



**SMALL BUSINESS
LEGISLATIVE
COUNCIL**

TESTIMONY OF
JOHN SATAGAJ
PRESIDENT AND GENERAL COUNSEL
OF THE
SMALL BUSINESS LEGISLATIVE COUNCIL
BEFORE THE
COMMERCIAL ACTIVITIES PANEL
OF THE GENERAL ACCOUNTING OFFICE
ON THE SUBJECT OF UNFAIR GOVERNMENT COMPETITION
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Unfair competition occurs when the government conducts activities in-house which could be obtained from the private sector or provides services to the public which could be provided by the private sector. Over the years these activities have multiplied in number and include such diverse activities as custodial services to recreational support services.

The SBLC is a permanent, independent coalition of nearly 80 trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views.

Let's begin by setting the record straight. Government competition is a small business issue. In 1979, the Chief Counsel for Advocacy for Small Business issued a study on the subject, which documented, at great length, the interests of small business in this issue. Unfortunately, the study is as valid today as it was 22 years ago. Eliminating government competition and the establishment of a policy of reliance on the private small business sector was a high priority recommendation of the 1980, 1986 and 1995 White House Conferences on Small Business.

Second, on principle, we are opposed to the notion government organizations should be providing any service not directly essential to the performance of their core mission.

Third, no matter how the cost comparison of private and public sector performance is structured, it will never adequately capture the benefits that flow to the economy and the nation from reliance on small business, and from smaller government.

SBLC's roots in the subject are deep and strong. Over the years, SBLC was involved in the efforts led by Representatives Bob Smith and Charles Stenholm in the 99th and 100th Congresses, by Senator Warren Rudman in the 98th Congress, and Senator John East and Senator S. I. Hayakawa in the 97th Congress. SBLC was an active participant in the effort to secure enactment of the Federal Activities Inventory Reform Act (FAIR). It has been with some considerable disappointment we view the failure of Congress to deal with this serious problem head on. Currently, the government's policy with respect to contracting out is captured in Office of Management and Budget (OMB) Circular A- 76 and the FAIR Act.

The government's track record in this important area is dismal. It is stunning and a shame this policy deficiency has never been corrected. As early as 1933 a Special House Committee reported on the growing number of commercial activities being performed by the government. (House Special Committee, Government Competition with Private Enterprise, 72th Congress, 1st Session, House Report 235.) Even then the list of activities was quite extensive.

During the 1950's Congress and the Executive Branch undertook the first major effort to grapple with this problem. In 1954, the House Committee on Government Operations issued a report entitled "the Government in Business." With the exception of "debt," the first sentence of that report stands today as topical as the day it was written. The committee stated: "The subject of Government in Business is wide in scope and extremely important in this era of big government debts, heavy taxes, and complex intergovernmental relations." The Report quoted Thomas Jefferson, James Madison, and Alexander Hamilton noting that the "Founding fathers did not conceive that the federal government should engage in business in competition with citizens striving for a livelihood."

The committee observed that in 1953 the government operated over 100 business type activities and recommended that the government should stop competing with the private sector. In its conclusion, it made a statement which perhaps best summarizes the concerns of the business community. The committee stated: "Genuine efforts should be exerted to encourage rather than discourage industry to handle the government's business. A strange contradiction exists where the government gives lip service to small business and then re-enters into unfair competition with it. In 1954, the House of Representatives passed one of the first bills on this subject, but it failed to pass the Senate.

This attention by Congress did result in executive branch activity. The Bureau of the Budget issued Budget Bulletin 55-4 in January 1955. Business' struggle to get the government to develop a cohesive, realistic management system shifted to the Executive Branch at that point and it is where we have concentrated our efforts for the last 45 years. During this period, we have lived with several versions of the Bureau of Budget's, now the Office of Management and Budget (OMB), attempt to control the growth of government's burgeoning commercial activity. Even with the addition of the Fair Act, the fact that we are no closer to solving this problem nearly 50 years later is testimony to the fact we need more than an executive policy, we need a clear mandate.

The policy as stated 45 years ago in Budget Bulletin 55-4 was simple and straight forward: "It is the general policy of the administration that the federal government will not start or carry on any commercial activity to provide a service or product for its own use if such product or service can be procured from private enterprise through ordinary business channels. Exceptions to this policy shall be made by the head of an agency only where it is clearly

demonstrated in each case that it is not in the public interest to procure such product or service from private enterprise.”

Interestingly, the relative costs of government vs. private production were introduced in 55-4 as a factor only if a product was not available at a reasonable price. “The relative costs of government operation compared to purchase from private sources will be a factor in the determination in those cases where the agency head concludes that the product or service cannot be purchased on a competitive basis and cannot be obtained at reasonable prices from the private industry.”

We believe A-76 and the FAIR Act have failed to produce complete results because this policy is not perceived as a national priority either within the government or the private sector. As you know, an earlier 1978 study by the General Accounting Office came to the same conclusion and recommended, as we did then and now, the establishment of a national policy, endorsed and supported by both the legislative and executive branches. The national policy must be stable, understandable, and provide a balance among many conflicting national issues.” (GAO Study 78-118, September 25, 1978.)

Over these many years, how many small businesses have failed under the pressure of this unfair competition? How many opportunities have been lost to start a new small business because of this policy?

In recent years, there has been considerable documentation of business’ ability, particularly small business, to generate new jobs and to fuel our economy. At the same time we, as a nation, have raised questions about the size and purpose of our government. Yet, we have failed to enact a policy that will help the job creators; reduce the size of government; and, be

consistent with the economic philosophy of the founding fathers of this country. It is difficult for the business community to understand the government's inability to develop and implement sound management concepts. We can see no better way to maximize the effective use of our nation's resources than focusing the attention of the government on the act of governance and leaving the job of commercial activity to the private sector. Our founding fathers recognized that business should be left to business. Thomas Jefferson once said, "the true theory of our constitution is surely the wisest and best, that the states are independent as to everything within themselves, and united as to everything respecting foreign nations. Let the General Government be reduced to foreign concerns only, and let our affairs be disentangled from those of all other nations, except as to commerce, which the merchants will manage the better, the more they are left free to manage for themselves, and our General Government may be reduced to a very simple organization, and a very inexpensive one; a few plain duties to be performed by a few servants."

Thank you for the opportunity to discuss unfair competition by the government.