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CONTRACT MANAGEMENT

Reporting of Small Business Contract Awards Does Not Reflect Current Business Size

Statement of David E. Cooper
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GAO-03-704T

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Highlights

Highlights of GAO-03-704T, testimony before the Committee on Small Business, House of Representatives

CONTRACT MANAGEMENT

Reporting of Small Business Contract Awards Does Not Reflect Current Business Size

Why GAO Did This Study

According to information in the Federal Procurement Data System (FPDS), in fiscal year 2001, small businesses received approximately 23 percent of federal contract dollars awarded. However, concerns have been raised that large companies are receiving federal contracts intended for small businesses.

What GAO Recommends

We have not made recommendations in this testimony. However, we note the need for accurate and consistent data on companies' business size in order to reliably report small business contract awards. Accordingly, we believe a coordinated effort between agencies is necessary to ensure that accurate and reliable small business data is reported.

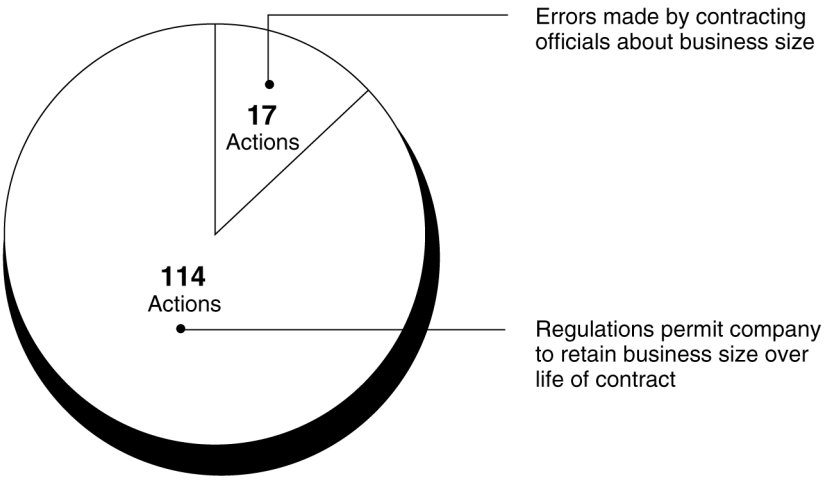
What GAO Found

According to FPDS, five large companies that we reviewed received contracts totaling $1.1 billion in fiscal year 2001, including $460 million as small business awards. To understand why awards to these large companies were listed in FPDS as small business awards, we focused our review on 131 individual contract actions awarded to these companies by four federal buying activities.

The predominant cause for the misreporting of small business achievements is that federal regulations generally permit a company to be considered as a small business over the life of the contract—even if they have grown into a large business, merged with another company, or been acquired by a large business. In today's federal contracting environment, contracts can extend up to 20 years. In addition, agencies relied on various databases containing inaccurate information on current business size.

The General Services Administration, the Office of Federal Procurement Policy, and the Small Business Administration have taken or proposed a number of actions aimed at requiring small businesses to re-certify and not retain their small business status for the life of the contract. While these proposals do not directly address the database problems we identified at the four federal buying activities, there are a number of initiatives under way designed to improve federal contract databases.

Large Companies' Contracts Reported as Small Business Awards



Source: GAO.

www.gao.gov/cgi-bin/getrpt?GAO-03-704T.

To view the full report, including the scope and methodology, click on the link above. For more information, contact David Cooper at (617) 788-0555 or cooperd@gao.gov.

Mr. Chairman and Members of the Committee:

Thank you for inviting me to participate in today's hearing on whether large companies[1] are receiving federal contracts intended for small businesses. According to the Federal Procurement Data System (FPDS),[2] small businesses received approximately $50 billion, or almost 23 percent of federal prime contract dollars awarded in fiscal year 2001. In response to your request, we reviewed awards to five large companies to determine

- how contracts awarded to the companies were reported in FPDS,
- why federal contract officials reported the contracts as small business awards, and
- what actions are being taken to address any identified problems.

A detailed discussion of our scope and methodology can be found in appendix I.

According to FPDS, the five large companies received contracts totaling over $1.1 billion in fiscal year 2001, including $460 million reported as small business awards. To understand why awards to these large companies were listed in FPDS as small business awards, we focused our review on 131 individual contract actions awarded to these companies by four federal buying activities.

