

May 2005

DEPARTMENT OF
ENERGY

Improved Oversight
Could Better Ensure
Opportunities for
Small Business
Subcontracting





Highlights of [GAO-05-459](#), a report to congressional committees

Why GAO Did This Study

Federal policy requires that small businesses receive the maximum practicable subcontracting opportunity for providing goods and services to large businesses that contract directly with federal agencies. The Department of Energy (DOE) annually directs almost \$20 billion to the 34 “facility management contractors” of which \$3.3 billion was redirected to small business subcontractors in fiscal year 2004. DOE negotiates annual small business subcontracting goals with individual contractors and monitors their achievements. GAO was asked to (1) determine the usefulness of the data that DOE uses to monitor subcontracting performance and (2) discuss the actions that DOE has taken to address any problems with the contractors’ subcontracting efforts.

What GAO Recommends

GAO recommends that DOE (1) ensure that facility management contractors are following federal guidelines for reporting subcontracting achievements; (2) for internal management purposes, calculate contractors’ achievements as a percent of the annual contract funding; and (3) issue guidance to clarify oversight responsibilities. In commenting on the report, DOE agreed with ensuring that reporting guidelines are being followed and clarifying oversight responsibilities. DOE disagreed with calculating the achievement data as a percent of contract funding, but we believe doing so would improve oversight.

www.gao.gov/cgi-bin/getrpt?GAO-05-459.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Gene Aloise at (202) 512-3841 or aloisee@gao.gov.

DEPARTMENT OF ENERGY

Improved Oversight Could Better Ensure Opportunities for Small Business Subcontracting

What GAO Found

DOE’s facility management contractors’ small business subcontracting achievements—reported as a percentage of their total subcontracted dollars—are not useful for monitoring purposes because the reported data overstates subcontracting achievements in two ways: (1) All of the contractor-reported data incorrectly excluded some large-business subcontracts, beyond what federal reporting guidelines allow. Excluding these subcontracts made the percentage of subcontracted dollars going to small businesses appear larger than it would have, if such subcontracts were not incorrectly excluded. If these subcontracts had been included, some contractors said it was likely they would have requested lower goals. (2) Even when all relevant subcontracts are included, the contractor-reported data can still overstate contractors’ subcontracting achievements. Because a contractor could decide to subcontract only a small amount of its total federal contract, the portion of subcontracted dollars going to small businesses could, by comparison, appear misleadingly large. As a result, contractor-reported data is not useful to DOE in determining its contractors’ actual small business subcontracting achievements or adequately assessing whether small businesses are receiving maximum practicable subcontracting opportunities.

DOE has not taken adequate steps to address known problems with the contractor-reported data. Because the data showed that the department was meeting its subcontracting goals, DOE officials were not inclined to closely monitor contractors’ practices for calculating their subcontracting goals and achievements. DOE officials were aware in 2002 that the contractors were not following federal guidelines on which subcontracts to include when developing goals. DOE’s Small Business Office did provide clarifying information on the requirements, but DOE officials failed to ensure that the guidelines were being followed, and problems continued. In March 2005, DOE issued additional guidance, but it is uncertain whether DOE will ensure that the guidance is followed. These oversight problems occurred, in part, because DOE has not clearly defined the roles, responsibilities, and needed interaction of the various headquarters and field organizations that collectively oversee the contractors’ small business subcontracting efforts.

Data on 13 facility management contractors’ reported fiscal year 2004 small business subcontracting achievements, which incorrectly excluded certain subcontracts

Number of contractors	Number of contractors that reported achieving their subcontracting goals	Number of contractors achieving their goals if all appropriate subcontracts were included
13 (100%)	12 (92%)	4 (31%)

Source: GAO analysis of facility management contractor data.

Note: Details on selection of these 13 facility management contractors can be found in appendix II of the report.

