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In The News:**Think Tank Urges Congress to Limit Growth of Noncompetitive Contracting**

Congress should more closely monitor and limit the federal government's growing use of contracts awarded without full and open competition, a self-described "progressive" think tank said in a report released May 14.

The Center for American Progress (CAP), founded by former Clinton administration chief of staff John Podesta, asserted in its report that "noncompetitive contracting has more than doubled during the first half of this decade." The report also charged that there are "clear indications that serious contract abuse has become a widespread problem affecting programs and agencies across the entire government and involving tens of billions of dollars in federal funds annually."

The release drew immediate responses from the Office of Management and Budget and the Professional Services Council. PSC, whose members provide professional services under contracts with federal agencies, called the report "little more than a collection of rhetoric and anecdotes." OMB did not mention the report, but issued a fact sheet entitled "Competition Has Remained Steady During Bush Administration."

The CAP report, authored by Senior Fellow Scott Lilly, quoted figures compiled for Rep. Henry Waxman (D-CA) in 2006 by the Democratic staff of what was then the House Government Reform Committee. According to these figures, between fiscal year 2000 and FY 2005, federal contract spending grew from \$203 billion to \$377 billion, an 86 percent increase. Over the same period, the value of contracts not subject to full and open competition grew from \$67 billion to \$145 billion, a 115 percent increase.

"Congress has amended CICA [the Competition in Contracting Act] three times since 1984 and each time it has made it easier for program managers and contract officers to avoid full competition when awarding contracts," the report said. While supporters of the changes--which involve areas such as commercial item procurement and indefinite delivery/indefinite quantity (ID/IQ) contracting--may have had good intentions, "their practical application has been to reduce competition, increase prices, and open the process to political manipulation--and, in some instances, fraud."

Although the new Congress has made "a good start" in asserting its executive branch oversight responsibilities, it faces "enormous challenges" in restoring accountability and transparency in the federal procurement system, the report said.

The report was released in Washington, D.C., at an event keynoted by Waxman, now chairman of the renamed House Oversight and Government Reform Committee. Appearing on a panel moderated by Lilly were former Bush administration Office of Federal Procurement Policy Administrator Angela Styles; Danielle Brian, executive director of the Project on Government Oversight (POGO); and Margaret Daum, counsel for the House Oversight Committee.

"Fundamental reforms" are needed, said Waxman, whose accountability in contracting bill (H.R. 1362) was passed by the House in March. That bill would impose a one-year limit on noncompetitive contracts valued at more than \$1 million and require federal agencies to make publicly available the justification and approval for use of noncompetitive procedures. At the CAP event, Waxman expressed the committee's particular concern over the government's contracting out of program management and contract oversight functions. "We need government employees to oversee these federal contracts," he said, and he called for a boost in federal contract oversight spending and personnel. Waxman also contended that reforms intended to improve and streamline government procurement processes during the 1980s and 1990s have been "expanded and distorted" by the Bush administration.

Styles, now with the Washington, D.C., law firm of Crowell & Moring, stressed that the decision as to whether or not to compete contracts is made by federal employees, who must consider techniques ranging from full and open competition at one end of the spectrum to sole-source contracts at the other. In the middle falls "other than full and open" competition, which includes ID/IQ contracts and General Services Administration schedule contracts, she explained. "There is a significant amount of competition for those," Styles said.

Styles traced some of today's procurement issues to the 1990s and Clinton-era changes. Reductions in the federal procurement workforce occurred during that time period, Styles said, but the government later began spending more procurement dollars on increasingly complex contracts, intensifying the workload on a smaller government contracting workforce. Styles added that her clients are "very concerned" over the current politicization of contracting issues, and warned that some "are about to walk away" from government business and its associated financial and political risks.

Without referring to the CAP report, OMB May 14 released contract competition trend data dating back to 1990. According to OMB, during the Bush administration the percentage of contract dollars competed of those available for competition has "remained relatively constant at around 64 percent." Further, it said, the "actual dollars competed has significantly increased, from \$130 billion to \$253 billion between 2000 and 2006."

OMB also took issue with assertions that there has been a decrease in government contracting personnel. Citing Office of Personnel Management data, it said the number of government contract specialists has grown from approximately 26,600 to 27,900 between FY 2001 and FY 2006. Also, the number of Defense Department contract specialists has grown by 300 over the same period, from 18,600 to 18,900, OMB added.

