37,496,578	$ 20,840,461	$ 17,625,574
NCR-VA	$ 113,263,524	$ 44,776,700	$ 42,416,452
	$ 173,372,649	$ 95,166,589	$ 89,593,615
	18.6%	10.2%	9.6%
TOTAL $$ (All FEMA)	$932,698,578	$932,698,578	$932,698,578

The chart shows a summary of awards made to contractors with an awardee address in the respective state [or DC] and where the Place of Performance County was included in the definition of National Capital region. Details by jurisdiction, including contractor name, are in the attached spreadsheet.

The chart on the following page summarizes awards by jurisdiction, for Large and Small Businesses.

$$ Obligated (including mods)					
Place of Perf State Code	Perf. County Name	LARGE BUSINESS	SMALL BUSINESS	Grand Total	
DC Total	DISTRICT OF COLUMBIA	$169,932,956	$66,454,625	$236,387,581	25.34%
MD	MONTGOMERY	$78,804,182	$1,399,338	$80,203,520	8.60%
	PRINCE GEORGES	$6,873,999	$3,424,478	$10,298,477	1.10%
MD Total		$85,678,181	$4,823,816	$90,501,997	
VA	ALEXANDRIA CITY	$11,752,097	$5,269,284	$17,021,381	1.82%
	ARLINGTON	$120,913,261	$3,387,680	$124,300,941	13.33%
	FAIRFAX	$53,205,781	$52,799,984	$106,005,765	11.37%
	LOUDOUN	$1,363,835	$3,348,927	$4,712,763	0.51%
	PRINCE WILLIAM		$37,438	$37,438	0.00%
VA Total		$187,234,974	$64,843,314	$252,078,287	27.03%
Grand Total		$442,846,111	$136,121,755	$578,967,865	62.07%
	TOTAL Contract Awards 1/1/09 thru 9/17/09 (All FEMA)			$932,698,578	

Within 30 days: Describe how FEMA uses the GSA schedule and what kind of categories from the schedule does FEMA use?

In FY 2009 FEMA obligated $300,779,457 on GSA Schedule contracts. The top five (5) types of goods and services purchased through GSA Schedules is listed in the chart below by PSC Codes.

FY09 Federal Supply Schedule Spending		
Total FY09 Dollars	$1,743,146,694	
Total FY09 GSA Dollars	$ 300,779,457	

PSC	PSC Description	Dollars ($)	% of Total GSA $
R	SUPPORT SVCS (PROF, ADMIN, MGMT)	$ 185,496,661	61.67%
70	ADP EQPT/SOFTWARE/SUPPLIES AND EQPT	$ 22,158,803	7.37%
D	ADP AND TELECOMMUNICATIONS	$ 22,086,925	7.34%
S	UTILITIES AND HOUSEKEEPING	$ 14,263,838	4.74%
A	RESEARCH AND DEVELOPMENT	$ 8,645,543	2.87%

Within 30 days: Provide the number of competitive 8(a) acquisitions per quarter?

	FY09Q1	FY09Q2	FY09Q3	FY09Q4	TOTAL
8(a) Competitive Award Actions*	4	8	14	21	47
TOTAL Award Actions*	1,923	2,367	2,559	3,285	10,134
*based on total activities (awards, modifications)					

Within 30 days: Describe how the local business transition teams are working, provide specific numbers.

The Industry Liaison (IL) Program is one point of entry for vendors seeking to do business with FEMA. To accomplish its mission, the IL program provides services that assists vendors seeking to do business with FEMA during disaster related or non-disaster related periods: market research, coordination of vendor presentation meetings to program offices, deployment of IL program's Local Business Transition Team (LBTT) in large scale disasters, industry days coordination, and assisting in responding to congressional inquiries/requests concerning businesses desiring to do business with FEMA.

When deployed, the LBTT assists in and facilitates the transition of FEMA pre-positioned contracts and the award of related procurements to local businesses impacted by a disaster. This effort not only supports compliance with the Stafford Act, section 307, but also encourages a proactive approach to rebuilding of the economy by directing disaster response dollars to local businesses.

During disasters, IL program provides critical services to FEMA's acquisition staff, whether or not an LBTT is deployed. These disaster-related services include market research assistance, access to our new web-based market research tool, the *Supplier*

Locator, which provides direct access to local business information from one of the nation's leading business data provider.

As of September 2009 there were 1,362 vendors that participated in our market research effort. There were 776 vendors related to the Hurricane Ike disaster, 152 for disasters other than Ike, and 434 vendors interested in providing services/products not related to a disaster effort. Contact with these 1,362 vendors has resulted in a total of 6,535 transactions (emails, voicemails, phone calls, etc.). Of special note, during Hurricane Ike an LBTT deployed to Texas trained over 919 local vendors throughout the disaster impacted area within a 3 month period.

Within 30 days: Provide to the subcommittee what FEMA's record is thus far in providing awards to small businesses under the $210 million fire grants stimulus money?

Under the American Recovery and Reinvestment Act (ARRA, PL 111-5), $210,000,000 was provided to support the Assistance to Firefighters Fire Station Construction Grant (SCG) Program to support the upgrading or constructing of non-Federal fire stations. Based on statutory language in PL 111-5, eligible applicants under the ARRA SCG, are limited to officially chartered state or local, tribal non-Federal fire departments. On September 23, 2009 FEMA awarded $165,688.982 to fund 104 ARRA SCG projects. The remaining funds will be awarded during the first quarter of 2010. FEMA will follow the applicable reporting requirements including those in ARRA and the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282). According to the reporting requirements outlined in Section 1512 of the ARRA, grantees are not required to specify whether certified small businesses (or any subcontractors) are sub-recipients of ARRA SCG funds. Therefore FEMA is not able to provide the Subcommittee with the requested information concerning SCG awards.

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Question#:	1
Topic:	contracts
Hearing:	Doing Business with the Government: The Record and Goals for Small, Minority and Disadvantaged Businesses
Primary:	The Honorable Eleanor Holmes Norton
Committee:	TRANSPORTATION (HOUSE)

Submitted by FEMA – Department of Homeland Security`

Question: Within 30 days, please report to the Subcommittee FEMA's record in small business contracts.

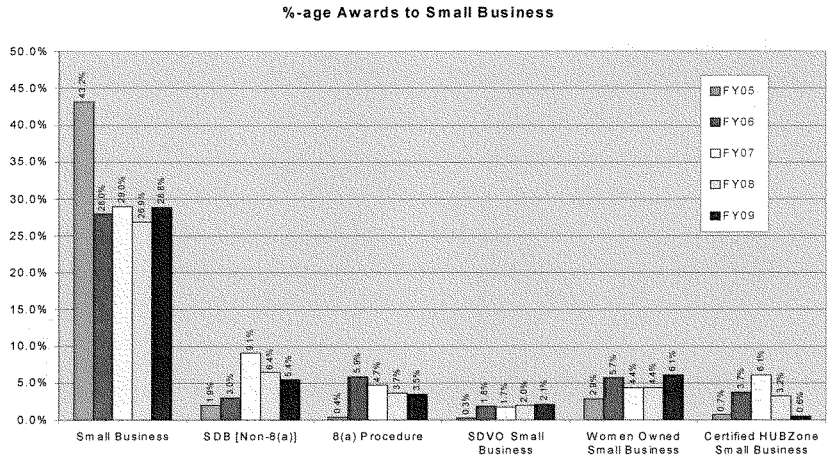
Response: The following charts indicate small business awards for the period FY 2005 through September 28, 2009.

