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Small Business Spotlight:

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NEWS:**Waxman Plans to Introduce New Bill On Federal Contracting**

House Oversight and Government Reform Committee Chairman Henry Waxman (D-Calif.) hopes to introduce new acquisition-related legislation later this fall, a committee spokesperson confirmed Sept. 12.

Although Waxman announced his intention in remarks to a federal contractor group several days earlier, no details are yet available, the spokesperson said.

Waxman, who has been a vocal critic of contracting under the Bush administration, is the chief sponsor of a contractor accountability measure (H.R. 1362) passed by the House March 15 in a 347-73 vote. The bill, titled the Accountability in Contracting Act, includes provisions that would place limits on the award of sole-source and emergency sole-source contracts, require agencies to report to Congress contracts when audits identify more than \$10 million in questioned contract costs, provide for a study of the government acquisition workforce, and strengthen post-employment restrictions on federal acquisition officials.

The bill--which has no direct companion legislation in the Senate--also would require the Office of Government Ethics to report to Congress on the desirability of requiring both federal contractors and federally funded research and development centers to comply with personal financial interest restrictions, and agencies to notify Congress before awarding award of sole-source contracts to certain foreign-owned companies.

A spokesperson for Rep. Tom Davis (R-Va.), the ranking member of the House Oversight and Government Reform Committee, told reporters that Davis is not working with Waxman on the new legislation.

The Senate has its own contractor accountability bill (S. 680), which was approved Aug. 1 by the Senate Homeland Security and Governmental Affairs Committee. The Accountability in Government Contracting Act is sponsored by Ranking Member Susan Collins (R-Maine) and Committee Chairman Joseph Lieberman (I/D-Conn), both of whom are said to view the legislation as a high priority. However, some observers question the prospects for passage of a freestanding measure in the current Senate.

Since House passage of his contracting accountability bill in March, Waxman has continued to hold hearings and release reports on contracting problems, arguing that the federal government and contractors have been responsible for the wasteful spending of taxpayer dollars. After beginning the year with a series of hearings on what he termed "waste, fraud, and abuse" in Iraq reconstruction contracts and major Department of Homeland Security contracts, Waxman turned his attention to alleged contracting improprieties and other misconduct involving General Services Administrator Lurita Doan. Waxman also asked GSA in June to delay reported plans to add

acquisition support contractors to the agency's Federal Supply Schedule program, citing concerns about the potential for conflicts of interest and waste, fraud, and abuse.

Later in June, Waxman's committee staff released a report that assessed government procurement spending from 2000 to 2006. The report described "worrisome trends identified last year [that] have worsened significantly," including sharp increases in the government's award of contracts after limited or no competition--contracts that Waxman often refers to as "no-bid" contracts.

Critics of the report, including the Office of Management and Budget and contractor groups, faulted its accuracy, questioning some of the definitions used and the assumptions made regarding government contracting practices.

House Small Business Leaders Call for Improvement in SBA Contracting Programs

Reps. Nydia Velazquez (D-N.Y.) and Steve Chabot (R-Ohio), the chair and ranking member of the House Small Business Committee, suggested Sept. 19 that legislative reforms may be necessary to ensure that government contracting set-aside programs authorized under the Small Business Act are living up to their intended purpose.

Many of the SBA contracting programs were created in the 1960s and "have seen little change since then," falling into "complete disarray, largely due to mismanagement, underfunding, and neglect," Velazquez said at the outset of the hearing. "Modernizing and in some cases--such as with the veteran's and women's program--simply implementing them would be a start," she added.

The programs authorized by the SBA are intended to provide greater opportunities, by way of training and business development, for small business concerns to contract with the federal government. Special set-aside programs are targeted to socially and economically disadvantaged firms under Section 8(a) of the Small Business Act, firms located in historically underutilized business zones (HUBZones), and companies owned by service-disabled veterans and women.

Chabot said the committee "should seek legislation that meets the noble objectives of the various SBA contracting programs while reducing the friction that exists among these various groups of small businesses." He also said the legislation should ensure "these programs operate in the most effective manner possible."

The federal government, for the sixth year in a row, has failed to meet the statutory goals for awarding contracts to participants in these programs, Velazquez complained. She added that while her committee made progress in "bringing equity to our procurement system" by getting the bipartisan Small Business Fairness in Contracting Act (H.R. 1873) passed by the House, "a strong complement of contracting programs" is necessary to fully benefit from the changes in that bill.