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Abbreviations

DOE	Department of Energy
NASA	National Aeronautics and Space Administration
NNSA	National Nuclear Security Administration
SBA	Small Business Administration

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United States Government Accountability Office
Washington, DC 20548

May 13, 2005

The Honorable Pete V. Domenici
Chairman
The Honorable Jeff Bingaman
Ranking Member
Committee on Energy and Natural Resources
United States Senate

The Honorable Olympia J. Snowe
Chair
The Honorable John F. Kerry
Ranking Member
Committee on Small Business and Entrepreneurship
United States Senate

The Small Business Act, as amended by the Small Business Reauthorization Act of 1997, established a federal policy that small businesses shall have the maximum practicable opportunity to participate in providing goods and services to the federal government and its direct contractors, consistent with efficient contract performance. Directing federal dollars to small businesses can produce cost savings, increase competition, encourage greater innovation, and enhance small business capacity. The policy of the federal government is to encourage contracting with small businesses—both prime contracts, which would be contracts directly between small businesses and federal agencies, and subcontracts, which would be between federal prime contractors and small businesses.

The Department of Energy (DOE), the largest civilian contracting agency in the federal government, spent \$22.4 billion on contracts in fiscal year 2004. The majority of this amount—\$18.9 billion—was spent on large contracts for managing DOE’s laboratories, production facilities, and environmental restoration sites located in various states across the nation. Under these “facility management contracts,” a contractor is responsible for performing, managing, and integrating work at a DOE site, often subcontracting specific portions of the work to other businesses. In fiscal year 2004, DOE’s 34 facility management contractors subcontracted out about \$6.5 billion, of which about \$3.3 billion went to small businesses.

Federal regulations require that DOE’s facility management contractors develop small business subcontracting plans that set forth a strategy for

providing the maximum practicable opportunities for small businesses to participate as subcontractors in the work that the facility management contractors oversee at DOE sites. The Small Business Administration (SBA) provides guidelines for how contractors should develop small business subcontracting plans and goals. These guidelines describe the procedures that contractors should use to officially report their small business subcontracting goals and achievements. In reporting, contractors must express the dollars going to their small business subcontractors as a percentage of the total dollars going to all of their subcontractors—including both large and small businesses as well as government agencies and nonprofit organizations. Contractors generally must report on all of their subcontracts, although SBA guidelines allow two exclusions: (1) subcontracts performed outside of the U.S. or its territories and (2) subcontracts with an affiliate organization, such as a subsidiary company or a parent company.

To meet government-wide small business subcontracting goals, SBA negotiates annual subcontracting goals with each federal agency. The goal that DOE's Office of Small and Disadvantaged Business Utilization (referred to in this report as DOE's Small Business Office) has negotiated with SBA is for 50 percent of its total subcontracting dollars to be directed to small businesses each year. To meet this goal, DOE contracting officers located at the various agency sites negotiate annual goals with individual facility management contractors and, with the assistance of small business program managers, monitor contractors' compliance with subcontracting plans as well as progress toward achieving annual small business subcontracting goals.

Despite the efforts of SBA to meet government-wide annual subcontracting goals, there have been continuing concerns that small businesses were not being provided the maximum practicable opportunity to provide goods and services to the federal government and its contractors. In March of 2002, the President announced a Small Business Agenda that proposed steps toward creating a more dynamic environment where small businesses could flourish, including ways to improve the access of small businesses to federal contracting opportunities. One of the strategies was to strengthen federal agency oversight of its contractors' efforts to comply with small business subcontracting plans.

In this context, you asked us to review the small business subcontracting achievements of DOE's facility management contractors. This report discusses (1) the usefulness of the data reported by DOE facility management contractors for monitoring contractor performance in small

business subcontracting and (2) the actions that DOE has taken to address any problems identified with its facility management contractors' small business subcontracting efforts.