Category	FY05	FY06	FY07	FY08	FY09
Total Small Business Eligible Dollars	$4,957,480,082	$7,060,422,967	$1,531,937,667	$1,842,936,238	$1,500,159,693
Small Business $$	$2,143,528,133	$1,973,945,657	$444,311,040	$495,339,000	$432,739,975
Small Business %	43.24%	27.96%	29.00%	26.88%	28.85%
SDB [Non-8(a)] $	$95,603,982	$212,343,735	$138,896,981	$118,416,090	$81,542,496
SDB [Non-8(a)] %	1.93%	3.01%	9.07%	6.43%	5.44%
8(a) Procedure $	$17,439,721	$417,023,048	$72,095,752	$67,435,365	$52,221,835
8(a) Procedure %	0.35%	5.91%	4.71%	3.66%	3.48%
SDVO Small Business $	$13,301,151	$128,614,549	$26,001,896	$35,999,306	$32,213,343
SDVO	0.27%	1.82%	1.70%	1.95%	2.15%

Question#:	1
Topic:	contracts
Hearing:	Doing Business with the Government: The Record and Goals for Small, Minority and Disadvantaged Businesses
Primary:	The Honorable Eleanor Holmes Norton
Committee:	TRANSPORTATION (HOUSE)

Small Business %					
Women Owned Small Business $	$142,040,988	$400,453,304	$67,003,577	$80,654,970	$91,672,863
Women Owned Small Business %	2.87%	5.67%	4.37%	4.38%	6.11%
Certified HUBZone Small Business $	$35,054,643	$263,524,992	$93,385,513	$58,834,762	$8,462,775
Certified HUBZone Small Business %	0.71%	3.73%	6.10%	3.19%	0.56%

Question#:	1
Topic:	contracts
Hearing:	Doing Business with the Government: The Record and Goals for Small, Minority and Disadvantaged Businesses
Primary:	The Honorable Eleanor Holmes Norton
Committee:	TRANSPORTATION (HOUSE)



Question#:	2
Topic:	schedules
Hearing:	Doing Business with the Government: The Record and Goals for Small, Minority and Disadvantaged Businesses
Primary:	The Honorable Eleanor Holmes Norton
Committee:	TRANSPORTATION (HOUSE)

Question: Can you please explain FEMA's use of GSA's schedules for efforts in the aftermath of Hurricanes Katrina, Rita, Ike and Gustav? Please provide empirical numbers

Response: The following table indicates the total value of awards using GSA schedules in the response and recovery efforts of Hurricanes Katrina, Rita, Ike, and Gustav.

Question#:	2
Topic:	schedules
Hearing:	Doing Business with the Government: The Record and Goals for Small, Minority and Disadvantaged Businesses
Primary:	The Honorable Eleanor Holmes Norton
Committee:	TRANSPORTATION (HOUSE)

	FY05		FY06		FY07		FY08		FY09	
	$	% of Total	$	% of Total	$	% of Total	$	% of Total	$	% of Total
Total Awarded Through GSA Schedules	$178,253,533	-	$360,238,463	-	$286,888,034	-	$360,346,338	-	$241,576,544	-
Katrina Funded GSA Purchases	$61,433,237	34.46%	$178,470,388	49.54%	$113,515,449	39.57%	$42,318,644	11.74%	$1,893,210	0.78%
Rita Funded GSA Purchases	$123,806	0.07%	$28,904,389	8.02%	$1,326,385	0.46%	$1,151,996	0.32%	$127,958	0.05%
Ike Funded GSA Purchases	$0	0.00%	$0	0.00%	$0	0.00%	$10,863,202	3.01%	$5,594,518	2.32%
Gustav Funded GSA Purchases	$0	0.00%	$0	0.00%	$0	0.00%	$25,485,477	7.07%	$953,054	0.39%

Question#:	3
Topic:	ARRA
Hearing:	Doing Business with the Government: The Record and Goals for Small, Minority and Disadvantaged Businesses
Primary:	The Honorable Eleanor Holmes Norton
Committee:	TRANSPORTATION (HOUSE)

Question: How have fire grants made available under ARRA been used by the local jurisdictions and is there a requirement or guidance for grant recipients to utilize small business.

Response: The grants made available under the American Recovery and Reinvestment Act (ARRA) have been for the purposes of fire station construction and renovation. As such, the grants are a new type of grant for the Assistance to Firefighters Grants (AFG). The new program has been stood up, and awards were announced on September 23, 2009. Use of the funds will happen over the two to three year periods of performance for the grants, and as indicated, they will be used for fire station construction and renovation. Funding priorities were recommended by advocacy groups of the fire service, and they center on projects that are ready to be begun (so-called "shovel-ready"); improvements to response capability and improvements to firefighter safety. All procurement transactions shall be conducted in a manner that provides, to the maximum extent practical, open and free competition. Grantees are expected to promote competition and ensure advantageous pricing by soliciting bids from multiple vendors. Purchases shall be made from the vendor whose bid is responsive to the solicitation and is most advantageous to the grantee when price, quality, and other factors are considered. Grantees may use their own procurement procedures, which reflect applicable State and local laws and regulations, provided the procurements conform to applicable Federal laws and standards. Grantees who fail to adhere to their own procurement policy or otherwise fail to fully "compete" any purchase involving Federal funds, may find their expenditures questioned and subsequently disallowed.

Question#:	4
Topic:	percentage
Hearing:	Doing Business with the Government: The Record and Goals for Small, Minority and Disadvantaged Businesses
Primary:	The Honorable Eleanor Holmes Norton
Committee:	TRANSPORTATION (HOUSE)

Question: Within 60 days please provide what percentage of FEMA contracts, in dollar amounts, are awarded to small businesses through the GSA schedule by FY for the last five years

Response: The following chart summarizes for each FY from 2005 through 2009 the total value of contract awards made through GSA schedule contracts, the total value of contract awards to small businesses holding GSA schedule contracts, and the percentage of small business awards to the total awards through GSA schedule contracts.

	FY05	**FY06**	**FY07**	**FY08**	**FY09**
Total Dollars Awarded Through GSA Schedules	$178,253,533	$360,238,463	$286,888,034	$360,346,338	$241,576,544
Dollars Awarded to Small Businesses Through GSA Schedules	$ 46,926,967	$137,655,848	$118,793,706	$157,228,730	$ 93,588,366
% of GSA Schedule Dollars Awarded to Small Businesses	26.33%	38.21%	41.41%	43.63%	38.74%

Statement of Roger Mosier
Vice President, Facilities
The John F. Kennedy Center for the Performing Arts
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Before the House Committee on Transportation and Infrastructure
Subcommittee on Economic Development, Public Buildings
and Emergency Management
September 17, 2009

Good afternoon, Madame Chairwoman, my name is Roger Mosier and I serve as Vice President of Facilities at the John F. Kennedy Center for the Performing Arts.

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

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

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

We appreciate the committee's interest in the promotion of small businesses and I hereby provide you with an overview of the Center's efforts to promote the use of small, minority and disadvantaged businesses in its contracting processes. In Fiscal Year 2009, the Center received direct federal funding of $21.3 million for the operations and maintenance of the presidential monument and $15.1 million for capital repair. While our contracting activities are quite small in comparison to the agencies appearing with me this morning, the Center is committed to awarding a fair portion of its Government purchases to small, minority and disadvantaged business enterprises.

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

Many basic services and minor repair contracts are awarded to small businesses, including minority-owned disadvantaged businesses. These contracts range in size from $3,000 for sign language interpretation for Federal employees to approximately $2 million for housekeeping services. On an ongoing basis, the Center utilizes small businesses for services such as elevator maintenance and inspection, asbestos abatement, indoor air quality monitoring, artwork and textile maintenance, pipe organ maintenance, emergency generator maintenance, fire pump maintenance, and various mechanical and electrical equipment inspection, repair, and maintenance services. Additionally, supplies such as carpet, air filters, paint, light bulbs, and plumbing pipe and fittings are regularly purchased from small businesses.

