



Testimony

Before the Senate Committee on Small  
Business and Entrepreneurship

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**SMALL BUSINESS  
CONTRACTING**

**Concerns About the  
Administration's Plan to  
Address Contract Bundling  
Issues**

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**G A O**

Accountability \* Integrity \* Reliability

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Madam Chair and Members of the Committee:

Thank you for inviting me to participate in today's hearing on the Office of Federal Procurement Policy's (OFPP) October 2002 plan to increase federal contracting opportunities for small businesses. OFPP's plan is aimed at eliminating unnecessary contract bundling and mitigating the effects of necessary contract bundling.<sup>1</sup> Specifically, it calls for a series of actions to

- hold federal agency managers accountable for improving small business contracting opportunities;
- strengthen the Federal Acquisition Regulation and Small Business Administration (SBA) regulations governing contract bundling; and
- use SBA and agency small business resources to improve oversight and mitigate the effects of bundling.

If successfully implemented, OFPP's plan could be a positive step toward addressing longstanding concerns about opportunities for small businesses to compete for federal contracts. My comments today will focus on two implementation concerns: (1) the measures and information that will be used to monitor agencies' progress in eliminating unnecessary contract bundling and mitigating the effects of necessary bundling and (2) the ability of SBA's Procurement Center Representatives and agencies' Small and Disadvantaged Business Utilization offices to meet the added responsibilities laid out in the plan. My testimony is based primarily on prior GAO reports.

#### Measures and Information Needed to Monitor Agencies' Contract Bundling Efforts Not Identified

Over the last several years we have been asked to review acquisition reforms and initiatives to determine whether they are achieving desired outcomes. All too often, we have been unable to make such assessments because measures and information requirements were not established. Without reliable measures and information, the Congress and the President will not be able to ensure agency accountability for improving small business participation in federal procurement.

OFPP's plan calls for holding senior agency managers accountable for improving contracting opportunities for small businesses. According to the plan, agencies will be required to periodically report to the Office of Management and Budget's (OMB) Deputy Director for Management on the status of agency efforts to address contract bundling issues. While the plan recognizes that timely and accurate reporting of contract bundling information is needed to monitor agency efforts to address contract bundling, it is unclear at this time what information will be reported and how the information will be used to measure agencies' progress in meeting the plan's goals. The first reports were

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<sup>1</sup>The Small Business Reauthorization Act of 1997 defines contract bundling as "consolidating two or more procurement requirements for goods or services previously provided or performed under separate, smaller contracts into a solicitation of offers for a single contract that is unlikely to be suitable for award to a small business concern."

due January 31, 2003, but we understand there has been a delay by many agencies in submitting the reports.

To ensure OMB, agencies, and SBA can monitor the status of agency efforts to address contract bundling concerns, we believe that OFPP should establish and communicate the measures and information that are required for such monitoring. For example, measures and information on the number of consolidated contracts subject to bundling reviews and the results of those reviews would greatly support monitoring efforts. Measures could also include some quantitative analysis of how mitigation efforts (teaming arrangements and subcontract opportunities) have affected small business participation in agency acquisitions.

#### SBA and Agency Offices of Small and Disadvantaged Business Utilization May Have Difficulty Meeting Added Responsibilities

On January 31, 2003, SBA proposed to amend its regulations governing small business contracting assistance to implement the recommendations in OFPP's plan. SBA's proposed rule would expand responsibilities assigned to agency Offices of Small and Disadvantaged Business Utilization and SBA Procurement Center Representatives.<sup>2</sup> While the expanded requirements are critical to ensuring successful implementation of OFPP's bundling plan, we are concerned that they will further burden a workforce that is already struggling to accomplish its mission.

In line with the plan's call for more oversight over agencies' contract bundling activities, agency Offices of Small and Disadvantaged Business Utilization would be required under the proposed rule to conduct periodic reviews and submit their assessments to the heads of their agencies and the SBA Administrator. These reviews are to include assessments of

- the extent to which small businesses receive their fair share of federal procurements;
- the adequacy of bundling documentation and justification; and
- the adequacy of actions taken to mitigate the effects of necessary and justified contract bundling, including the agency's oversight of prime contractor compliance with subcontracting plans.