Among the provisions of the contracting fairness bill is one that is intended to ensure that large contracts are subject to a bundling analysis and potentially broken into smaller pieces for small business participation. Another provision would require agencies to take into consideration records of compliance with small business subcontracting plans when evaluating companies competing for federal contracts.

Small business procurement legislation also is being drafted by Sens. John Kerry (D-Mass.) and Olympia Snowe (R-Maine), the chairman and ranking member of the Small Business and Entrepreneurship Committee. Both expressed dismay with the government's record of giving small businesses a fair opportunity to compete for federal contracts and pledged to use their legislation to ensure that small business contracting goals are met.

Testifying on behalf of the administration, Jovita Carranza, deputy administrator of the Small Business Administration, acknowledged that the federal government has not met procurement goals for most of the small business contracting programs, but sought to assure to the committee that progress is being made. She cited as an example the agency's recent move to add "transparency to the goaling process" by instituting a new scorecard ranking federal agencies' efforts to reach their small business contracting goals.

The scorecard, which will come out twice a year, reflects both agencies' current performance and their progress in improving that performance. It is intended to "give agencies the encouragement to meet small business goals and give them credit for this progress," Carranza explained. The first scorecard, released Aug. 17, gave seven agencies top grades, five agencies middle grades, and 12 agencies low grades.

The SBA official also stressed the importance of decreasing contract bundling and long-term, sole-source contracting, which she said can be done "with a strong commitment to procurement planning, and changing the way agencies approach contracting." Agencies have shown that, given "proper encouragement," they can change the way they do business, she said.

Carranza said that care must be taken to ensure that efforts to assist "underserved markets" do not "set as rivals one program against another as they share the same end goal." SBA has requested that its fiscal year 2008 budget include \$500,000 to examine how best to serve firms in the 8(a), HUBZone, women-owned, and service-disabled veteran owned programs "while not restricting the success of any one program," she said.

The agency "recognizes the limited success" the SBA contracting programs have had, and is aware there is "a lot more to do," according to Carranza. Representatives of the National Black Chamber of Commerce, the U.S. Women's Chamber of Commerce, the American Legion, and the HUBZone Contractors National Council were among the witnesses testifying about the need for improvements to the SBA contracting programs.

Sun Cancels IT Contract with GSA As Probes of Firm's Conduct Continue

Following lengthy scrutiny of the terms of its multiple award schedule contract extension in September 2006, Sun Microsystems Corp. has decided to cancel the contract with the General Services Administration to provide information technology equipment and services to federal agencies.

Cancellation of the contract, a step the company said it took "reluctantly," is effective Oct. 12, Sun said in a statement Sept. 18. The move is the latest development in a controversy over whether the company engaged in improper pricing under its GSA contract and failed to report discounts provided to commercial customers. These allegations are being investigated by the Justice Department.

In addition, Sun's contract with GSA, which was extended for five years one year ago, has been the subject of both pre- and post-award audits by GSA's Office of Inspector General. The IG recently was asked by Sen. Charles Grassley (R-Iowa) to examine whether the price reduction clause (PRC) included in the extension could have been more favorable to the government.

Grassley asked GSA IG Brian Miller to compare the savings realized by the government under the existing PRC to savings it would have realized under an earlier version of the clause that was advocated by two contracting officers who were removed from the contract before final negotiations on the extension. After Sun's decision to cancel the schedule contract became public, Grassley Sept. 14 issued a statement saying he is "surprised" the IT firm "has chosen to do this prior to the completion of the IG audits I requested last June. I don't know why Sun made this decision," the senator said.

Grassley Aug. 24 asked GSA Administrator Lurita Doan to follow a recommendation from her IG's office to give the firm a 30-day notice of cancellation of the contract. At that time, Grassley charged Sun with failing to comply with requests from the IG and a GSA contracting officer for information about a corrective action plan the contractor implemented in June 2006 to fix earlier contracting problems. Doan herself became embroiled in the controversy earlier this year and faced questioning from members of Congress as to her role in the negotiations over the contract extension. She has denied any improprieties.

In a Sept. 17 statement, the GSA administrator said: "I believe American taxpayers get the best deal when we allow our professional contracting officers to negotiate and manage the relationship with our vendors. Unfortunately, this process was taken in another direction." For its part, Sun said the company has "always valued" its "relationship with GSA and its team of committed professionals" and "enjoyed a successful relationship as partners for a number of years during which Sun has provided government agencies with some of the industry's most innovative, energy-efficient, open source and secure computing systems." The company added: "Sun remains honored to be a federal contractor and, like other companies in our industry who do not have a GSA multi-award schedule, we look forward to continuing to serve our government customers."