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

For general construction work, the Center has awarded a number of contracts to small businesses, ranging in size from $20,000 to $4.9 million. These have included recently completed work to upgrade life safety systems on the Center's Roof Terrace level and a project to paint the exterior columns of the facility. Both of these projects were completed within budget and on schedule. This summer, the Center awarded a construction contract of $4.9 million to a small business for the renovation of Concert Hall support spaces, including practice rooms, rehearsal rooms, lockers, and offices. This project is one of the largest capital projects currently in progress at the Center. Most recently, the Center awarded approximately $1.8 million in miscellaneous life safety work to a small business for construction work beginning in the fall of 2009.

The Center also has established open contracts with small disadvantaged general contracting businesses participating in the 8(a) program. These contracts are utilized for minor repair and significant maintenance projects that typically cost less than $250,000. The Center has worked with 8(a) firms for many years, and currently has four 8(a) firms under Indefinite Delivery Indefinite Quantity contracts. This summer, 8(a) firms refurbished the Center's coat check room, renovated the African Room, and repainted a significant portion of the Concert Hall ceiling.

The Center has achieved success in working within the 8(a) program by actively pursuing opportunities to promote the use of small, minority and disadvantaged businesses, including meetings with a marketing firm representing 8(a) firms. This

allows us to remain current on the breadth of companies participating in the program and their capabilities.

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

While not every contract can be awarded utilizing these small business vehicles, many of the capital projects outlined in the Center's five-year comprehensive building plan are of a size and complexity that fit with the services we obtain through our small business relationships. The Center's capital plan includes a number of relatively smaller infrastructure projects that the Center has been able to award to small businesses.

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

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

STATEMENT OF

TAMELA RIGGS

DEPUTY ASSISTANT COMMISSIONER,
OFFICE OF ACQUISITION MANAGEMENT

PUBLIC BUILDINGS SERVICE

U.S. GENERAL SERVICES ADMINISTRATION
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BEFORE THE

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

COMMITTEE ON
TRANSPORTATION AND INFRASTRUCTURE

U.S. HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2009

Good afternoon, thank you for the opportunity to appear before you today to discuss doing business with the government, and the General Services Administration's (GSA's) record and goals for Small, Minority and Disadvantaged Businesses. I am Tamela Riggs, Deputy Assistant Commissioner for the Public Buildings Service, Office of Acquisition Management at GSA. It is my pleasure to be here today.

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

GSA's focus on small business starts with our agency leaders who recognize the importance of small businesses' ability to get the work of the agency completed. We know that small businesses are the engine of our national economy and that they bring new and innovative solutions to Government challenges. A successful and strong small business community is integral to job creation, community empowerment and economic revitalization.

Our agency works hard to improve small business access to our procurement programs. GSA has continually increased its efforts to purchase products and services from small businesses, which has led to not only meeting our small business goals, but exceeding them.

At GSA, in FY 2008, over $1.8 billion, or 38.75 percent of all prime contract procurement dollars, went to small businesses. That impressive result is higher than the goal set by the Small Business Administration (SBA) and an increase of 13 percent over the FY 2007 level of $1.6 billion. We are proud that we have surpassed both the SBA goal and all of the socio-economic goals for federal agencies in FY 2008.

GSA is comprised of two services: the Federal Acquisition Service (FAS) and the Public Buildings Service (PBS). FAS creates procurement vehicles that cover more than four million commercial products and services, while PBS procures services related to Real Estate, Design and Construction, Disposal, Environmental and Operation and Maintenance. GSA's Office of Small Business Utilization (OSBU) provides resources for obtaining contract information relating to small businesses.

PBS' largest contracting areas are repair and alteration of buildings; construction of buildings; and operations and maintenance. In FY 08, of the more than $2.4 billion eligible in these areas, $1.2 billion, or 50%, was awarded to small businesses.

We are proud that we were able to exceed our goals in 2008, and look forward to continued significant small business awards. However, we recognize that the

large influx of funding for recovery projects, while increasing the overall amount PBS is able to award to small businesses, may negatively impact our percentage goals. Many of our projects funded by the American Recovery and Reinvestment Act, by nature of their size, complexity, and expedited delivery requirements, are likely to be won by large businesses. Therefore, GSA has significantly increased its small business outreach and education efforts, to heighten the small business community's awareness of Recovery Act contracting opportunities.

GSA remains committed to negotiating aggressive small business subcontracting plans with prime contractors. We are now publicizing prime contractor contact information online at gsa.gov, and hosting partnering events that provide opportunities for small businesses to present qualifications and form relationships with prime contractors. To further our achievements in subcontracting, GSA recently launched our Mentor-Protégé Program. This program is designed to encourage and motivate GSA prime contractors to assist all categories of small businesses and enhance the small businesses' performance capabilities.

GSA's support for small business doesn't end with our direct GSA contracting. GSA has a strong record of helping other Federal agencies achieve small business contracting through the FAS Multiple Award Schedules Program (MAS Program) and Government-wide Acquisition Contracts (GWACs).

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

The MAS program offers small businesses an expansive avenue of potential work with other Federal, State and Local Governments, international bodies, and the Legislative and Judicial branches. I am happy to report that 80 percent of the companies which hold GSA Schedule contracts are small businesses. In FY 2008, through the Schedules Program, Federal agencies awarded over $13 billion in schedule orders to small businesses, which is approximately 36% of the total dollars spent through the program.

The ordering procedures applicable to the Schedules Program encourage ordering activities to consider and, where applicable, give preference to small businesses. The e-Tools available to customers promote increased access to the small business community by allowing customers to search the various socio-economic categories. Contracting officers may make socioeconomic status a primary evaluation factor when making a best value determination.

In addition to the Schedules program, GSA offers a range of small business acquisition vehicles and solutions through our Small Business GWAC Center for information technology (IT) services and IT service-based solutions.

GSA has many resources available to help small businesses and provide them with useful information. Business activities are supported by program experts at GSA Headquarters, through OSBU, centers in 11 regional offices, and by small business technical advisors in our procurement offices. Our small business website (www.gsa.gov/sbu) provides links to a variety of resources and small business publications.

Madam Chairwoman, our agency is strong, innovative and determined to find new and promising ways to ensure our small business communities continue to partner and excel when working with us. I thank you for the opportunity to appear before you today. I will be happy to answer any questions you and other members of the Committee may have.

FY 2009 GSA PBS National Capital Region
Preliminary Small Business Goaling Achievement

Category	Award Obligation	%
Total Eligible NCR Award Obligations	$ 1,548,445,810	
Large Business	$ 1,305,576,565	84.32%
Small Business	$ 242,789,607	15.68%
Service Disabled Veteran Owned Business (SDVOB)	$ 10,518,511	0.68%
Woman Owned (WO)	$ 55,003,503	3.55%
Small Disadvantaged Business (SDB)	$ 141,431,634	9.13%
8 (a)	$ 117,739,868	7.60%
HUBZone	$ 11,328,188	0.73%

State	Total	Large Business	%	Small Business	%
DC	$ 1,411,790,049	$ 1,259,607,673	89.22%	$ 152,182,376	10.78%
MD	$ 91,185,132	$ 30,846,629	33.83%	$ 60,338,502	66.17%
VA	$ 45,390,991	$ 15,122,263	33.32%	$ 30,268,729	66.68%

Source: FPDS 10/04/2009

Questions for the Record-

Attached are answers from the questions for the record from the hearing held before the Subcommittee on Economic Development, Public Buildings, and Emergency Management on September 17, 2009, regarding the use of small business contracts with Federal agencies and organizations. Tami Riggs was the GSA witness. On September 17, 2009, testimony was presented to the Subcommittee on Economic Development, Public Buildings and Emergency Management regarding the use small business contracts with Federal agencies and organizations. The following is a list of questions that Chairwoman Norton would like answered for the record.