With respect to Procurement Center Representatives, SBA's proposed rule calls for them to have greater involvement in agency acquisition planning activities and in efforts to mitigate the effects of agency contract bundling. Specifically, the proposed rule would require Procurement Center Representatives to

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<sup>2</sup>SBA assigns Procurement Center Representatives to major contracting offices to implement small business policies and programs. Responsibilities include reviewing proposed acquisitions and recommending alternative procurement strategies, identifying qualified small business sources, reviewing subcontracting plans, conducting reviews of the contracting office to ensure compliance with small business policies, counseling small businesses, and sponsoring and participating in conferences and training designed to increase small business opportunities.

- identify alternative strategies early in the acquisition process to maximize small business participation for acquisitions not set-aside for small businesses,
- work with cognizant small business specialists and Offices of Small and Disadvantaged Business Utilization to identify opportunities for small business teams to participate as prime contractors, and
- review an agency's subcontracting program to ensure that small business participation is maximized.

These expanded requirements, while necessary to ensuring successful implementation of OFPP's bundling plan, will likely burden SBA's small business contracting workforce, which we have found is already struggling to accomplish their missions. For example:

- In March 2000,<sup>3</sup> we reported to this Committee that SBA lacked assurance that Procurement Center Representatives were reviewing all proposed contracts to identify possible bundling. According to SBA officials, budget constraints prevented SBA from having sufficient staff (Procurement Center Representatives) at government procurement centers to conduct required bundling reviews on proposed acquisitions.
- In November 2002, we provided this Committee information on the number of small business set-asides issued and successfully challenged over the past 10 years.<sup>4</sup> We found that the number of small business set-asides recommended by Procurement Center Representatives has declined by almost one-half since fiscal year 1991.<sup>5</sup> SBA officials attributed the decline to several factors, including (1) the overall downsizing of the number of Procurement Center Representatives and (2) the assigning of Procurement Center Representatives to other roles, such as Commercial Marketing Representatives.

We found similar conditions when we reviewed SBA's Subcontracting Assistance Program, which aims to increase subcontract awards to small businesses and to provide maximum practicable business opportunities to small businesses. The program is also one of the key aspects of OFPP's plan to mitigate the effects of contract bundling. However, we reported in December 2001 and November 2002 that declines in staffing and travel funds have affected the way SBA monitors prime contractors' compliance with subcontracting plans.<sup>6</sup> For example:

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<sup>3</sup>*Small Business: Limited Information Available on Contract Bundling's Extent and Effects* (GAO/GGD-00-82, Mar. 31, 2000).

<sup>4</sup>*Information on the Number of Small Business Set-Asides Issued and Successfully Challenged* (GAO-03-242R, Nov. 1, 2002).

<sup>5</sup>SBA's Procurement Center Representatives work on federal agency procurement activities by reviewing proposed acquisitions to determine whether they can be set aside for small businesses. If the Procurement Center Representative believes that the agency or activity should set aside the procurement for small business, the representative may issue a formal request to the contracting officer. Should the contracting officer reject the recommendation, the representative may appeal the rejection to the Head Contracting Authority for the agency or activity.

<sup>6</sup>*Small Business Administration: The Commercial Marketing Representative Role Needs to Be Strategically Planned and Assessed* (GAO-03-54, Nov. 1, 2002), and *Small Business Subcontracting Validation Can Be Improved* (GAO-02-166R, Dec. 13, 2001).

- We found that instead of conducting on-site reviews to validate how well contractors are implementing their subcontracting plans, SBA personnel were conducting “desk reviews” which consisted of only reviewing reports submitted by the contractors. There are varying views within SBA about which method is the most effective.
- We also found that SBA personnel responsible for conducting the reviews were assigned substantial additional roles and responsibilities that often took priority over their subcontract surveillance duties.

Given our findings, we recommended that SBA strategically assess, evaluate, and plan the number of staff needed to meet their contract bundling and subcontract surveillance responsibilities—including assessing the impact of assigning multiple roles to its staff, identifying training needs, and assessing the effectiveness of its compliance-monitoring methods.

Applying a similar strategic planning approach would benefit SBA and agency Offices of Small and Disadvantaged Business Utilization as they approach the task of implementing OFPP’s plan to address contract bundling issues. Successful implementation of the plan will depend on SBA and agency Offices of Small and Disadvantaged Business Utilization staff playing a significant role early in the acquisition process to promote small business contracting opportunities, ensure contractors’ compliance with subcontracting plans, and provide effective oversight of agency efforts to address contract bundling issues.

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Madam Chair, this concludes my prepared testimony. 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. Ronald J. Salo, Enemencio Sanchez, Karen Sloan, Hilary Sullivan, and Ralph O. White also made key contributions to this testimony.

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