Bill Could Open Door for Venture Capital Firms

By Cyndia Zwahlen, Special to The Times
September 27, 2007

Here we go again.

That's the concern of some small-business owners who worry that a bill scheduled for a House vote today would open a door for billion-dollar companies to benefit from federal small-business programs.

The Small Business Investment Expansion Act, which has been fast-tracked for a House vote with little debate since it popped up about 10 days ago, would allow a small firm that is majority owned by a venture capital firm or other investment company to continue to qualify for federal small-business programs.

Proponents say it's needed to ensure that small biotech and high-tech firms get the backing they need to survive their long product development time frames and produce crucial drugs and devices.

"It's really a necessity," said Steve Mento, president and chief executive of San Diego-based Conatus Pharmaceuticals Inc., which has nine employees and four venture capital investors.

Critics counter that the bill gives an unfair advantage to businesses that should no longer qualify for small-business programs, including the Small Business Innovation Research grants that benefit the biotech industry, because they are backed by a deep-pocketed entity.

"How do you compete?" asked Rick Shindell, chief executive of Zyn Systems, a small technology contractor in Sequim, Wash.

Jere Glover, executive director of the Small Business Technology Council, called it "the worst piece of small-business legislation I've seen in 25 years."

"This provision that allows rich individuals to take advantage of small business preferences, that's just unheard of. This not only opens up the Small Business Innovation Research program, but all the other [Small Business Administration] programs to companies owned by venture capitalists," said Glover, former chief counsel for the SBA's Office of Advocacy.

The bill's protections, such as the requirement that the venture capital company be small, don't offer much reassurance to Shindell and other opponents. Under SBA rules, a company must have fewer than 500 employees to be considered small, and many of the country's biggest and wealthiest venture capital firms would fall below that benchmark, they say.

The same concern was raised over an amendment offered Wednesday that would restrict venture capital firms to less than a 50% stake in a small firm and a minority representation on its board of directors.

"Donald Trump and his daughter could start a venture capital firm and qualify" for small-business contracts through their portfolio companies, said Lloyd Chapman, president of the American Small Business League and a longtime critic of the SBA.

In fact, the SBA is on his side on this one. The agency strongly opposes the bill, including the proposed change to the definition of small business for the purposes of venture capital investment. It's unfair for small businesses, the SBA said.

"It would be a step backward from our recent progress in addressing the misidentification of large firms as small businesses for federal procurement purposes," the SBA said in an e-mailed statement in response to questions from The Times.

The SBA has been touting its new rules meant to keep the country's largest companies from holding small-business contracts via the acquisition of small federal contractors. The rules, which went into effect June 30, were in response to years of criticism of regulations that allowed the giant companies to benefit from the small-business status of their acquisitions for the life of the contracts, which can be as long as 20 years.

In 2003, the SBA reinterpreted federal regulations regarding small-firm status and venture capital backing. Since then, under the agency's affiliation rules, a small firm's employee count for purposes of determining its federal size classification had to include those at the company as well as employees at its venture capital investors and their portfolio companies.

That move shut down access to Small Business Innovation Research grants for many small firms, including Conatus Pharmaceuticals.

"In an industry where capital is very, very intensively needed, Small Business Innovation Research helps to get products to market," said Alan Eisenberg, executive vice president for emerging companies and business development at the Biotechnology Industry Organization, a trade group.

Other efforts to reinstate access to the research grants for venture-capital-backed firms have been tried since 2003 without success.

HR 3576, introduced Sept. 18 by Rep. Jason Altmire (D-Pa.), a member of the House Small Business Committee, would allow small firms with venture capital backing to qualify for all federal small-business programs, including procurement contracts, as well as Small Business Innovation Research grants. Cosponsors include the committee chairwoman, Rep. Nydia M. Velazquez (D-N.Y.), who has championed the repair of federal small-business contracting problems.

To some opponents, the bill looks like a possible end run around the new SBA rules, although the bill's backers say the issues are unrelated. They say the bill simply helps close a capital gap for small companies that was opened in 2003.