Also on May 14, PSC issued a vehement rebuttal to "the factual foundations and conclusions" of the CAP report, suggesting that its "sole purpose is to make political points rather than add accurate information about the real challenges and issues of the Federal acquisition system." For instance, PSC took issue with the report's premise that all task orders under single award ID/IQ contracts are noncompetitive. The "vast majority" of these ID/IQ contracts are competitively awarded, PSC said, and such contracts are "specifically designed for circumstances in which the government does not know in advance all of its exact needs and requirements."

PSC criticized the CAP report as "overly reliant" on Government Accountability Office reports and DOD inspector general reports that were issued prior to changes to contract competition rules that were passed by Congress in 2003. These rules, which currently apply only to DOD, require that on all multiple award contracts--that is contracts awarded competitively to a group of companies that then compete for individual task orders--all contract holders must be given the opportunity to bid on each task order for which they are qualified.

PSC also said there is no support for the CAP report's claim that procurement fraud and abuse have increased following the procurement law and process changes of the 1990s. Both Special Inspector General for Iraq Reconstruction Stuart Bowen and former Deputy Defense Secretary John Hamre, who now heads the Center for Strategic and International Studies, have stated that there is little evidence of "widespread" fraud in Iraq contracting, PSC noted.

Finally, PSC argued that the answer to current contracting issues "lies principally in aggressively addressing the government's human capital challenges." Necessary actions include "reversing personnel procedures and policies that inhibit and discourage talented individuals from pursuing a federal career," it said.

The Center for American Progress report, "A Return to Competitive Contracting: Congress Needs to Clean Up the Procurement Process Mess" (May 2007), is available at:

http://www.americanprogress.org/issues/2007/05/pdf/procurement_paper.pdf. The Professional Services Council rebuttal is available on its Web site at: <http://www.pscouncil.org>.

House Bill Would Require Public Disclosure, Reports to Congress on Problem Contractors

A bill (H.R. 2198) that would require federal agencies to publicly list federal contractors that are failing to meet their responsibilities after being awarded a contract was introduced in the House May 7 by Rep. Betty Sutton (D-OH).

Intended to increase contract oversight, the "Contractor Accountability Act" also directs federal departments and agencies annually to submit to Congress a report containing:

- a certification that the department or agency "has exercised oversight over each contract or order sufficient to ensure that each contractor is fulfilling the obligations specified in the contract"; and
- a list of the names of each contractor "found not to be fulfilling the obligations specified in the contract or order."

The bill would cover contracts greater than the \$100,000 simplified acquisition threshold, subcontracts under such contracts, and task or delivery orders with values that exceed that threshold.

As for the public listing of those reports, the bill would require that the information--other than that covered by the exemption from public disclosure under the Freedom of Information Act--be posted on department and agency Web sites. The bill also would call on the Government Accountability Office to report to Congress every two years on department and agency compliance with its oversight and accountability provisions.

"A lack of accountability in federal contracting has led to billions of wasted tax dollars and repeated mismanagement of federal funds," Sutton said in a statement. "From unaccounted-for money sent to Iraq, to ballooning no-bid contracts awarded by" the Federal Emergency Management Agency "in the wake of Hurricane Katrina, the need for the Contractor Accountability Act is clear," she said.

GAO Says Procuring Agency, Not SBA, Should Apply Subcontracting Limitation

The Government Accountability Office April 17 denied the Small Business Administration's request that it reconsider its recent decision in the protest by Tybrin Corp., and rejected SBA's assertion that SBA, rather than the procuring agency, should determine whether a proposal for a small business set-aside contract complies with applicable limitations on subcontracting (*Small Business Administration--Reconsideration*, GAO, B-298364, 4/17/07).

GAO March 13 sustained Tybrin's protest of the Air Force's award of a small business set-aside contract to Centech Group, finding that while the solicitation required that at least 50 percent of the personnel cost for contract performance be expended for employees of the offeror, Centech's proposal provided on its face that only 43.2 percent of the cost of contract performance would be for its own personnel.

In that decision, GAO acknowledged that SBA had issued a Certificate of Competency to Centech after finding that the firm would satisfy the requirement in performing the contract, but GAO said that because the proposal, on its face, did not comply with a material term of the solicitation, that proposal could not form the basis for award.

In seeking reconsideration, SBA argued that it was not clear to the Air Force whether Centech's proposal met the limitation and that referral to SBA, "the expert in this subject area," therefore was appropriate. SBA contended that "it is not uncommon for contracting officers and procuring agencies to misunderstand the limitations on subcontracting requirements and how to calculate the requirement."