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1) Please lay out the criteria for what constitutes a small, disadvantaged, 8(a) firm.

The regulatory definition of a "small business concern", as illustrated at 13 C.F.R. sec. 121.105, states: "Except for small agricultural cooperatives, a business concern eligible for assistance from SBA as a small business is a business entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials, or labor."

Small Business: (See 13 CFR Part 121)

- The small business determination is in accordance with the SBA size standards.
- The SBA establishes small business size standards on an industry-by-industry basis.
- Small business size standards are applied by classifying the product or service being acquired in the industry whose definition, as found in the North American Industry Classification System (NAICS) Manual (available via the Internet at http://www.census.gov/epcd/www/naics.html), best describes the principal nature of the product or service being acquired; identifying the size standard SBA established for that industry; and specifying the NAICS code and size standard in the solicitation so that offerors can appropriately represent themselves as small or large.

Small Disadvantaged Business: (See 13 CFR Part 124)

- A small disadvantaged business (SDB) is a concern:
  Which qualifies as small under 13 CFR 121 for the size standard corresponding to the applicable four digit Standard Industrial Classification (SIC) code.

- For purposes of SDB certification, the applicable SIC code is that which relates to the primary business activity of the concern;
- For purposes related to a specific Federal Government contract, the applicable SIC code is that assigned by the contracting officer to the procurement at issue;
- Which is at least 51 percent unconditionally owned by one or more socially and economically disadvantaged individuals as set forth in Sec. 124.105; and
- Except for tribes, ANCs, NHOs, and CDCs, whose management and daily business operations are controlled by one or more socially and economically disadvantaged individuals. For the requirements relating to tribes and ANCs, NHOs, or CDCs, see 13 CFR124.109, 124.110, and 124.111, respectively.

Socially Disadvantaged: (See 13 CFR 124.103)

- Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities. The social disadvantage must stem from circumstances beyond their control.

- Members of designated groups. (1) There is a rebuttable presumption that the following individuals are socially disadvantaged: Black Americans; Hispanic Americans; Native Americans (American Indians, Eskimos, Aleuts, or Native Hawaiians); Asian Pacific Americans (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China (including Hong Kong), Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, or Nauru); Subcontinent Asian Americans (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands or Nepal); and members of other groups designated from time to time by SBA. Being born in a country does not, by itself, suffice to make the birth country an individual's country of origin for purposes of being included within a designated group.

- An individual must demonstrate that he or she has held himself or herself out, and is currently identified by others, as a member of a designated group if SBA requires it.

- The presumption of social disadvantage may be overcome with credible evidence to the contrary. Individuals possessing or knowing of such evidence should submit the information in writing to the Director, Office of Business Development for consideration.

- An individual who is not a member of one of the groups presumed to be socially disadvantaged must establish individual social disadvantage by a preponderance of the evidence.

Economically disadvantaged: (See 13 CFR 124.104)

Economically disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged.

Small Business 8(a): (See 13 CFR Part 124)

Selecting concerns for the 8(a) Program is the responsibility of the SBA and is based on the criteria established in 13 CFR 124.101-112. An 8(a) firm must meet the following criteria:

- It is a small business which is unconditionally owned and controlled by one or more socially and economically disadvantaged individuals as defined above, who are of good character and citizens of the United States, and which demonstrates potential for success.

2) Since the development of the St. Elizabeths Campus is the largest PBS project currently undertaking, the small business opportunities should be plentiful. What are the goals for the entire campus?

NCR's goals are to achieve 40% small business participation for the new Department of Homeland Security headquarters campus at St. Elizabeths.

3) How does the agency handle small contracting disputes?

Disputes are managed by the contracting officers in accordance with the Federal Acquisition Regulation (FAR). For small businesses, the FAR requires the contracting officer to make every reasonable effort to respond in writing within 30 days to any written request with respect to a contract administration matter.

A formal dispute under the Disputes Act, involving a small business, is managed in the same manner a dispute would be if it was a larger business. However, the relief that follows after is different for small business disputes. Small business concerns may be paid costs for consultants and expert witness fees that exceed the requirements in 5 USC 3109 and 5 CFR 304.105 and attorney fees that exceed $150 per hour.

4) How large is the staff that supervises your small business program?

The Office of Small Business Utilization has seven current employees. There are currently five vacancies, two in the process of being filled.

5) What type of services do small businesses actually provide for your agency, that is GSA?

Small businesses perform services for GSA at every level, from the important, small-scale tasks involved with maintaining our buildings to the broad-based planning and support that reaches across our entire organization.

The largest effort that a small business has won for GSA is our infrastructure support contract, also known as the GSA Infrastructure Technology Global Operations (GITGO) contract. It is a $250 million effort over five years. The current contractor is a Service Disabled Veteran Owned Small Business.

Small Businesses also provide support for Fedbizopps and the Federal Procurement Data System - Next Generation (FPDS-NG) initiatives that reach large portions of the Federal Government and also allow small businesses to learn about and participate in Federal projects.

Finally, most of our facilities' maintenance services are provided by small businesses in the GSA controlled Federal buildings. These services range from grounds maintenance to repair and alterations to elevator maintenance, and are a vital part of keeping our Federal buildings functional and welcoming.

These are just a few examples of the valuable partnerships GSA pursues with the small business community.

6) How does GSA track participation in small business contracts?

GSA uses the Federal Procurement Data System (FPDS) to monitor progress against socio-economic goals. This system maintains and updates the set of official SBA goaling reports, used to monitor each agency's small business awards. In accordance with regulations, GSA reports contracts and contract details for all actions over $3,000 to the FPDS system.

The socio-economic information for each vendor is provided by the vendor themselves through their Central Contractor Registry (CCR) profile. The FPDS system pulls the vendor's socio-economic information from CCR at the time of the contract award, and appends this information to the contract award record submitted by the agency.

7) What are the percentages and dollar amount of small business awards in the National Capital region? Please detail by jurisdiction and identify the small businesses.

Please see attached. The data that is reported represents the total contracts awarded?/disbursed? in FY2008.

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

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

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

September 17, 2009

Thank you, Madam Chair, for inviting me to participate in today's hearing. As the Capitol Visitor Center prepares to welcome its two-millionth visitor, we are on track to double the number of visitors to the Capitol as compared with previous years. We are pleased at this outcome, and even more pleased to report that the average time a visitor waits before entering the facility is six minutes. This compares with a wait that could have stretched to several hours in recent years.

The Capitol Visitor Center is also providing the public with opportunities to experience Congress' rich history in the Exhibition Hall, which will feature approximately 50 new historic documents beginning October 12. I am also pleased to announce that from today through September 23, we will host a series of public programs to celebrate Constitution Week at the Capitol. We hope that families and educators, as well as visitors from throughout the United States and abroad, will take advantage of these offerings.

The Capitol Visitor Center's goal to work with and develop new opportunities for small and minority businesses is in line with the goal of the Architect of the Capitol. My staff and I have worked aggressively to hire personnel and award contracts to individuals and small companies that reflect the diversity of our country. I believe that such an effort enhances our ability to serve Congress and all who visit the U.S. Capitol.

Specifically regarding our procurements, the Capitol Visitor Center team follows the policies of the Office of the Architect of the Capitol. As we move forward, we are incorporating the aims of the small business program which Mr. Ayers discussed in his testimony.

At the present time, based on our continuing internal assessment of products in our Gift Shops, more than 70 percent of the merchandise is produced by small business vendors. Approximately 25 percent of our vendors are women-owned businesses. As we are still in the "ramp-up" phase of operations, we are constantly reviewing our merchandise and our vendors in order to make sure that we are offering our visitors high quality merchandise while using a variety of vendors.