The bill, which would amend the Small Business Investment Act of 1958, is supported by the National Venture Capital Assn., which says it encourages venture capital firms to invest in small businesses.

In addition to the changes in the venture capital investment standards, the bill would establish an investment program at the SBA that would provide as much as \$2 million for angel investor groups to fund small companies. It also seeks to expand the agency's New Markets venture capital program and improve the SBA's surety bond insurance program.

In addition to voting on the amendment today, the House will vote on two others that would add green technology language to the bill. If approved, the amendments will be added to the bill and the House will then vote on the amended legislation.

If approved, the bill then goes to the Senate, which could consider it or create its own version for a vote in the future.

For Zyn System's Shindell, who also runs a website about Small Business Innovation Research grants, the House bill uses words with definitions so vague, such as control and ownership, that they create loopholes.

"When you allow that large of a question mark," he said, "it opens the doors, more often than not, for the big guy."

House Panel Asks DHS IG to Investigate IT Contractor Conduct Following Hacking

Reps. Bennie Thompson (D-Miss.) and James Langevin (D-R.I.), the chairman of the House Homeland Security Committee and the head of the subcommittee on cybersecurity, have asked the Department of Homeland Security inspector general to investigate actions by information technology contractor Unisys Corp. in connection with the hacking of DHS computers by foreign entities.

Specifically, the Democrats Sept. 21 asked the IG to determine whether Unisys failed to provide sufficient network intrusion detection systems under its contract with the agency and then supplied inaccurate and misleading information to DHS following the hacking incidents. The request to the IG, which referred to Unisys not by name but rather as the contractor charged with maintaining security on DHS IT networks, followed a five-month committee investigation of the security of DHS information networks.

The committee probe was initiated after the Subcommittee on Emerging Threats, Cybersecurity, Science and Technology heard testimony at an April 19 hearing on cyber attacks against federal agencies by hackers operating through Chinese Internet servers. In their letter requesting DHS IG Richard Skinner to follow up on the committee's investigation, Thompson and Langevin contended that:

- Dozens of DHS computers were compromised by hackers and "may still be compromised due to insufficient mitigation efforts by the contractor responsible for information technology services" at the agency.
- Hackers "exfiltrated" information out of DHS security systems to a Web hosting service that connects to Chinese Web sites.
- The network security systems DHS contracted for as part of its Information Technology Managed Services (ITMS) contract were not fully deployed at the time of the initial hacking incidents.
- Contractors provided "inaccurate and misleading information" to DHS officials "about the source of these attacks and attempted to hide security gaps in their capabilities."

Thompson and Langevin specifically asked the IG to investigate the contractor and the government officials responsible for overseeing the contract. "The results of our investigation suggest that the Department is the victim not only of cyber attacks initiated by foreign entities, but of incompetent and possibly illegal activity by the contractor charged with maintaining security on its networks." The congressmen asked the IG to begin the inquiry immediately and, if necessary, to refer the matter for criminal investigation. Although the IG has yet to respond to the request, the Federal Bureau of Investigation is looking into the charges resulting from panel's review, a committee aide said Sept. 25.

Unisys, which began providing system security services to DHS in 2003, issued a statement Sept. 24 saying the "allegation that Unisys did not properly install essential security systems is incorrect." The company said it routinely follows prescribed security protocols and has "properly reported incidents to the customer in accordance with those protocols." Since 2003, "the company has worked closely with security personnel from DHS to develop strong, effective security systems and processes that conform to the requirements of this department," the statement said. Unisys added that it has provided DHS "with government-certified and accredited security programs and systems, which were in place throughout the period in question in 2006 and remain so today." Unisys also expressed confidence that "a proper investigation" will show that it acted in good faith to meet DHS security requirements.

A Unisys spokeswoman Sept. 25 discounted press reports that, due to the company's alleged failure to detect the foreign hacking, DHS is reopening competition for the IT services covered by the contract. The current indefinite delivery, indefinite quantity contract was awarded in January 2006 with a ceiling value of \$750 million. It provides for a one-year base period and two one-year options exercisable at the discretion of the government, she said. It was awarded as a "bridge" contract between the January 2006 expiration of the ITMS contract and DHS implementation of the

new EAGLE vehicle for IT solutions. DHS always planned to recompete the contract at the end of this year, according to the Unisys spokeswoman, and the company is prepared to submit a bid once the request for proposals is issued.