GAO rejected this argument, saying that SBA's reconsideration request merely disagreed with GAO's conclusions on a central issue, and repeated arguments made and fully considered in the course of the protest. "Although, as a general matter, an agency's judgment as to whether a small business offeror will be able to comply with a subcontracting limitation presents a question of responsibility for review by the SBA, we found the circumstances here distinguishable: as we pointed out, we consistently have held that where a proposal, on its face, should lead an agency to the conclusion that an offeror has not agreed to comply with the subcontracting limitation, the matter is one of the proposal's acceptability," GAO said.

GAO's bid protest regulations state that in order for a party to request reconsideration, it must articulate the factual and legal grounds that warrant reversal or modification with specificity. SBA's arguments ignored "the basic fact that Centech's proposal on its face clearly did not meet the material term of the solicitation embodied in the 50-percent subcontracting limitation," GAO said as it denied the request for reconsideration.

House Votes Overwhelmingly to Pass Small Business Fairness in Contracting Act

The House May 10 overwhelmingly endorsed bipartisan legislation (H.R. 1873) aimed at improving federal procurement opportunities for small businesses.

The 409-13 vote in favor of the "Small Business Fairness in Contracting Act" came after the House approved several floor amendments, including one to raise the governmentwide small business contracting goal to 30 percent.

The vote "is more than adequate to overthrow" any veto that may be coming out of the White House, Rep. Bruce Braley (D-IA), bill sponsor chairman of the House Small Business Subcommittee on Procurement and Technology, said after the vote.

The Office of Management and Budget May 8 issued a statement opposing several provisions in the bill, but stopped short of saying it would recommend that President Bush veto the measure as reported out of the House Oversight and Government Reform Committee May 1.

The administration expressed a preference for the bill as modified by the Oversight Committee as opposed to the original measure unanimously approved by the Small Business Committee April, but a number of amendments agreed to during House floor action May 9 and 10 removed those changes and restored the language of the original bill.

Among these amendments was one by Rep. Melissa Bean (D-IL) raising the governmentwide small business procurement goal from the 25-percent level included in the substitute measure agreed to by the Oversight Committee back to the 30-percent level in the original bill.

The current governmentwide procurement goal is 23 percent. Braley said during a conference call with reporters that he was particularly pleased the provision prevailed as originally drafted. The Bean amendment was approved 371-55

Similarly, an amendment by Rep. Heath Shuler (D-NC) restored language extending small business contracting goals to overseas contracts, a provision that was removed from the Oversight Committee substitute and is opposed by the administration. Shuler's amendment to apply small business goals to overseas acquisitions was agreed to 398-2.

Contract bundling--or the consolidation of federal government requirements into large packages that discourage competition by small businesses--was a central focus during debate on the measure. The House voted 423-0 in favor of an amendment by Rep. Joe Sestak (D-PA) that provided a new alternative to the two different bundling provisions in the original and substitute measures.

Sestak explained that his amendment was intended to ensure that "more large contracts will be reviewed as to their appropriateness to be bundled and potentially broken into smaller pieces more suitable for small business." In remarks to the House May 9, Sestak complained that the definition in the measure then on the floor would exempt too many large contracts from a required bundling analysis as to their appropriateness for access by small business.

Sestak said his amendment would help "reduce these exemptions" by:

- eliminating the exemption for non-construction contracts under \$5 million;
- explicitly requiring that bundling analyses be performed for new work and construction contracts, as opposed to just previously performed work;
- providing that a combination of requirements that would meet the definition of contract bundling but for the addition of a requirement with at least one new good or service will be considered a bundling "unless the new features or functions substantially transform the goods or services" and "measurably substantial benefits to the government in terms of quality or price are identified."

"By unbundling work requirements, this amendment will create new opportunities for small firms, expanding the government's access to more qualified contractors," Sestak said. "Increased competition because of more fair access will lead to lower prices and to the improvement of the quality of goods and services procured by the federal government."