Along these lines, we are working with officials at the U.S. Small Business Administration and the Government Printing Office to explore opportunities for increasing the percentage of minority, disadvantaged, and small business vendors who are contributing to our Gift Shop inventory. One of our goals is to hold a small business fair and invite vendors to speak with Gift Shop representatives regarding their products and the potential for sales at the Visitor Center's Gift Shops.

The Gift Shops are also developing a purchasing strategy to enable the Capitol Visitor Center to showcase merchandise representative of the states and territories of the United States. We anticipate that the results of this strategy will be apparent in the Gift Shops by spring 2010 during our busiest visitor season. Attracting and working with small, minority, and disadvantaged businesses will play a major part in the development and success of this strategy.

We have also reached out to merchandising trade organizations including the Museum Store Association and the producers of the New York International Gift Fair for information on minority-owned small businesses in order to further expand our reach and support of these businesses.

Madam Chair, you have my commitment that I will continue to work to ensure that we do business as much as possible with small, minority, and disadvantaged businesses.

Thank you. I am happy to answer any questions.

RESPONSE TO FOLLOW-UP QUESTIONS
TERRIE S. ROUSE
Chief Executive Officer for Visitor Services
for the Capitol Visitor Center, Office of the Architect of the Capitol

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

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

September 17, 2009

Ms. Rouse, please explain how you are working with the SBA and the Government Printing Office to expand small business opportunities.

The Capitol Visitor Center falls under the policies of the Architect of the Capitol (AOC), and the Architect has implemented a small business set-aside program that will assist in reaching more small businesses. The Memorandum of Understanding (MOU) between the AOC and the Small Business Administration (SBA) provides for a cooperative working relationship between the two entities. Under the MOU, the AOC has committed all of its procurements under $100,000 to be restricted to small businesses; and the SBA will provide technical assistance to the AOC process to identify, attract, and procure small businesses.

We are using the SBA and the Government Printing Office (GPO) as resources and technical experts in sourcing products produced by small and minority vendors for the Capitol Visitor Center's two gift shops. The SBA and the GPO will be able to offer us a pool of vendors outside of those we may locate through more traditional sources. We have had initial meetings with officials at the GPO. Our Merchandising Department is developing a list of requirements and desired products for our shops that will continue to ensure we offer visitors a selection of products that are high-quality and represent the diversity of manufacturers nationwide. Our internal staff includes individuals who bring extensive past experience working with these agencies and will be able to offer us guidance as we move forward.

Have you set up internal goals for your small business program?

Our goals are in line with the goals established by the Architect of the Capital, and we will be setting up internal check points to monitor and evaluate our progress in managing our vendor matrix. Prior to, but also in line with the signing of the MOU, the Visitor

Center gift shop staff initiated a strategy to increase the representation of minority, disadvantaged, and small businesses in the gift shops vendor structure the includes the following actions:

- Review current vendor structure and identify the percentage of businesses currently represented by small, disadvantaged, and minority businesses. We are building processes to systematically track this information by working with our internal IT department and the business partner supporting the gift shops point of sale system.

- Review spring business and merchandising plans to identify opportunities to increase the percentage of small, disadvantaged vendors in the assortment. With approval from our oversight committees, we hope to undertake a pilot project that would allow us to have a section in each shop dedicated to a specific theme and supported by regional vendors from across the country. The goal would be to offer the customer a unique selection of products that highlight the diversity of manufacturers across the United States.

Each of these strategies conforms to the goals of the MOU, and, in addition, the Capitol Visitor Center will support the MOU in the following ways:

- In conjunction with the Architect of the Capitol Procurement Office, begin work to set up a vendor fair to recruit new small businesses that can produce products for the gift shops.

- Work with the AOC Procurement Department to use the General Services Administration system and GPO effectively as sources for vendors.

- Identify additional resources needed to support the initiative.

How large is the staff that supervises your small business program?

Our retail staff includes three full-time merchandise positions that are dedicated to sourcing and developing products and programs for our two gift shops. We have recently hired a new General Manager for our gift shops who has prior experience working with minority and small business in the retail environment.

Testimony Before The
U. S. House of Representative
Committee on Transportation and Infrastructure
Subcommittee on Economic Development, Public Buildings, and Emergency Management Subcommittee
Eleanor Holmes Norton, Chairwoman

Hearing on "Doing Business with the Government: The Record and Goals for Small, Minority, and Disadvantaged Businesses"
By
Rosalind Styles Stephenwoof, President & CEO
Capitol City Associates, Inc.

Good afternoon Congresswoman Norton, Chair, Ranking Member, Diaz-Balart and members of the Subcommittee on Economic Development, Public Buildings, and Emergency Management, thank you for the opportunity to appear before you today. My name is Rosalind Styles Stephenwoof, and I am President and CEO of Capitol City Associates, Inc., an African-American, woman-owned, small and disadvantaged professional consultant firm located in the esteemed Anacostia neighborhood of Washington, DC. Capitol City was established solely for the purpose of assisting Federal and local entities, major corporations and private developers to maximize the participation of local residents and businesses within communities to participate in the revitalization of their neighborhoods.

Capitol City has worked with communities in Washington, DC and now has extended its work to Maryland and Northern Virginia working to negotiate relationships with owners of development projects and establishing partnerships with resident organizations so that the inclusion of local businesses is inherent in the design and construction of projects. Capitol City also works to develop capacity-building skill-training programs (i.e., pre-apprenticeship and apprenticeship training, administrative office, property management, communications system operations training) that helps people to not only effectively compete for employment during the construction of projects but also as employees during the operations of the facilities post construction. Most of the

partnerships implemented written agreements which included a process for monitoring and enforcement.

Capitol City is a public/private expert, having successfully assisted the Government of the District of Columbia to change the laws governing the participation of local, small and disadvantaged business enterprises on City-funded projects from a goal to a requirement and we continue to monitor compliance on Federal, local and private development initiatives to ensure the full participation of the small and disadvantaged business community in construction-related projects.

I offer my congratulations and support to you, Congresswoman Norton, for spearheading this initiative on the Federal level and working to ensure that local residents and businesses are able to participate in the construction marketplace on projects under her purview. I have witnessed firsthand the instrumental role you have played to include the United States Recovery Act dollars in GSA's redevelopment of the St. Elizabeths West Campus in Southeast, Washington, DC. An unprecedented requirement has been included in the solicitation for Construction Management and General Contractor teams to establish and maintain a plan for pre-apprenticeship and apprenticeship training programs to be incorporated into their construction plan.

This brings me to my review of the General Services Administration (GSA) and its support of small business and entrepreneurial participation in this historic development initiative. St. Elizabeths West Campus sits in one of the most highly-distressed neighborhood in the country. The *State of the Economy* recently reported that the current recession has lasted longer than any recession since the Great Depression; that the unemployment rate is the highest it has been in 26 years and that unemployment in the construction industry is at the highest unemployment rate of any industrial section. In comparison, the residents of the Ward 8 community surrounding this development project have lived with these distressed economic standards for generations. It would be a great disservice for our community if the first recipients of the economic recovery

possible from this project provided by the United States does not benefit the residents and local businesses impacted by this multi-billion dollar development initiative.

Over the past five years, GSA has facilitated dialog with the Ward 8 community to gain input and garner support in development of the St. Elizabeths West Campus, but I think GSA can do more to expand its public engagement efforts:

Engage in Deeper Outreach

- Create smaller work groups, advisory committees and community engagement venues designed to advise residents and local businesses of employment, training and business opportunities
- Initiate alternative marketing tools for distribution in communities that are more sensitive to the neighborhoods and its constituents

Provide Technical Support

- In partnership with the Small Business Administration, provide one-on-one technical support to assist local small businesses to achieve Federal certification.
- Conduct assessment of current business and provide a roadmap to become competitive in the construction marketplace
- Provide financial counseling for businesses and avenues for assistance with bonding, start-up cost, personnel and other businesses expenses

Provide Employment and Training Opportunities

- Create partnerships with established local supportive-service programs and training providers to recruit residents for employment opportunities.
- Utilize specialized resident advocacy agencies and organizations (i.e., ex-offender, public housing, human services, etc.) who are currently subsidized by Federal programs to refer local residents and assist with on-going counseling services throughout their employment.