House Panel Hears Calls for Incentives Tied to Small Business Subcontracting

Increased compliance by large business prime contractors with their small business subcontracting plans is an important way to remove barriers to participation by minority-owned small businesses in federal contracting, witnesses told a House Oversight and Government Reform panel Sept. 26.

The Census Bureau's reliance on financial incentives and penalties as a way to ensure prime contractor adherence to small business subcontracting plans was one approach outlined at the hearing of the Subcommittee on Government Management, Organization, and Procurement, and one that was endorsed by a small business community representative. Preston Jay Waite, deputy director of the Census Bureau, described the mandatory small business subcontracting requirements in the bureau's two large information technology contracts--one of which is for data collection and the other for communication.

"The Census Bureau is committed to monitoring each program closely to ensure the requirements or goals are met, and the profits of our major contractors are based in part on their fulfillment of these goals," he explained. The contracts, which are held by Lockheed Martin Corp. and the Harris Corp., together total more than \$1 billion and require that the small business goals be met by the time of contract closeout in 2011. The mandatory requirement for subcontracts to small businesses is 30 percent of the total contract value in the case of Lockheed Martin and 20 percent for Harris, Waite said.

Both contracts provide for an award fee determination process that includes an evaluation of the companies' small business subcontracting activities. If either Harris or Lockheed is found not to be complying with their subcontract participation plans and contract requirements in this area, the award fee determination board could withhold up to 25 percent of the award fee for Lockheed, and up to 33 percent for the award fee for Harris, according to Waite. While the inclusion of small business subcontracting requirements is "unusual for contracts of this nature," the approach has resulted in success, Waite said. Both companies have been "diligent in working towards meeting these goals," he said.

Michael Barrera, president and chief executive officer of the United States Hispanic Chamber of Commerce (USHCC) and a former official of the Small Business Administration, told the subcommittee that the Census Bureau's approach to subcontracting plans is a "good idea." While prime contractors may be subject to punitive damages for failing to meet their subcontracting goals, USHCC "knows of no single instance" in which this approach, which has been on the books for over 20 years, has been used, he said. Barrera suggested that a "combination of negative and positive inducements" should be employed. "Prime contractors that do not accomplish their subcontracting goals, for example, could be assessed a penalty in their award fee. Prime

contractors that do accomplish their subcontracting goals, on the other hand, could receive an extra award fee." "In all instances, however, there needs to be far more oversight with respect to the extent to which prime contractors meet their subcontracting goals," Barrera said.

William Shear of the Government Accountability Office told the subcommittee that GAO uncovered significant gaps in data on small business subcontracting when it attempted to determine how much funding small and local businesses received under federal contracts for relief and recovery efforts related to Hurricane Katrina. The GAO report, which focused on Katrina-related contracts awarded by the Department of Homeland Security, the General Services Administration, the Department of Defense, and the Army Corps of Engineers, recommended that steps be taken with respect to future contracts in order to improve documentation on whether subcontracting plans are required and in place. The agencies generally agreed with the recommendation in the report, which was issued last March, Shear told the subcommittee.

Since then, GSA has issued guidance reminding its contracting officers of the importance both of the subcontracting plan requirements and of documenting key decisions affecting acquisitions, including any decisions impacting subcontracting plan requirements, he said. Also, GSA will include a review of compliance with subcontracting plan requirements in its annual internal procurement management reviews, he said. For their part, DOD and DHS officials have said they are working on implementing GAO's recommendations in this area, according to Shear, while Corps officials have indicated they are developing a new training module for COs on the requirements regarding subcontracting plans.

Anthony Robinson, president of the Minority Business Enterprise Legal Defense and Educational Fund, said large prime contractors currently have "little incentive" to provide opportunities for small businesses, due to the lack of accountability in the federal government subcontracting program. Robinson traced the problem to acquisition reform in the 1990s, charging that the Federal Acquisition Streamlining Act and the Federal Acquisition Reform Act "set the stage for the beginning of the end to competition in the federal government."

The "philosophy of acquisition reform," Robinson said, has since been used to consolidate and bundle work that has historically been performed by small businesses into huge multi-level contracts awarded to large corporations, "in many cases using multiple-award contracts that avoid public competition." Robinson placed the blame at the feet of "federal managers," who, he said, "give 'lip service' to opportunities for small business as subcontractors knowing that there is little accountability" in the subcontracting program. Allegra McCullough, a business and economic development consultant who previously served in SBA's Office of Government Contracting and Business Development, offered a different view of the connection between government procurement officials and contract bundling. "Much of contract bundling and the increased size of contracts is a direct result of a dwindling senior procurement workforce that is not being replaced in a timely manner by a new, well-trained one," she said.