Other amendments, which were agreed to by voice vote, include:

- one by Rep. Silvestre Reyes (D-TX) requiring that agencies take into consideration compliance with small business subcontracting plans by companies competing for federal contracts;
- one by Rep. Albert Wynn (D-MD) directing the Small Business Administration to study the feasibility and desirability of providing financial incentives to contractors that meet goals set in their subcontracting plans for use of small economically or socially disadvantaged businesses;
- two by Rep. Sheila Jackson-Lee (D-TX) that require SBA to (1) report to appropriate congressional committees on any disagreement between SBA and a contracting agency and (2) to post on its Web site actions taken with respect to such disagreements; and
- one by Rep. Peter Welch (D-VT) setting a goal for the government to contract with "green" small businesses.

OFPP Head Says Competitive Sourcing In FY 2006 Should Yield \$1.3B in Savings

Office of Federal Procurement Policy Administrator Paul Denett May 3 touted the successes of federal agencies' public-private competitions for performance of commercial work, releasing a report showing that competitions completed in fiscal year 2006 are expected to yield \$1.3 billion in savings over the next five to 10 years.

At a press conference on the Office of Management and Budget's report on federal agency competitive sourcing results for FY 2006, which was sent to Congress May 2, Denett also cited:

- a reduction in the amount of time it takes to conduct a public-private competition, which now is an "average of 13 months," down from between two and three years "just a few years ago"; and
- "significant savings" of close to \$7 billion in the next five to 10 years from competitions completed in the past four years, with a "majority" of those savings realized within five years.

Further, Denett said OMB recently took the "extremely important" step of directing agencies to obtain independent verification of cost savings and performance improvements realized following selection of service providers through public-private competitions. In FY 2006, close to 87 percent of the work competed was won by federal employees, Denett observed. Moreover, he asserted that "almost all" federal employees have "soft landings" when private sector entities win the competitions, often finding work elsewhere within the government or with the successful outside bidder.

Altogether, agencies completed 183 competitions involving the commercial workload of 6,678 full-time-equivalent employees, or about 1.7 percent of the total commercial workforce, according to the report. Competitions were conducted for a wide range of commercial activities, with information technology and maintenance and property management continuing to be among the most popular activities for competition.

Denett made an effort to clear up what he sees as misconceptions about competitive sourcing, which he pointed out dates back to the administration of President Eisenhower. "It is not an outsourcing process," he said. "It is not a privatization process." OFPP currently is seeking to convince members of Congress to resist pressure to put new restrictions on competitive sourcing and is hoping that the successes cited in the report may support the administration's push for the removal of existing limits on public-private competitions, Denett said.

With respect to possible new restrictions, he pointed to congressional consideration of a one-year moratorium on competitive sourcing activities at military medical sites. The House has already voted in favor of such a moratorium, and similar legislation has been offered in the Senate. Denett attributed the proposed prohibition to fallout from the publicity surrounding reports of poor outpatient care services and facility maintenance problems at the Walter Reed Army Medical Center in Washington, D.C.

He noted, however, that while certain maintenance work at the center was being performed by the private sector firm that won a public-private competition, the Army's contract with that firm, IAP Worldwide Services, initially did not cover Building 18, the dilapidated facility that figured in accounts of poor conditions endured by wounded service members. Competitive sourcing "was inappropriately pulled into" the debate on how to resolve problems at the facility, Denett maintained, and he argued that it is unfair to use the situation to "deprive" the Defense Department of opportunities to conduct public-private competitions for work at military facilities.

According to Denett, another prohibition under consideration in Congress would bar the Labor Department from using public-private competitions to save money on certain administrative functions currently performed by government employees. OFPP is seeking to persuade lawmakers to fight inclusion of the ban in DOL's fiscal year 2008 spending bill. With respect to existing restrictions, Denett called limits on best value competitions--those in which both cost and quality, rather than just cost, are taken into account when comparing offers by federal employees to those of private sector providers--a "travesty." "Best value is a proven method," he said, that results in "significantly higher savings." To "take it away is a disservice to all of us," he declared.

The OMB Report on Competitive Sourcing Results Fiscal Year 2006 is available at:
http://www.whitehouse.gov/omb/procurement/comp_src/cs_report_fy2006.pdf.

Kerry Directs SBA Head to Implement Procurement Program for Women-Owned SBs

Citing the findings of a recent Rand Corp. study showing that women-owned small businesses (WOSBs) are underrepresented among firms contracting with the federal government, Sen. John Kerry (D-Mass.), chairman of the committee with jurisdiction over the Small Business Administration, called on the agency to comply with a seven-year-old congressional mandate and immediately implement a set-aside program to provide WOSBs improved procurement opportunities.