The next step to successfully implement these programs and services is accountability. GSA should include a strong monitoring and compliance component. Developers, General Contractors and Prime Contractors have historically maintained as their "bottom line" having a project to come in "on time and under budget." The inclusion of alternative recruitment, training and employment programs and services in their opinion has negatively impacted their "bottom line."

GSA and all Federal small and disadvantaged business participation should be a requirement, not a goal. All contracts utilizing Federal funds should include strong enforcement language that does not only state possible penalties for non-compliance but should outline the process for the enforcement of penalties by the withholding of funds and payment of fines. Goals and requirements can only be stated by financial retribution can ensure compliance.

Lastly, I wish to add that since 2005, I have served as the President of the National Association of Minority Contractors-Washington, DC Metropolitan Area Chapter. Wearing that hat, I would like to address our organization's concern regarding the possible implementation of a Project Labor Agreement on any Federal construction project.

Over the past forty years, NAMC has served as an advocate for minority contractors throughout this country. Designed to address the needs and concerns of minority contractors and create parity in the construction industry, NAMC has aggressively pursued equity in contracting for small, minority and disadvantaged businesses. NAMC-WMAC's local membership also includes women-owned, HUBZone and Veteran-Owned businesses.

In the Washington, DC Metropolitan Area which includes the Federal enclave, we have several significant construction projects planned or underway. Because of the state of the national economy, construction firms and their employees are saturating our area to compete in the construction marketplace. Due to paucity of minority contractors in the

construction industry, our members cannot compete with the established unionized labor force through Project Labor Agreements. If any of these highly-competitive federal construction projects fall under Project Labor Agreements an alarming number of minorities and females workers and minority contractors living and working in Washington, DC and the surrounding area will be denied access to a vital opportunity for work. NAMC-WMAC would like to continue our dialogue with this committee regarding the implementation Project Labor Agreements. We can provide you with statistical data from the U. S. Department of Labor which can outline the status of journeymen employees by race and gender within each construction trade, which will validate the significant disparity in the construction trade by race and gender. We are commitment to work with this committee to craft a process for the local, minority and women-owned businesses are at the forefront on the redevelopment of our cities and our neighborhoods.

Capitol City Associates, Inc. and the National Association of Minority Contractors—Washington, DC Metropolitan Area Chapter stands ready to assist this committee to increase the participation on small and minority businesses doing business with the Federal Government. I thank you for your time.

Prepared and Submitted By:
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Subcommittee on
Economic Development, Public Buildings, and Emergency Management

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

Rudy D. Watley
Supplier Diversity Program Manager
Office of Equal Employment and Minority Affairs
17 September 2009

Chairwoman Norton and other distinguished members of Congress in attendance, good morning. My name is Rudy Watley; I am the Supplier Diversity Program Manager in the Office of Equal Employment and Minority Affairs at the Smithsonian Institution. On behalf of the Institution, let me express my appreciation to you for holding this hearing on the use of small, disadvantaged, minority and women-owned businesses in federal operations and let me thank you for inviting the Smithsonian Institution to participate in this discussion and share with you a few of our supplier diversity program achievements and ongoing initiatives.

The Smithsonian is the world's largest museum and research complex. With 19 museums, nine research centers, 137 million artifacts, 18 libraries, and the National Zoo, the Smithsonian stands out as a unique entity, a leader in science, research, history, art, and culture.

The Smithsonian Institution is a trust instrumentality of the federal government that has been a public-private partnership since its establishment 163 years ago. Our mission is: "the increase and diffusion of knowledge" and the support of the Administration and the Congress is essential to the achievement of this mission. The Institution's leadership believes that diversity and inclusion are integral components to the mission and is expressly committed to diversity in all aspects of its workforce and business operations. Diversity and inclusion have long been part of the Institution's strategic and performance plans, policy statements and other directives. Doing business with small, minority, and women owned businesses is a reflection of that commitment.

Over the past three years, the Institution has spent roughly 40 to 50 % of its contracting and procurement dollars with small businesses. And, as indicated in the materials attached to my written statement, you can see that the Institution has consistently achieved and exceeded all of its procurement preference goals, except for one....service disabled veteran-owned businesses. Our SDVOSB goal, like the SBA's government –wide goal, is 3%. And over the past year, we have increased our use of these firms from 1% in fiscal year 2007 to 2.8% in fiscal year 2008. We have made progress and we are actively pursuing and zeroing in on projects that can be performed by these firms. As shown on the chart provided for fiscal year 2009, we have

exceeded and more than doubled our accomplishments. These accomplishments speak for themselves.

Specifically, we have spent 49 percent of federal contracting dollars with small businesses; a whopping 20 percent with small and disadvantaged businesses; 12 percent with 8(a) small disadvantaged businesses; 10 percent with women-owned businesses; and we found a way to exceed our HUB-Zoned goal with 5.7 percent of our contracting dollars to these firms. While achieving our procurement goals for service disabled veteran businesses remains a challenge, we are actively pursuing opportunities to do business with these firms

The success of the Smithsonian Institution's supplier diversity program is the result of unwavering commitment from the top starting with the Secretary. Dedication and collaboration from all managers and perseverance on the part of all procurement officials are the ingredients to making this program work as well as it does. And I'm pleased to say that the collaborative relationship among the supplier diversity program office, the office of contracting, procurement and property management as well as the major buying units at the Smithsonian Institution is exemplary.

Let me share with you some of our supplier diversity accomplishments this year. Thirty-eight percent (38%) of American Recovery and Reinvestment Act funds allocated to the Institution were spent in contracts to minority/small businesses. Specifically, $9.5 million of the $25 million the Smithsonian received in Recovery Act funds were obligated to 8(a) small businesses. Using our supplier diversity program infrastructure, we were able to move swiftly to galvanize and employ these firms to participate in this great opportunity. This is a testimony to the effectiveness of our program and the Institution's commitment to supplier diversity.

Let me share one more example of the success of the Smithsonian's commitment to supplier diversity that I believe will have historic significance. As a result of aggressive outreach initiatives, minority-owned firms were identified and competed in the design competition for the new National Museum of African American History and Culture, and the winning firm is minority-owned. We are currently in negotiation with a minority joint venture to perform the architecture and engineering design services for the new museum. We are particularly proud of this accomplishment.

In closing let me reiterate, as evidenced by our accomplishments, the Smithsonian Institution's commitment to diversity throughout its operations remains strong. And, we will continue to engage a wide array of small, disadvantaged, minority and women-owned businesses as well as service disabled veteran owned firms in our business relationships.

Thank you again for this opportunity to share our story and I am happy to answer questions.

Subcommittee on
Economic Development, Public Buildings, and Emergency Management

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

Rudy D. Watley
Supplier Diversity Program Manager
Office of Equal Employment and Minority Affairs
17 September 2009

1. **With 19 museums, has any one of the individual museums done exceptionally well with their small business procurement program?**

   Smithsonian's Office of Contracting and Procurement and Property Management handles the procurement of large dollar contracts for each museum on a centralized basis. Smithsonian policy is that all small dollar purchases less than $100,000.00 be set aside for small businesses when practicable, and all museums follow that policy. The Smithsonian unit that has done exceptionally well is the Office of Facilities, Engineering, and Operations. This unit is responsible for the construction, facilities repair, and maintenance of all Smithsonian museums and has the largest procurement budget.