The primary reason these contract actions were reported as small business awards is because federal regulations generally permit companies to be considered small over the life of a contract—even if the company grows into a large business, merges with another company, or is acquired by a large business. We also found that contracting officials reported some contract actions as small business awards because they relied on databases containing conflicting and incorrect information about the current size of some of the companies we reviewed. While these results cannot be projected to all contract actions reported, they raise serious questions about relying on FPDS data to measure federal agencies' efforts to meet the government's 23 percent small business goal.

[1] The Small Business Administration (SBA) uses the terms small and other than small to define those concerns that meet their size standards and those that do not. For purposes of this statement, we use the term large to identify those concerns that are other than small.

[2] FPDS is the government's central repository of statistical information on federal contracting. The system contains detailed information on contract actions over $25,000 and summary data on procurements of less than $25,000.

The Office of Federal Procurement Policy (OFPP), the General Services Administration (GSA), and the Small Business Administration (SBA) have all recognized the need to address issues regarding changes in the size of businesses, particularly in the context of today's long-term federal contracts. Each has proposed actions designed to protect small business interests and ensure small business achievements are reported accurately.

Background

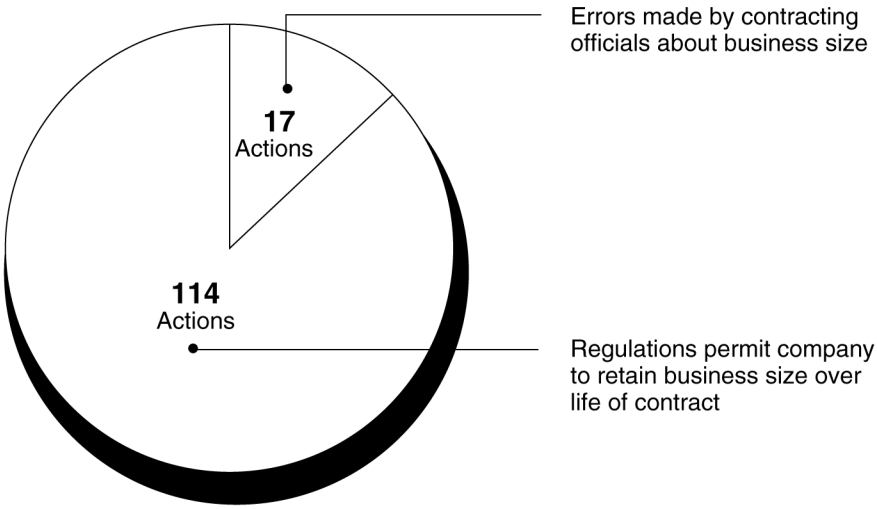
The Small Business Act defines a "small business concern" as one that is independently owned and operated and that is not dominant in its field of operation. The act allows SBA to further define a small business. In its regulations, SBA has established size standards for different types of economic activities, or industries, generally under North American Industry Classification System (NAICS) codes. Size standards define the maximum size that a business, including all of its affiliates, can be to be eligible as a small business for all SBA and federal programs that require small business status. Most size standards are based on either number of employees or average gross revenues.

The Federal Acquisition Streamlining Act of 1994 (FASA) codified the authority of agencies to enter into task or delivery order contracts with multiple firms for the same or similar products, known as multiple award contracts (MAC). Also, the Clinger-Cohen Act of 1996 provided for the use of multiagency contracts and what have become known as governmentwide acquisition contracts (GWAC). Agencies have increasingly used these types of contracts, which can extend up to 20 years, to quickly meet their acquisition needs rather than issuing new contracts. For these types of contracts, the size of a business is determined as of the date the business submits a self-certification in its initial offer. If a business is small as of that date, agencies may place orders pursuant to the original contract and consider these orders as awards to a "small business" for the length of the contract, even if the company outgrows the original contract's size standard.

Reporting of Small Business Contract Awards in FPDS Does Not Reflect Current Business Size

Our work at the four federal buying activities showed that contracting officials reported 131 contract actions made to the five large companies in fiscal year 2001 as small business awards. (See fig. 1.)