To determine the usefulness of the data reported by DOE facility management contractors on their small business subcontracting goals and achievements, we received and analyzed data on fiscal year 2001 through 2004 subcontracting goals and achievements from DOE's 34 facility management contractors, as well as information on how the contractors developed their goals and calculated their achievements. To assess the reliability of the data that the contractors provided about their achievements, we obtained and analyzed information from all 34 contractors about their methods for compiling subcontracting achievement data and steps they took to ensure the accuracy and completeness of these data. We also visited 13 of the 34 facility management contractors, which we selected based on the contractors' association with the department's three largest component organizations—Environmental Management, Science, and National Nuclear Security Administration (NNSA)—and on the geographic location of DOE sites. During these site visits, we obtained and analyzed supporting documents for small business subcontracts reported in the contractors' fiscal year 2004 achievements, and we obtained documentation on the dollar value of any subcontracts that the contractors excluded from their reported achievements for that year. A more detailed description of our scope and methodology is presented in appendix II. We performed our work from June 2004 to April 2005 in accordance with generally accepted government auditing standards.

Results in Brief

The subcontracting data reported by DOE's facility management contractors is not useful for monitoring whether they are meeting small business subcontracting goals. All contractor-reported data incorrectly excluded some subcontracts, beyond what SBA guidelines allow, thereby overstating contractors' reported small business subcontracting achievements. Excluding these subcontracts reduced the facility management contractors' total reported subcontracting dollars without reducing the reported amount that went to small businesses. As a result, the reported percentage of subcontracting dollars that went to small business appeared larger than it would have if such subcontracts were not incorrectly excluded. When we added the incorrectly excluded subcontracts (about \$887 million) back into selected contractors' reported achievements, 9 out of the 13 selected contractors would have fallen short of their subcontracting goals, although 12 had reported achieving their

goals. However, if these subcontracts had been included, some contractors said it was likely they would have requested lower goals. In addition, even when all relevant subcontracts are included, the contractor-reported data are misleading because they can make the small business subcontracting results appear higher than they actually are. This happens because the contractors calculate their small business subcontracting achievements as a percentage of the total amount of their subcontracted dollars. Because the total amount of their subcontracted dollars could be very small, the portion going to small businesses could appear as a misleadingly large percentage. As a result, the contractor-reported data do not provide a true picture of the contractors' performance. Therefore, the department cannot meaningfully use the data to monitor performance and determine whether the contractors are affording small business subcontractors the maximum practicable opportunity to provide goods and services to the facility management contractors, as required by the policy set out by the Small Business Act.

DOE has not taken adequate steps to address the problems with the small business subcontracting data reported by its facility management contractors, resulting in a lack of assurance that facility management contractors are providing maximum practicable opportunities for small business subcontracting. Because achievement data reported by the facility management contractors showed that DOE was meeting the small business subcontracting goal it established with SBA, DOE officials were not inclined to closely monitor facility management contractors' subcontracting practices or take adequate steps to address even known problems with the achievement data. In some cases, DOE's contracting officers approved facility management contractors' small business subcontracting plans, even though those plans specified practices for calculating goals and achievements that were not consistent with SBA guidelines. In other cases, officials in DOE's Small Business Office knew of, but did not adequately address, problems with subcontracting achievement data until we raised concerns about the data. Further, DOE officials were aware in 2002 that the facility management contractors were not consistently following SBA guidelines concerning which subcontracts to include when developing small business subcontracting goals. Although DOE's Small Business Office then provided clarifying information on the requirements, these problems continued. In March 2005, DOE issued additional guidance, but it is uncertain whether DOE will ensure that the guidance is followed. As a result of these oversight problems, DOE had not ensured that its facility management contractors were providing maximum practicable opportunities for small businesses. These problems occurred, in part, because DOE has not clearly defined the roles, responsibilities,

and needed interaction of the various headquarters and field organizations that must work together to provide oversight of the small business subcontracting program.

To improve the overall effectiveness of DOE's small business subcontracting program, we are recommending that the Secretary of Energy take steps to (1) ensure that DOE has useful data for managing the small business subcontracting program and (2) improve oversight of the subcontracting program by ensuring that roles and responsibilities are clearly defined.