2. **Did that museum offer any insight on their performance?**

   Each museum's performance is closely tied to the commitment, collaboration, and coordination that exist among the Supplier Diversity Program office, the Office of Contracting and Personal Property Management, Office of Facilities, Engineering and Operations, and each Smithsonian buying unit. An individual museum's performance is shepherded by their director and a supplier diversity liaison who encourages the units' procurement officials to seek out and utilize small businesses that can provide the necessary goods and services.

3. **What has been the most successful form of outreach to small businesses?**

   The Smithsonian's most successful form of outreach has been site visits to 8(a) small businesses. We asked these vendors to show us their best work and visited their marquee projects. These visits facilitated a better awareness of the contractor's ability to perform on Smithsonian projects and provided the vendors a greater understanding and appreciation of what is needed to meet the Smithsonian's unique requirements. The second most successful form of outreach has been the Smithsonian's participation in small business procurement fairs that have provided excellent opportunities for the exchange of information about the Smithsonian's needs and for identifying new suppliers of goods and services.

4. **How large is your office and to whom do you report?**

   The Smithsonian Institution Supplier Diversity Program Office consists of the Director and one Supplier Diversity Program Manager. The Director reporting directly to the Secretary of the Smithsonian also serves as head of the Institution's Equal Employment Opportunity Program.

5. **On page 2 you mention that Smithsonian has allocated 38% of its recovery dollars to minority/small business. Can you give a breakdown of the number? 38% means how many dollars? What type of businesses received recovery funds?**

   Eleven Recovery Act contracts have been awarded to 8(a) small businesses. $9.5 million dollars of $25 million have been awarded to 8(a) small businesses for a total of 38%. General construction, facilities engineering and maintenance contractors received the majority of the Recovery Act funds.

Statement of

Mr. Joel P. Zingeser of Grunley Construction Company, Inc.

on behalf of

The Associated General Contractors of America

to the

Subcommittee on Economic Development, Public Buildings and Emergency Management

Committee on Transportation and Infrastructure

U.S. House of Representatives

For a hearing on

"Doing Business With Government: The Record and Goals for Small, Minority and Disadvantaged Businesses"

September 17, 2009

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

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Statement of Mr. Joel P. Zingeser
Grunley Construction Company, Inc., Rockville, Maryland
Subcommittee on Economic Development, Public Buildings and Emergency Management
Committee on Transportation and Infrastructure
United States House of Representatives
September 17, 2009

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

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

Contracting Reform Issues

AGC supports procurement reform to improve delivery of federal construction services. Reform of the federal procurement process should recognize construction's unique melding of industry sectors while ensuring the government is using the most cost-effective method of procurement.

AGC is working to foster a business climate that enhances opportunities for all businesses. Construction is an intensely competitive industry, and we believe that competition penalizes any firm that resorts to discrimination. To succeed, construction firms have to focus on price, quality and reliability. Our members recognize the benefits that the 8(a) program and the Disadvantage Business Enterprise (DBE) programs have to contractors who qualify for these programs. We also have growing concerns about the need for Federal decision-makers to address the challenges small businesses that do not qualify for any special preferences are facing in today's harsh economic conditions. We believe that current Federal rules need to be updated to generate more collaboration, mentoring and assistance no matter who is the business owner.

AGC would like to discuss issues surrounding a wide range of concerns and recommendations we have for improving the Federal market.

Subcontracting Goal Achievement

Current SBA rules require small business set-asides and establish small business goals to be met by large businesses to assure that significant portions of federal procurement dollars flow to small business firms. But the rules for keeping track and measuring the actual flow of dollars to small businesses do not take into account the actual amounts that flow down below the first tier level of subcontracting. Within the construction industry, the bulk of the work is performed by subcontractors who in turn hire second tier and third tier firms to perform elements of the project. Under the current system, if an other-than-small business is included as a first-tier subcontractor, the prime contractor is not asked to report further dollars that are going to small businesses below the first tier subcontractor. This is because the contracting agency is not allowed to take credit for those dollars towards its goals. Allowing prime contractors to report small business subcontracting at all tiers would demonstrate true small business participation on a federal contract and would show more accurately how the construction industry supports and is dependent upon small businesses.

The current system leaves prime contractors with subcontractor choices for larger projects that are beyond the capacity (especially bonding capacity) of small businesses, but it is well understood that much of the work will flow down to small businesses. Changing the scoring system will let prime contractors determine the best mix of large and small subcontractors according to capacity and availability. Accurately accounting for small business participation helps federal agencies better meet set-aside goals established by the Small Business Act and helps prime contractors get credit for small business participation in government contracts.

The shift to Electronic Subcontractor Reporting System (eSRS) by the federal government provides the opportunity to correct this problem. The system has the capability to track and report small business subcontractors on multiple tiers, yet current rules do not encourage prime contractors and their subcontractors to account for total small business participation at all tiers. AGC recommends Congress direct a change to the system through legislation to potentially help all parties track the dollars flowing to all small businesses.

Contract Bundling

Contract bundling is the process of consolidating contracts into a single contract that limits small business participation which is especially detrimental to the construction industry, because it is predominately comprised of small businesses. Increasingly, the federal government is awarding ever-larger contracts for public works and infrastructure projects. These mega-projects reduce bidder competition and aggregate project risk, and may challenge surety capacity, sometimes necessitating percentage or partial bonds instead of bonds covering 100 percent of the contract price. The Federal government needs to find ways to unbundle extraordinarily large construction projects, so more contractors can compete for these projects and so these projects are fully covered by the performance and payment bonds. Reducing government contract

bundling would increase competition on federal procurements and would enhance benefits to the government and provide added opportunities for small businesses to attain government construction contracts.

Federal Acquisition Workforce

Recruitment, retention and training of the government workforce should be a high priority for both government and industry. As you can already see from our concerns about contract bundling, an understaffed federal acquisition workforce is suffering from the pressures of an already challenging procurement environment. The shrinking acquisition workforce is an ongoing problem and will exacerbate as the number of procurements continues to grow.

According to the Government Accountability Office, the government bought $400 billion in goods and services in fiscal 2006 with only 20,000 contracting specialists in the workforce.

About one federal acquisition professional in eight already is eligible to retire, and that will rise to more than half the workforce by 2016. The average retirement eligibility for contracting professionals will increase from 29 percent in FY 2011 to 50 percent in FY 2016.

We fear that the Federal government workforce challenges may only get worse in the coming years. In order for the government to meet its many missions, it will have to do a better job of recruiting, hiring and training new employees. Given that the government's purchase of goods and services is at an all time high, it is essential that the government acquisition positions be fully staffed. This problem needs to be addressed in the near-term to avoid the negative ripple effects that a strained workforce can have on all facets of contracting.

HUBZone Program

The stated goal of the HUBZone program is to "increase employment opportunities, investment and economic development" in the low income and/or high unemployment areas that meet the federal definition of a "historically underutilized business zone." AGC understands the broad social objectives of the program but not how the Small Business Administration (SBA) currently applies the program to the construction industry. We are also greatly concerned about several recent reports issued by the Government Accountability Office (GAO) investigating the HUBZone program. These reports have found that this program is fraught with waste and abuse. Given these concerns, we would prefer Congress suspend the program. Short of this action, we have developed several recommendations designed to improve this program and would be pleased to share our recommendations with the Committee.

Alaska Native Contracting

Alaska Native Corporations (ANCs) were established in order to settle many long-standing land claims and to foster economic growth for Alaska and Alaska Natives. In 1986, legislation was passed to allow ANCs to participate in the SBA's 8(a) program for socially and economically disadvantaged businesses. Under this legislation, ANCs have extraordinary and unique preferences over other 8(a) firms that have contributed to reduced Federal contracting opportunities for traditional small businesses. The General Accountability Office has issued several important reports and recommendations on improving this program and we urge the SBA to implement them as soon as possible.