Figure 1: Large Companies' Contracts Reported as Small Business Awards



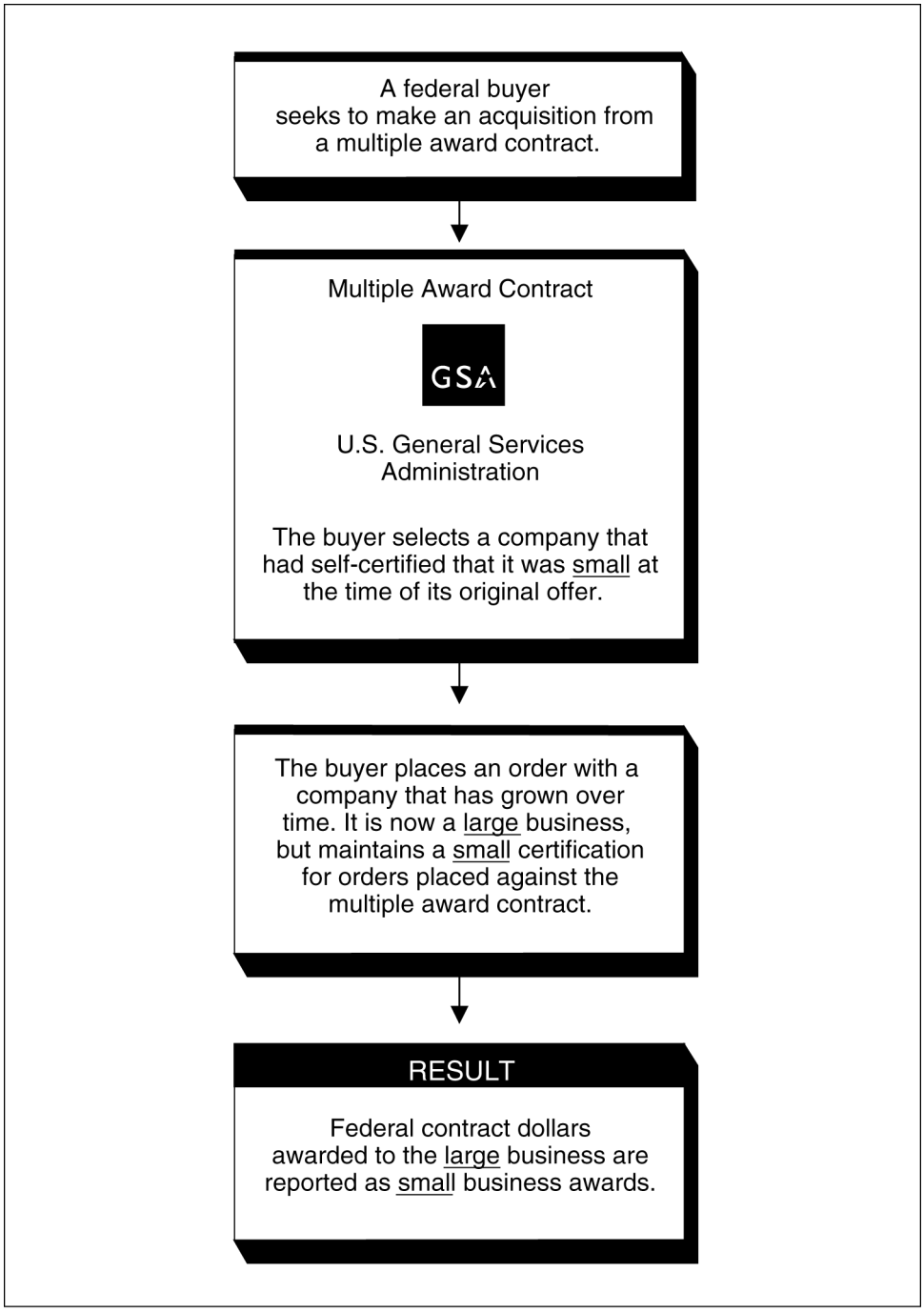
Source: GAO.

SBA conducted an analysis of FPDS data concerning four companies in fiscal years 2000 and 2001 under GSA's Multiple Award Schedules Program and concluded that the small business award information in FPDS is misleading. According to SBA, the four companies were initially certified as small businesses and awards to these companies continued to be reported as small business contracts even though they became large businesses. In fiscal year 2000, the four companies received 1,313 contract actions valued at over $190 million that were reported as small business awards. In fiscal year 2001, these companies received 1,271 contract actions amounting to over $200 million reported as going to small businesses.

Reasons Why Information In FPDS Does Not Reflect Current Business Size

The primary reason why contracts awarded to large companies are reported in FPDS as small business awards is that federal regulations permit companies to be considered small over the life of a contract—even if they have grown into a large business, merged with another company, or been acquired by a large business. Given that the term of a contract can extend for up to 20 years in the current federal acquisition environment, there is often ample time for a company's size to change. We found this to be the case in several of the companies we reviewed. For example, one company was initially certified as a small business but subsequently grew in size and no longer qualified as a "small business" for federal contracting purposes. However, the company continued to receive awards that were reported in FPDS as small business awards in accordance with current regulations. In fiscal year 2001, this company received small business contract awards totaling nearly $330 million. (See fig. 2.)