DOE agreed with our recommendations that the department strengthen oversight of its small business subcontracting program by clarifying oversight roles and responsibilities and by ensuring that facility management contractors follow a consistent practice for calculating and reporting their small business subcontracting goals and achievements. However, DOE disagreed with our recommendation that, for internal program management purposes, the department use data on its contractors' subcontracting achievements, calculated as a percentage of the dollars obligated to their prime contract. DOE maintained that it should continue to use subcontracting data, calculated as a percentage of the total dollars subcontracted, as reported to SBA. While we agree that DOE's contractors should continue to report their subcontracting achievements as SBA requires, we continue to believe that, for internal management purposes, the data do not provide a true picture of contractor performance. Without a true picture of performance, DOE cannot effectively oversee that performance to determine whether its facility management contractors are providing the maximum practicable subcontracting opportunities to small businesses.

Background

DOE has major sites and facilities around the country where the department carries out its missions, including developing, maintaining, and securing the nation's nuclear weapons capability; cleaning up the nuclear and hazardous wastes resulting from more than 50 years of weapons production; and conducting basic energy and scientific research, such as mapping the human genome. DOE relies on facility management contractors to operate its facilities and accomplish its missions. This mission work is carried out under the direction of the National Nuclear Security Administration (NNSA) and DOE's program offices, including the offices of Environmental Management and Science.

SBA develops regulations and provides guidance for federal agencies and their contractors to follow in carrying out the federal policy to provide maximum practicable contracting opportunities for small businesses, consistent with efficient contract performance.¹ Under the Small Business Act and federal regulations, any large business with a federal prime contract that has a value over \$500,000 (or \$1 million for construction contracts) and that has subcontracting possibilities, must have a small business subcontracting plan, including annual goals for directing subcontracting dollars to small businesses. SBA has also issued specific guidance for developing annual subcontracting goals and reporting achievements to SBA.² Although there is no specified percentage goal for small business subcontracting in law or regulations, SBA's government-wide goal is that 40 percent of federal subcontracted dollars be directed to small businesses.³

DOE's facility management contractors carry out the SBA requirements by developing subcontracting plans and annual goals, and reporting their achievements to DOE and SBA.⁴ Facility management contractors use the following process:

- *Develop small business subcontracting plans.* Facility management contractors generally develop small business subcontracting plans as part of the overall proposal submitted in response to a DOE request for

¹Federal subcontracting requirements pertain to small businesses both as an overall category and in terms of the various subcategories of small businesses that are defined in federal law, such as small disadvantaged businesses, women- or veteran-owned small businesses, and small businesses located in historically underutilized business zones. For this report, we examined DOE facility management contractors' activities in subcontracting with small businesses, as an overall category. We did not examine their subcontracting activities with respect to any of the subcategories of small businesses.

²Small Business Administration, Office of Government Contracting, *Goaling Guidelines for the Small Business Preference Programs: For Prime and Subcontract Federal Procurement Goals and Achievements* (Washington, D.C.: July 3, 2003).

³To meet this 40 percent government-wide goal, SBA negotiates annual subcontracting goals with each federal agency. The goal that SBA negotiated with DOE for fiscal years 2004 and 2005 is that 50 percent of subcontracted dollars be directed to small businesses.

⁴For the 10 years prior to fiscal year 2000, the Office of Federal Procurement Policy within the Office of Management and Budget had allowed DOE to include in its small business prime contracting achievements, the subcontracting dollars awarded to small businesses by its facility management contractors. For a discussion of the change in policy starting with fiscal year 2000, see *Department of Energy: Achieving Small Business Prime Contracting Goals Involves Both Potential Benefits and Risks*, [GAO-04-738T](#) (Washington, D.C.: May 18, 2004).

proposals on a new contract or upon extension or renewal of an existing contract. The subcontracting plan includes information on the types of work to be subcontracted and how, and to what extent, the contractor would provide subcontracting opportunities for small businesses. The proposed subcontracting plans are reviewed as part of the overall proposal and are then incorporated into the contract when it is awarded.