Agency Consistency

As a matter of policy, AGC recommends that agencies with large regional offices continue to work to promote the implementation of uniform agency policies that will provide greater consistency in the construction process. Many of our members have repeatedly found wide variances in regional operations, contract administration and administrative practices. Such can produce serious administrative and communication problems and can discourage contractors from continuing to work in the Federal market. We are pleased that the General Services Administration has worked very hard to ensure consistent communication and consistency between regional offices over the past several years and hope that trend continues into the future.

Project Labor Agreements

At the outset, AGC wishes to explain its overall position on PLAs. AGC neither supports nor opposes PLAs *per se*. What AGC strongly opposes is *government-mandated* PLAs on any publicly funded construction project. AGC is committed to free and open competition in all public construction markets and believes that publicly financed contracts should be awarded without regard to the labor relations policy of the government contractor. AGC believes that neither a public owner nor its representative should mandate the use of a project labor agreement that would compel any firm to change its labor policy or practice in order to compete for or to perform work on a publicly financed project. AGC further believes that the proper parties to determine whether to enter into a PLA and to negotiate the terms of a PLA are the employers that employ workers covered by the agreement and the labor organization representing workers covered by the agreement, since those are the parties that form the basis for the employer- employee relationship, have a vested interest in forging a fair and stable employment relationship, and are authorized to enter into such an agreement under the National Labor Relations Act.

AGC has submitted comments to the July 14, 2009 proposed rule (FAR Case 2009-005) that would implement Executive Order 13502 ("Use of Project Labor Agreements for Federal Construction Projects") to determine the effect this proposed rule will have

on Federal procurement policy and the cost of doing business with the Federal government. We would be pleased to share a copy of our comments to the Committee.

Conclusion

Thank you for the opportunity to provide our views on working with the Federal market. We believe this market offers tremendous opportunities for both construction contractors and the Federal government. AGC looks forward to continue working with the Subcommittee on these critically important issues.

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The Economic Impact of Construction in the United States

The Impact of Nonresidential Construction on GDP, Earnings and Jobs:

- An additional $1 billion in nonresidential construction spending would add about $3.4 billion to the Gross Domestic Product (GDP), about $1.1 billion to personal earnings and create or sustain 28,500 jobs.
    - 9,700 jobs would be *direct* construction jobs located in the state of investment.
    - 4,600 jobs would be *indirect* jobs from supplying construction materials and services. The majority of these jobs would be located within the state of investment but there would be some out of state jobs supported.
    - 14,300 jobs would be *induced* when workers and owners in construction and supplier businesses spend their incomes locally and nationwide.

Construction Employment:

- In 2007, a total of 17.9 million jobs were supported by the direct and indirect outlays associated with nonresidential construction spending. The construction industry (residential plus nonresidential) employed 6,148,000 workers in July 2009, a decrease of 1,589,000 (21%) from January 2007 when construction employment in the United States peaked.

Nonresidential Construction Spending:

- Nonresidential construction spending in the United States totaled an estimated $715 billion in 2008. This direct construction spending contributed a total of $1.5 trillion (10%) to the GDP of $14.4 trillion.

Construction Materials, Supplies and Machinery:

- In 2008 U.S. manufacturers shipped $520 billion in construction materials and supplies and $30 billion in new equipment.

Construction Industry Pay:

- In 2008 annual pay of all construction workers in the United States averaged $49,000, 8% more than the average for all private sector employees.

Small Business:

- The United States had 811,500 construction firms in 2007, of which 91% were small businesses employing fewer than 20 workers.

Source: Ken Simonson, Chief Economist, AGC of America, simonsonk@agc.org, from Prof. Stephen Fuller, George Mason University, and U.S. Government sources

Updated: August 31, 2009

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Good Morning, Mrs. Chairman and Members of the Committee. My name is Richard Copeland. I am the Chairman of Thor Construction, Inc. and am submitting my full statement to the Committee, which I ask be part of the record.

I have formerly participated in the 8(a) program and been designated as a DBE and MBE. Within a macro-economic context of obstructed capital formation to the historically underutilized markets, in particular minority firms and labor, I have found a way to experience a relative level of success as one of the largest African-American-owned contractors in the U.S. despite the circumstances. However, that success continues to be limited by the false proclamation of "we cannot find MBE firms with capacity" and comes at the expense of a "creaming" process that significantly neglects the creation of opportunities for small and disadvantaged businesses.

I have been at the forefront of the argument to support and enforce the laws to reduce discrimination and increase objectivity and fairness in the contracting and hiring process for decades. Historically, the outcomes reinforce that benevolence and fairness are hindered by racism, sexism, classism and a transfer-of-wealth methodology that is further widening the gap between the "haves" and "have nots" of our economy and society. This is not cogent practice for the sustainability of America. The impacts of the recession have been felt disproportionately by firms and individuals that can least afford it. Despite the immediacy of needs affiliated with the recession mitigation strategy, America must think ahead of the curve to sustain its market leading position. The assumption of labor surplus will not be constant and the pace of labor exits will exceed the supply capacity over the next decade. America must invest in the historically underutilized markets and commence increased capital allocation: human (education and skills training) and financial (jobs and contracts) in order to sustain our economy. In an environment where entrepreneurialism becomes the primary attraction and incentive to potential labor, policy and legislation must focus on the allocation of capital to underutilized contractors to provide efficacy to such a brand. Construction is an optimal industry to implement this strategy based upon its low barriers to entry. This provides an undeniable economic impetus for increasing opportunities for historically underutilized contractors that have been missing from the argument.

From a micro-perspective, the following are best practices that MNDOT can implement to improve their outcomes regarding goals versus actual. The best practices pre-dominantly deal with enforcement issues and must be included in legislative policies and programs supported by Congress:

Goal Setting

- Utilize a current disparity study to establish baseline goal
- Consistently replace antiquated study
- Make appropriate budget allocations for current/replacement study
- Set goals annually by January 1st

Good Faith

- Good Faith solely means meeting or exceeding the goal
- Each Prime must submit a DBE list attached to their bid (including DBE Name, Contract Value in $, and %)
- A line item should be added to the bid form that depicts whether the Prime met the goal in order to ensure it is public knowledge
- Sanctions should be 3 Strikes Rule & Liquidated Damages
    - "3 Strikes Rule" –
        - 1st Violation = Liquidated Damages

        - 2nd Violation = Liquidated Damages x 2
        - 3rd Violation = No Bid Status for 1 Year
    - Liquidated Damages;
        - At-Bid = bid amount is increased ($ for $) by the variance between the goal and actual bid. For example, a $1,000,000 bid with a 10% goal ($100,000) and the actual DBE participation is $20,000. The bid would be modified to $1,080,000.
        - Project Closeout = amount is deducted from contract value as a change order based upon the variance between goal and actual DBE participation results. See example above.
- Reconsideration Committee should be a 3 member group comprised of 1 representative of each of the following groups:
    - AGC
    - AWC
    - NAMC

Capacity Building

- Institute a Collaborative Training Project, which consists of allocating a project to be bid solely (all divisions) by a collaborative pool of certified DBEs.
- Collaborate with a reputable 3rd party provider with a turnkey technological and programmatic solution to aid DBE Capacity Building (i.e. Dunwoody's DES Solution)
- Ensure that 25% of the available, eligible firms are certified every year for 4 years.
- Allow Mentor-Protégé Agreements to extend beyond Prime-DBE, in particular DBE-DBE Agreements.

Compliance/Accountability

- Create and leverage a Task Force responsible for quarterly audits of all projects let in the previous quarter.
- Primes must produce a monthly DBE $ spent report that will be posted on the MNDOT website.

This is my testimony and I contend that it provides a macro-economic context with micro solutions that can be implemented as best practices immediately if it is supported by this Committee and the associated bill.

Sincerely,

Richard Copeland