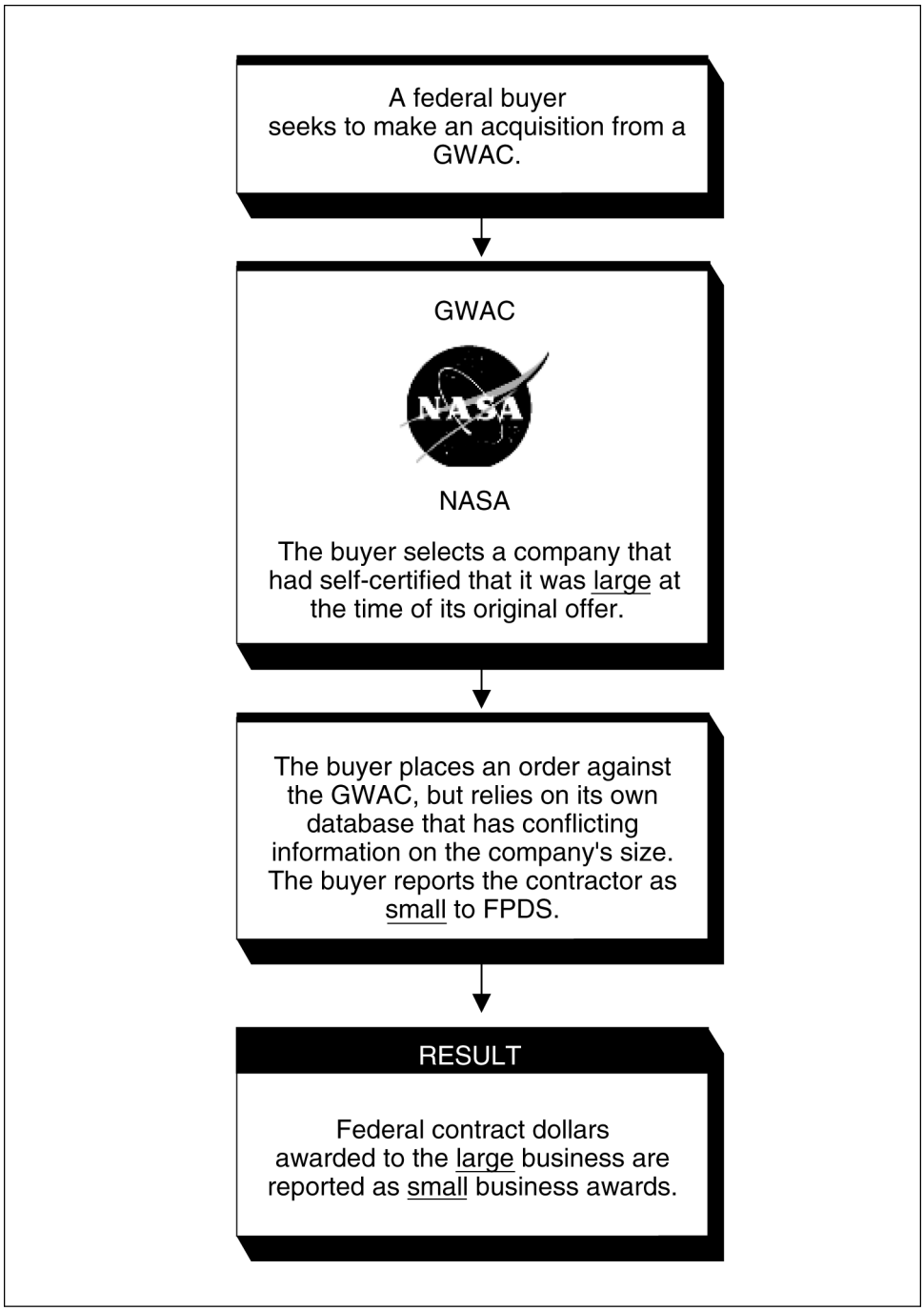
Figure 2: An Example of How FPDS Small Business Information Is Affected by Federal Regulations



Source: GAO.

We also found several cases where contracting officials relied on conflicting and inaccurate information in federal databases to report business size information. Specifically, at the four federal buying activities we visited, contracting officials were using databases that contained outdated and inaccurate information about the size of the companies we reviewed. For example, a company certified it was a large business under a GWAC, but contracting officials placing an order off of this GWAC relied on outdated information contained in databases and reported these orders as going to a small business. (See fig. 3.)