- *Develop annual small business subcontracting goals.* Generally, the facility management contractors perform “make-or-buy” analyses to determine how much of their work will be subcontracted rather than performed by the contractors’ own employees. For the portion of the work the facility management contractor intends to subcontract, the facility management contractors develop small business subcontracting goals each year, after considering the proposed funding for the contracts, upcoming subcontracting opportunities, and the potential for small businesses to perform the subcontracting work. After an agreement is reached on the proposed goals, the goals are incorporated into the contract.
- *Report small business subcontracting achievements.* Facility management contractors are required to report their small business subcontracting achievements to SBA twice each fiscal year—as of the ends of March and September. SBA guidelines specify that small business subcontracting achievements should be calculated as a percentage of total dollars subcontracted. Facility management contractors also report this achievement information to DOE.⁵

DOE’s Small Business Office negotiates the department’s annual small business subcontracting goals with SBA, coordinates outreach efforts with the small business community, and works with NNSA and DOE’s program offices to establish and monitor annual goals. DOE’s Office of Procurement and Assistance Management and NNSA’s Office of Acquisition and Supply Management establish policies and guidance for conducting procurements according to federal and departmental regulations, and they maintain the information systems on the department’s prime contracts, including annual dollars provided to each

⁵Large business subcontractors of DOE’s facility management contractors are subject to the same requirements for small business subcontracting plans and annual goals. Although the facility management contractors are not allowed to include the small business subcontracting achievements of these “lower-tier” subcontractors in their reported achievements, SBA guidelines allow DOE to include these lower-tier subcontracting achievements toward the department’s small business subcontracting goals.

facility management contractor. NNSA and DOE's program offices, such as Environmental Management and Science, are responsible for providing program oversight and direction to the contractors.

In addition to the oversight responsibilities shared among DOE's various headquarters and field organizations, SBA has a role in the oversight of facility management contractors' small business subcontracting efforts. SBA officials in regional offices generally review proposed subcontracting plans and proposed annual small business goals. Regional SBA officials also review the reports on small business subcontracting achievements submitted by facility management contractors, and they may review large proposed subcontracts to determine if there are potential opportunities for small businesses. SBA regional offices also perform periodic compliance reviews of individual contractor's small business subcontracting efforts, including validating the data reported by the contractors to ensure that the contractor is following SBA guidelines.⁶

Data Reported by Facility Management Contractors Is Not Useful for DOE's Monitoring of Their Small Business Subcontracting Performance

The data that DOE uses to monitor its facility management contractors' performance in small business subcontracting generally shows that the contractors have exceeded their annual subcontracting goals. However, these data are not useful for monitoring purposes for two reasons. First, the data reported by the facility management contractors frequently overstated their subcontracting achievements, by failing to account for all of their subcontracts, as required by SBA reporting guidelines. As a result, the percent of total subcontracting dollars going to small businesses appeared larger than if the contractors had been following SBA's reporting guidelines. Second, even if the facility management contractors were correctly reporting their small business subcontracting achievements, the method for calculating those achievements does not provide a true picture of contractors' performance. The method can make a contractor appear to be performing well—for example, by directing 80 percent of subcontracting dollars annually to small businesses—when, in fact, that percentage is based on a small amount of dollars. When small business subcontracting dollars are recalculated as a percent of the annual funding on the facility management contract, the contractor's actual achievement can turn out to be relatively low. Because contractor-reported data does

⁶GAO has reported on SBA compliance reviews in the past. See *Small Business Subcontracting Report Validation Can Be Improved*, [GAO-02-166R](#) (Washington, D.C.: Dec. 13, 2001).

not provide a true picture of the contractors' performance, the department cannot meaningfully use the data to monitor performance and determine whether the contractors are providing small business subcontractors with the maximum practicable opportunity to provide goods and services to the facility management contractors, as required by the policy set out by the Small Business Act.