"Seven years is too long to wait to get the federal government to follow the law," Kerry, chairman of the Small Business and Entrepreneurship Committee, said May 4 in a statement announcing his demand to SBA Administrator Steven Preston. Kerry asked the SBA head for a detailed timeline for implementing the Women's Procurement Program, as required by legislation passed by Congress in December 2000.

Kerry also asked that SBA provide details about how the findings of the Rand study will figure into implementation of the program. The study, which was required under the 2000 legislation, found that women-owned businesses were underrepresented in more than half the industry categories studied for federal purchasing during 2002, 2003, and 2004.

"The Women's Procurement Program, codified in Section (m) of the Small Business Act, as enacted into law in 2000, is intended to provide a direct means of increasing the participation of women-owned small business concerns in the federal procurement marketplace," Kerry said in his letter. "A quick review of the numbers suggests that a women's set-aside program is sorely needed," he added, pointing to statistics showing that, despite a set-aside goal of 5 percent, only 3.3 percent of federal prime contracting was done with women-owned firms in 2005.

"I urge you to implement an aggressive program that will address the severe under-representation of women in federal contracting," Kerry wrote the SBA administrator, adding that it "is critical that the program is structured to address the worst disparities revealed by the Rand study." The analysis by Rand "properly lays the required constitutional foundation to implement the set-aside program for women-owned businesses in a way that best embodies the spirit" of the Small Business Reauthorization Act of 2000 (Pub. Law No. 106-554), Kerry said.

"Depending on the measure used, underrepresentation of WOSBs in government contracting occurs in 0 to 87 percent of industries," according to a summary of the Rand study. "The variation is especially large in the measures that use contract dollars rather than the number of contracts," the summary said.

An SBA official told the House Small Committee last March that the agency expects to publish a final rule later this year to implement the program. Further, she said the agency's progress in meeting this goal is being monitored by the U.S. District Court for the District of Columbia as a result of a suit brought by the U.S. Women's Chamber of Commerce aimed at pushing the program along.

SBA in June 2006 issued a proposed rule establishing the program. *The Rand study, The Utilization of Women-Owned Small Businesses in Federal Contracting, is available at:* http://www.whitehouse.gov/omb/procurement/comp_src/cs_report_fy2006.pdf.

House Passes DHS FY '08 Authorization Bill With Procurement Portions Opposed by OMB

The House May 9 approved 296-126 a fiscal year 2008 authorization bill (H.R. 1684) for the Department of Homeland Security that has drawn objections from the Bush administration due to its inclusion of provisions aimed at reforming the agency's procurement practices.

In a statement of administration policy (SAP), the Office of Management and Budget May 9 said the White House "strongly opposes provisions in Title IV of the bill that would create burdensome and, in some cases, unworkable agency-specific policies and reporting requirements to replace balanced and effective governmentwide policies in the Federal Acquisition Regulation [FAR] and existing Departmental policies."

The specific Title IV provisions highlighted by OMB would require:

- DHS consideration of contractors' past performance before deciding whether to award a contract;
- disclosure of foreign ownership or control of the prime contractor and of any prospective subcontractor at any tier; and
- creation of a separate acquisition training program for DHS.

With respect to assessing potential contractors for awards, the administration complained that the bill would "mandate expansive and costly reviews of a prospective contractor's past performance on any activities, in lieu of FAR policies that appropriately focus on information relevant to the work to be performed." It also objected that the bill "would unnecessarily expand current FAR and Department policies addressing foreign ownership to track and verify information at subcontracting tiers, which could be especially onerous for small businesses."

The administration also took issue with language in the bill aimed at DHS' acquisition workforce. Explaining the objections, OMB said the bill "would create a separate acquisition training program for the Department, undermining efforts by the Office of Federal Procurement Policy to standardize competency and training requirements that are improving mobility and career advancement opportunities across the defense and civilian workforce so that the government can recruit and retain the best talent."

The provisions on contractor past performance and acquisition workforce training initially were included in a freestanding bipartisan bill (H.R. 803) sponsored by Reps. Chris Carney (D-PA) and Mike Rogers (R-AL), the chairman and ranking member of the House Homeland Security Subcommittee on Management, Oversight, and Investigations. After the House vote on the DHS authorization measure, Carney issued a statement saying, "I look forward to the day when DHS has the appropriate level of qualified procurement staff and the ability to award contracts to only the most qualified contractors. Our nation's security is at risk every time a bad contract is awarded."