Figure 3: An Example of How FPDS Small Business Information Is Affected by Contracting Officials Using Databases That Contain Outdated or Inaccurate Information



Source: GAO.

Proposals to Address Reporting of Small Business Size

GSA, OFPP, and SBA have taken or proposed a number of actions to improve the accuracy of reporting small business size. All of the proposed actions are aimed at requiring small businesses to re-certify and not retain their small business status for the life of the contract. For example:

- In October 2002, GSA changed its policy to require companies receiving Federal Supply Service (FSS) Multiple Award Schedule Program contracts and all other multiple award-type contracts to re-certify their business size when the government exercises options to extend such contracts—which for the FSS contracts generally occurs at 5-year intervals.

- In February 2003, OFPP required agencies with GWACs to have their contractors annually re-certify their status as small businesses.

- In April 2003, SBA proposed several changes to its regulations governing small business size. Specifically, SBA proposed that companies receiving Multiple Award Schedule Program contracts and other multiple award contracts must re-certify their small business status annually. SBA's proposed changes also included procedures for publishing a list of re-certifications and allowing interested parties to challenge the re-certifications. SBA also reserved the right to review or request a formal size determination of any re-certification. Public comments on SBA's proposed regulatory changes are due by June 24, 2003.

While these proposals address the primary cause of large companies being reported as receiving small business awards, they do not directly address the database problems we identified at the four federal buying activities. It is imperative that federal contracting officials have accurate and consistent data on companies' business size in order to reliably report small business contract awards. There are a number of initiatives underway designed to improve federal contract databases. Accordingly, we believe a coordinated effort between agencies is necessary to ensure that accurate and reliable small business data is reported.

Conclusion

A purpose of the Small Business Act is to ensure that a fair proportion of all federal contracts be placed with small business concerns. Implicit in this is the notion that the work under the contract will actually be performed by a small business.

Small business contracting information reported in FPDS is misleading because regulations permit companies to retain their small business status over the life of contracts—which in today's federal contracting environment could last as many as 20 years. Federal databases containing outdated and incorrect information add to the problem.

Considering the duration of current federal contracts, it is reasonable to require contractors to update their small business status more frequently to reflect their actual size. We believe the proposals by GSA, OFPP, and SBA are preliminary steps to achieve this purpose.

Mr. Chairman, this completes my prepared statement. I would be happy to respond to any questions you or other Members of the Committee may have at this time.

Contact and Acknowledgments

For further information regarding this testimony, please contact David E. Cooper at (617) 788-0500. Individuals making key contributions to this testimony include Robert Ackley, Penny Berrier, Chris Galvin, Julia Kennon, Judy Lasley, John Needham, Russ Reiter, Sylvia Schatz, and Karen Sloan.

Appendix I: Scope and Methodology

Using FPDS, we identified 49,366 companies receiving contract awards reported as going to small businesses in fiscal year 2001. Of these companies, 5,341 also received contract awards as a large business. These companies were reported receiving over $13.8 billion as a small business and almost $60.6 billion as a large business. To conduct our work, we reviewed a judgmental sample of contract actions awarded by four federal buying activities to five large companies.

To ensure that we had a good selection of contract actions and federal buying activities to review, we identified companies that received at least 50 contract actions that were recorded as going to a small business and at least 50 contract actions recorded as going to a large business. Nineteen companies met these parameters. We selected five of these companies based on a number of factors including the type, value, and number of contract actions, and location of the buying activity. The five large companies in our sample received both large and small business contracts totaling about $645 million and $460 million, respectively, in fiscal year 2001. We then selected contract actions awarded to determine how the companies had, in these cases, been classified as a small business. We reviewed 131 contract actions totaling $17.4 million. Our work was performed at the Office of Personnel Management, GSA's Federal Systems and Integration Management Center, the Department of Air Force's Hanscom Air Force Base, and the Department of Army's Defense Contracting Command-Washington.

In addition, we reviewed the contracts awarded by GSA's Federal Supply Service, National Institutes of Health's Information Technology Acquisition and Assessment Center, National Aeronautic Space Administration's Scientific and Engineering Workstation Procurement, and the Department of Army's Small Army Computer Program.

Finally, we held discussions with officials at GSA, OFPP, and SBA. To obtain the small business perspective, we spoke with small business association representatives. We conducted our review between November 2002 and May 2003 in accordance with generally accepted auditing standards.

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