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UNITED STATES GENERAL ACCOUNTING OFFICE

FOR RELEASE ON DELIVERY
EXPECTED AT 9:30 A.M. EST.
TUESDAY, APRIL 7, 1981

STATEMENT OF
MILTON SOCOLAR
ACTING COMPTROLLER GENERAL
OF THE UNITED STATES



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BEFORE THE
SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY
COMMITTEE ON GOVERNMENT OPERATIONS
HOUSE OF REPRESENTATIVES

Mr. Chairman and Members of the Committee:

We appear today to discuss the report (AFMD-81-33) on our review of the reservation and [award of ~~Section 8(a) Small Business Act~~ contracts to Arcata Associates, Inc.] (Arcata). At your request, we sought to determine

--whether the allegations made by the BDM Services Company (BDM) to the Small Business Administration (SBA) are valid and

--to what extent SBA's management of the 8(a) program is deficient in this situation.

On December 4, 1980, we briefed your office on the results of our review and, at your request, have provided our written report on March 23, 1981. In addition to your inquiry, the BDM allegations have become the focus of an investigation by the SBA Inspector

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General, and the subject of hearings before the Senate Select Committee on Small Business. BDM also filed suit in the United States District Court for the District of Columbia seeking a declaratory judgment and injunctive relief. The court denied the injunction based on the finding of an insufficient showing of likelihood of success on the merits. The suit, however, is still pending before the court.

Since the overall question of Arcata's eligibility and the validity of the data used to establish its eligibility is under investigation by the SBA Inspector General, our analysis of eligibility is based on information contained in the SBA files. We did not review the files or financial records of Arcata or its principal owner nor did we independently assess Arcata's technical competence.

Section 8(a) of the Small Business Act (15 U.S.C. 637(a)), as amended, gives SBA the authority to enter into contracts for goods and services with Federal agencies. SBA then subcontracts this work to selected small businesses. The purpose of this process, known as the 8(a) program, is to help socially and economically disadvantaged small businesses achieve a competitive position in the marketplace.

In October 1978, Public Law 95-507 amended Section 8(a) and, among other things, provided for a special contracting method between SBA and a Federal agency to be designated by the President. The Department of the Army was selected as the pilot agency in January 1979. In contrast to the "regular" 8(a) program, which

calls for agencies to voluntarily offer contract requirements to SBA, the Pilot Program gives SBA the authority to reserve specific contract requirements for award to 8(a) firms.

Using its Pilot Program authority, SBA, in January 1980, formally reserved the Army's Combat Development Experimentation Command (CDEC) requirement for Arcata and in so doing halted the Army's attempt to procure its requirements through open competition. The CDEC work is an ongoing Army requirement involving the operation and maintenance of instrumentation equipment and the design, performance, and evaluation of technical experiments to assess weapons systems and tactical concepts. The CDEC work requires field experimentation and computer analysis of the results of those experiments under simulated combat conditions.

The CDEC contract (DAAG08-81-C-0119) was awarded to SBA and the related subcontract was awarded by SBA to Arcata on October 14, 1980. In 1971 and again in 1975, BDM won competitions for contracts to perform that work. The contract is valued at about \$8.9 million per year and has options for 4 years which, if exercised, place the total value at over \$44 million. Arcata, in turn, subcontracted 67 percent of the professional work to Planning Research Corporation.

After SBA reserved the CDEC requirement, in a May 5, 1980, letter to the General Counsel of SBA, BDM argued that the reservation should be withdrawn because the proposed award would be contrary to (1) statutory and regulatory competency requirements, (2) the intent of the Pilot Program, and (3) SBA's own eligibility standards and business plan requirements. Specific allegations in

each of the above areas were then discussed. We evaluated nine specific allegations and found some have merit. The SBA Inspector General investigated another allegation and found it to be unsupported.

We believe that some of BDM's allegations concerning the SBA reservation and award of contracts to Arcata have merit. We found that SBA's management of Arcata's participation in the 8(a) program has been deficient.

We found that a number of specific BDM contentions have merit. In this respect, SBA awarded the \$8.9 million Army CDEC contract to a concern that

- will provide a service unrelated to (1) its capabilities as identified in its Business Plan or (2) the experience of its principal or professionals,
- was not evaluated for technical capability to perform, as required by SBA procedures,
- has not maintained its status as a small business because of the 8(a) awards it has received,
- has received in 1980 8(a) support that is almost four times the approved amount under SBA procedures,
- was allowed to select contract requirements and then change its business plan to reflect the capabilities required by the selected contract, and
- has not maintained a reasonable balance between 8(a) and non-8(a) sales.

Two additional allegations, involving the use of large business concerns and the determination of the firm's status as economically disadvantaged, were not supported by evidence gathered during our review.

The specific BDM allegations, related issues, and our analysis contain data of a proprietary nature and have been provided to the Committee.

In our view, SBA's management of Arcata's participation in the 8(a) program has been deficient. In reserving and awarding the CDEC contract to Arcata, senior SBA officials did not apply the applicable size standard regulations as required by SBA procedures.

Also, the award of a professional services contract such as CDEC to an 8(a) firm that must subcontract a major portion of the professional work raises questions regarding the extent to which an 8(a) firm may subcontract such work without subverting the purposes of the program.

SBA's procedures for determining economic disadvantage are ambiguous and leave much to individual interpretation. Similar concerns were raised by the SBA Inspector General in 1979, and SBA responded by saying it was going to contract out a study to develop better economic criteria.

In our report to your Committee on this subject, we recommend that the Administrator of the SBA thoroughly review the Arcata case with SBA's Inspector General and determine whether Arcata's status

and performance of this contract are consistent with established criteria and if not, whether termination of the contract and/or removal from the program are warranted.

We also recommended that the Administrator take appropriate action to assure that all assistance to 8(a) firms complies with applicable statutory and regulatory authority and agrees with SBA established procedures. Such action should include a more active role by SBA internal surveillance groups with particular emphasis on assuring that any assistance provided agrees with the firm's capabilities and objectives as reflected in its approved Business Plan.

We further recommended that the Administrator actively pursue the effort, promised in 1979, to insure that better and more specific economic eligibility criteria are produced at the earliest possible date.

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Mr. Chairman, this concludes my prepared statement. We will be pleased to respond to any questions.