Small Businesses Fare Well in A-76 Public-Private Competitions

Small businesses won 65 percent of all contracts and 24 percent of all contract dollars for government work awarded to private firms in public-private competitions conducted as part of the Office of Management and Budget Circular A-76 process from fiscal year 2001 through the third quarter of FY 2006, according to a new report prepared for the Small Business Office of Advocacy.

Federal agencies awarded 3,735 contracts through the A-76 process between Oct. 1, 2000, and June 30, 2006, for a total value of \$5.5 billion, according to the report by Eagle Eye Publishers Inc., a Fairfax, Va.-based consulting firm. These contracts went to 795 companies, of which 567, or 71 percent, were small businesses, the report said.

Civilian agencies awarded 3,606 A-76 contracts worth a total of \$3.2 billion to 678 recipients, of which 488, or 72 percent, were small businesses. The 2,355 contracts awarded to these small firms were worth \$615 million, or about 19.5 percent of the total dollar value of A-76 contracts awarded by civilian agencies. The average value of these civilian agency A-76 contracts was \$261,532 per recipient small firm.

Over the same period, defense agencies awarded 129 A-76 contracts worth a total of \$2.3 billion to 117 recipients, of which 79, or 68 percent, were small firms. Awards to these small firms represented 31 percent of the total dollar value of A-76 contracts awarded by defense agencies.

The Bush administration, which has countered criticism of competitive sourcing by arguing that it benefits small businesses, is pointing to the new report as further evidence of the value of A-76 public-private competitions. Competitive sourcing is one of five key initiatives in the President's Management Agenda. Office of Federal Procurement Policy Administrator Paul Denett said in a May 18 statement that "OMB is pleased that public-private competition is providing opportunities for small businesses, as reflected in the report. ... The administration will continue to seek the removal of statutory restrictions that limit competition, so that small businesses have increased access to contracting opportunities in the Federal Government."

The report, which largely relies on civilian agency data from the Federal Procurement Data System-Next Generation and defense agency data from the Commercial Activities Management Information System, also provides a more general picture of A-76 awards, regardless of the size of the recipients.

For example, it says that:

- Combined defense and civilian A-76 spending dropped 22 percent between FY 2004 and FY 2005, while the total number of A-76 contract awards grew by 10 percent.
- DOD and civilian agencies reported spending a combined \$1.6 billion on A-76 procurements in FY 2005 (the most recent complete year for which outsourced contract data are available), which is "four-tenths of one percent of the \$383 billion overall FY 2005 procurement total."
- DOD accounted for 42.4 percent of the A-76 procurement dollars spent from FY 2001 through the third quarter of FY 2006, which ended June 30, 2006.
- Civilian agencies reported spending 4.6 times more money on outsourced procurements in FY 2005 than DOD.
- The National Aeronautics and Space Administration accounted for 90 percent of all reported civilian A-76 contracts and dollars between FY 2001 and FY 2005.
- Five consolidated markets--professional services, manufacturing, information and cultural industries, administrative support, and construction--accounted for 96 percent of all civilian agency A-76 dollars between Oct. 1, 2000, and June 30, 2006.

The report, "The Impact of A-76 Competitive Sourcing on Small Government Vendors, FY 2001-FY 2007," is available at: <http://www.sba.gov/advo/research/rs302tot.pdf>

SBA Study Shows Perils of Analyzing Small Business Contracts

Federal small business contracting is never as simple as it seems. That was the lesson the Small Business Administration's Office of Advocacy learned with the publication of a new report on how small firms fare in outsourcing contests.

On Friday, SBA released a new analysis of small business winnings in competitive sourcing, the administration's initiative to boost the rate at which companies compete to take on government work.

Working with two different data sources -- civilian agency information in the Federal Procurement Data System-Next Generation, or FPDS-NG, and Defense records in the Commercial Activities Management Information System, or CAMIS -- the report assessed the rate at which small businesses prevailed in winning contracts stemming from outsourcing under the Office of Management and Budget's Circular A-76 rules.

First reviewers had to insert the caveat that FPDS-NG data from before fiscal 2004 could not be relied upon. "The new, comprehensive FPDS-NG reporting system renders data collected under the old system incomplete and unreliable," the authors warned.

"It is meaningless to compare absolute levels of contract spending in FY 2003 and earlier years to spending in FY 2004 and FY 2005," the authors warned, citing a fiscal 2004 change to the dollar value threshold for reporting A-76 contracts. "The analysis of trends in various market shares over time remains relevant, though, because selected and overall data have changed by comparable percentages," they said.