"Expediency rules over the development of thoughtful, strategic sourcing plans that could benefit more small businesses," according to McCullough. "Many procurement opportunities must be delayed by years because of a scarce, often ill-trained, procurement workforce."

In response to a question from Subcommittee Chairman Edolphus Towns (D-Md.), McCullough said steps should be taken to hold federal agencies that fail to meet their minority-owned business contracting goals more accountable. "Hit them where it hurts--in the wallet," she said, suggesting that bonuses for employees charged with ensuring that agencies meet their goals be linked to the success of those endeavors. Calvin Jenkins, deputy associate administrator of SBA's Office of Government Contracting and Business Development, said that with respect to the program for small disadvantaged firms authorized under Section 8(a) of the Small Business Act, SBA is exploring possible regulatory changes that will strengthen the program and increase the agency's oversight capabilities. The agency also has revised its partnership agreements, which delegate SBA's 8(a) contract execution function from SBA to various federal procuring agencies, to clarify their roles and responsibilities for monitoring contract compliance of and performance by 8(a) firms, he said.

SBA Head Objects to House Proposal To Fix Small Business Contracting Programs

Steven Preston, administrator of the Small Business Administration, voiced concerns with most of the provisions of draft legislation aimed at improving small business contracting programs when he appeared at an Oct. 4 hearing of the House Small Business Committee.

Preston's comments were in reaction to an outline of the draft bill, the "Small Business Contracting Program Improvements Act of 2007," which has yet to be formally introduced, but is scheduled to be marked up Oct. 11. The draft includes changes that apply to all Small Business Act contracting programs, as well as revisions to specific programs, such as the program for small disadvantaged firms authorized under Section 8(a) of the Small Business Act and the Historically Underutilized Business Zone program.

Changes that would be applicable to all SBA contracting programs include provisions:

- barring participation in contract preference programs by business owners that have "been shown not to have integrity";
- allowing other small businesses to protest the eligibility of a company for award through an SBA procurement program;
- ensuring that federal agencies are subject to small business goals corresponding to each of SBA's various contracting programs;
- requiring annual reports on employee numbers and revenue; and
- increasing from \$5 million to \$10 million the limit on the size of contracts that may be awarded to small businesses without competition.

On the issue of integrity, Preston said his agency objects to requiring "background checks on all SBA program participants." The Small Business Administration is responsible for certifying program eligibility, he said, while the Federal Acquisition Regulation makes contracting agencies responsible for verifying contractor responsibility. However, Preston acknowledged that this verification duty shifts to his agency with regard to the 8(a) program, due to the "unique prime contractor/subcontractor relationship" between SBA and 8(a) firms.

The SBA administrator also said the agency opposes "granting 'interested party' status to any small business," saying the provision could "significantly multiply potential protests" by allowing any firm, "regardless of interest," to protest an award. He also expressed the agency's view that the provision would "drive contracting officers to avoid SBA procurements." While it is "appropriate that firms involved in the bidding process have interested party status, ... there is no benefit to allowing HUBZone firms to protest small business set-asides or 8(a) firms to protest Service-disabled Veteran awards," Preston said.

He also objected to what he sees as the proposal's imposition of prime and subcontracting goals for all SBA programs and to the provision requiring annual reporting of by small businesses of their employment and revenue. In addition, Preston said that increasing "sole source award authority to \$10 million" has the "potential to create a significant pool of large sole source contracts that would be outside the reach of most small businesses."

The draft bill also focuses on:

- updating the 8(a) program;
- modifying the HUBZone program to address problems with contracting fraud; and
- strengthening penalties for companies that misrepresent themselves as service-disabled, veteran-owned firms.

Among the changes to the 8(a) program included in the draft bill is a requirement that SBA, which currently delegates administration of contracts to individual agencies, be a party to each contract. Preston objected to eliminating the current delegation of authority, saying agencies need it to "streamline the process for making 8(a) awards." He also said the proposed increase in the current \$250,000 net worth level for participation in the program to a "blanket \$750,000 minimum" is too high.

With respect to the HUBZone program, Preston said there would be "significant cost and logistical challenges" in implementing a proposal to require on-site exams before a firm is awarded a second contract--a provision that is intended to address concerns that the program is subject to widespread fraud. The agency is "equally concerned" about other proposed changes to the HUBZone program, Preston said, including a prohibition on HUBZone contracts when the work is located outside the HUBZone in which a business seeking the contract is located.

"If a HUBZone firm may not have an office outside a HUBZone then this would ban offices at job sites located outside a HUBZone, a standard business practice in the service and construction industries," he said. He similarly objected to a change that would restrict award of HUBZone construction contracts outside a 150 mile radius from the firm's HUBZone, saying it would "effectively eliminate many HUBZone firms from competing for work at all." Preston did endorse the draft change calling for imposition of the same penalties for firms that misrepresent themselves as service-disabled, veteran-owned as those applicable to firms misrepresenting themselves to obtain contracts under other preference programs. "False certification should affect all firms," he said.

LEGISLATIVE ACTION

Bill Number	Sponsor	Description	Action
H.R. 928	Cooper	To enhance the independence and accountability of federal agency inspectors general	Passed, 404-11, 10/3/07
H.R. 1585	Skelton	To authorize FY 2008 funding for Defense Department, provide new limits on DOD implementation of OMB A-76 public-private competition process, and establish a bipartisan commission to investigate the performance of contracting activities in support of U.S. military and reconstruction activities in Iraq and Afghanistan	Passed by Senate, 92-3, 10/1/07
H.R. 2740	Price	To require accountability for contractors and contract personnel under federal contracts by expanding the Military Extraterritorial Jurisdiction Act	Passed, 389-30, 10/4/07
H.R. 3068	Norton	To prohibit the award of contracts to provide guard services under the contract security guard program of the Federal Protective Service to a business concern that is owned, controlled, or operated by an individual who has been convicted of a felony	Passed, by voice vote, 10/2/07
H.R. 3222	Murtha	Making appropriations for the Department of Defense for the fiscal year ending September 30, 2008	Passed Senate, by voice vote, 10/3/07
H.R. 3706	Tierney	To create a commission on wartime contracting	Introduced 9/28/07;

		to investigate the performance of contracting activities in support of U.S. military and reconstruction activities in Iraq and Afghanistan	referred to Foreign Affairs, Armed Services, and Permanent Select Intelligence
H.J.Res. 52	Obey	To extend agency funding at current levels through 11/16/07, while adding an additional \$5.2 billion for purchase and deployment of mine-resistant vehicles for use by U.S. military in Iraq	Signed by president (Pub. L. No. 110-93), 9/29/07
S. 2138	Akaka	To establish within the Department of Veterans Affairs the position of assistant secretary for acquisition, technology, and construction	Introduced 10/4/07; referred to Veterans Affairs
S. 2147	Obama	To require accountability for contractors and contract personnel under federal contracts by expanding the Military Extraterritorial Jurisdiction Act	Introduced 10/4/07; referred to Judiciary

REGULATORY ACTION

Agency	Action	Description	Comment Due Date/ Effective Date; Federal Register Cite
Commerce (BIS)	Final rule	To amend the Export Administration Regulations to add India as an eligible destination for exports, reexports, and transfers under Authorization Validated End-User	Effective 10/2/07 (72 Fed. Reg. 56,010, 10/2/07)
EPA	Proposed rule	To add to the EPA Acquisition Regulation policy, procedures, and contract clauses for the use of award term incentives and to reflect the General Services Board of Contract Appeals as EPA's new forum for disputes under the Contract Disputes Act	Comments due 12/3/07 (72 Fed. Reg. 56,708, 10/4/07)
President	Executive order	To continue for one year the national emergency declared by E.O. 13,244 on 9/23/01 with respect to persons who commit, threaten to commit, or support terrorism	Effective 9/23/07 (72 Fed. Reg. 54,205, 9/21/07)
USAID	Final rule	To add two new parts and four new sections to	Effective

		USAID acquisition regulations. Included in the rule are provisions: requiring contracting officers to comply with customary commercial practice or to obtain a waiver pursuant to FAR Part 12 in order to prohibit contractors from using government facilities or personnel in a commercial services contract; allowing COs to require contractors to obtain contracting officer approval before releasing or publishing data first produced in the performance of the contract if making that data public may have a negative effect on the government's development objectives or diplomatic relationship with a cooperating country; and specifying progress reporting requirements in contracts	10/18/07 (72 Fed. Reg. 53,161, 9/18/07)
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