Experts inside and outside government say that even the newer FPDS-NG system is flawed, as contracting officers have little incentive to record information correctly and, in some cases, data entry fields make it difficult or impossible to do so. In September, OMB Deputy Director for Management Clay Johnson promised that a new computer system for viewing federal contracts going live in 2008 would reflect accurate data.

For the SBA Office of Advocacy study, number-crunchers looked at what data there was for civilian agencies in FPDS-NG for the period from fiscal 2001 through part of fiscal 2006, and concluded that about two-thirds of A-76 contracts won by the private sector had been awarded to small firms, while those awards represented about one in five contract dollars.

For Defense, the CAMIS system reflected a slightly different study period that started in fiscal 2002, but showed a similar ratio, with small firms winning just less than two-thirds of A-76 contracts to take home nearly one third of their total dollar value.

The authors drew few conclusions from these statistics, but in a limited analysis of work converted directly to private performance without a lengthy competition process, they said similar figures suggest "that DoD relies on small firms for small outsourcing jobs and large firms for large jobs."

But the results get murky when you look at the total number of A-76 contracts. SBA's report indicated there were 3,735 civilian A-76 contracts awarded since 2001. But an early May OMB report on the government A-76 activities said agencies have completed only 1,243 competitions between fiscal 2003 and fiscal 2006. Moreover, when measured by number of jobs (not contracts), OMB said agencies' in-house teams swept up 83 percent of that work, leaving just 17 percent to companies of all sizes.

Those figures compare apples to grapes and tomatoes, mixing contracts and competitions, jobs and contract awards, but the numbers do not seem to line up.

Eagle Eye Publishing, which wrote the report for SBA along with Bethesda, Md.-based Jack Faucett Associates Inc., clarified that those 3,735 contracts actually represent just 941 unique contract agreements. Contracts that extend over multiple years were counted multiple times in the study, said Eagle Eye president Paul Murphy (Eagle Eye also processes the data for *Government Executive's* annual Top 200 Contractors special issue).

On the Defense side, the contract figures represent 129 "initiatives," based on the best unique identifier that reviewers could pick out. But the initiative data included no deeper view of how long contracts lasted, among other missing fields.

Radwan Saade, an SBA contracting official who oversaw production of the report, said it would be impossible to compare the OMB and SBA figures without knowing more about how OMB's data was collected.

An OMB spokeswoman said factors contributing to different results could include how the studies account for private firms teaming with a government service provider, and the large number of contracts signed by NASA under a special waiver that resulted in multiple awards per competition.

What is clear is the low probability that any of the figures shows the full picture.

By the time the report was published, FPDS-NG reflected almost \$1.3 billion in A-76 contracts in fiscal 2006, according to Eagle Eye. A meager \$8.98 million of that represented the first trickle into the system of Defense A-76 contracts. And in the most recent CAMIS report, the Defense A-76 spending for that year was listed as just \$1.4 million.

Legislation in Brief

Bill Number	Sponsor	Description	Action
H.R. 1684	Thompson	To authorize FY 2008 funding for DHS and make certain reforms to agency's procurement practices	Passed by House 296-126, 5/9/07
H.R. 1873	Braley	To increase small business participation in federal marketplace	Passed by House 409-13, 5/10/07
H.R. 2082	Reyes	To authorize FY 2008 funding for intelligence agencies and requires those agencies to annually report on use of contractors for personal services activities	Passed by House 225-197, 5/10/07
H.R. 2198	Sutton	To require federal agencies to publicly list and report to Congress on federal contractors failing to meet responsibilities following contract award	Introduced in House 5/7/07; referred to Oversight & Government Reform
H.R. 2206	Obey	To provide emergency supplemental spending for the wars in Iraq and Afghanistan	Passed by House 225-205, 5/8/07
H.R. 2237	McGovern	To provide for redeployment of U.S. Armed Forces and defense contractors from Iraq	Defeated by House 171-255, 5/10/07
H. R. 2206	Obey	To provide emergency supplemental spending for the wars in Iraq and Afghanistan	Passed by House 280-142, 5/24/07; Passed by Senate 80-14, 5/24/07
S. 32	McCain	To reform the defense procurement process by increasing transparency and maximizing competition	Introduced in Senate 5/22/07; referred to Senate Armed Services Committee