Contractor-Reported Data on Small Business Subcontracting Achievements Frequently Overstated Performance

The contractor-reported data that DOE uses to monitor facility management contractors' performance in small business subcontracting generally showed that contractors exceeded their annual small business subcontracting goals in fiscal years 2001 through 2004. In fiscal year 2004, for example, 29 of the 34 facility management contractors reported exceeding their annual goals when they directed 33 to 88 percent of their subcontracting dollars to small businesses. These contractors reported exceeding their goals by as much as 28 percent, whereas the contractors that reported falling short of their goals for that year did so by as much as 26 percent. Whether or not individual contractors achieved their goals, the 34 contractors collectively reported directing nearly \$3.3 billion⁷ to small business subcontractors in fiscal year 2004, representing a 27 percent increase over the amount they had directed to small businesses in fiscal year 2001 (see table 1). Additional information on the facility management contractors' subcontracting goals and achievements for fiscal years 2001 through 2004 is presented in appendix I.

Table 1: Subcontracting Dollars that DOE Facility Management Contractors Reported Directing to Small Businesses in Fiscal Years 2001 through 2004

Fiscal year	Small business subcontracting dollars
2001	\$2,574,701,477
2002	3,076,546,419
2003	3,071,831,243
2004	3,281,485,994

Source: GAO analysis of DOE and facility management contractor data.

⁷The \$3.3 billion includes only dollars directed by the facility management contractors to small businesses with which they had a direct contractual relationship. The figure does not account for the dollars directed to small businesses by the approximately 592 large business subcontractors of DOE's facility management contractors that also had their own small business subcontracting plans in fiscal year 2004. These dollars were not within the scope of our review because we focused on the achievements of the 34 facility management contractors.

Although facility management contractors generally reported exceeding their subcontracting goals, the data are not useful for monitoring the contractors' performance, because the contractors' achievements were frequently overstated. When calculating subcontracting achievements, SBA guidelines allow contractors to exclude from their calculations only those subcontracts performed outside of the U.S. or its territories and subcontracts with affiliate organizations, such as a subsidiary or parent company.⁸ However, in fiscal year 2004, all 34 of the contractors' reported achievements incorrectly excluded other types of subcontracts, beyond what SBA guidelines allow (see table 2). The facility management contractors we visited generally told us it was their normal practice to make these types of exclusions. In making these types of exclusions, the contractors said they were following their past practices or that DOE contracting officers had approved the additional exclusions. For example, officials representing one of these contractors pointed out that, in excluding subcontracts from the calculation of their subcontracting achievements beyond what SBA guidance allows, their company was following the subcontracting plan approved by DOE. The contractor officials said that they would not have made these exclusions, if DOE had not permitted them, nor would they have negotiated as high a subcontracting goal under those circumstances.

⁸Except for these types of subcontracts, SBA guidelines for contractor reporting of small business subcontracting achievements require that reports include all subcontracts awarded by the prime contractor. Section 19.701 of the Federal Acquisition Regulation (FAR) defines "subcontract" to mean "any agreement (other than one involving an employer-employee relationship) entered into by a Government prime contractor or subcontractor calling for supplies and/or services required for performance of the contract, contract modification, or subcontract." According to a contracting program manager in SBA's Office of Government Contracting, electricity and other utilities, whether or not they are obtained through a formal procurement process, would be considered a subcontract under the FAR.

Table 2: Types of Subcontracts Incorrectly Excluded from the 34 Facility Management Contractors' Calculations of Fiscal Year 2004 Small Business Subcontracting Achievements

Type of subcontracts incorrectly excluded from calculations of small business subcontracting achievements	Number of facility management contractors ^a
Purchases from other government agencies, nonprofit organizations, or other facility management contractors	29
Utility purchases	26
Credit card transactions	22
Purchases from sources directed by DOE or mandated by law	14
Selected blanket purchasing agreements ^b	10
Lease agreements	8

Source: GAO analysis of facility management contractor data.

^aFor a given type of subcontract, the remainder of the 34 contractors not reflected in this column had either included the subcontract type in their reported achievements or did not have any subcontracts of that type in fiscal year 2004.

^bBlanket purchasing agreements reflect purchases made through DOE's integrated contractor purchasing team or through the General Services Administration's federal supply schedule.

Facility management contractors' practice of incorrectly excluding certain subcontracts from achievement calculations resulted in overstating their reported subcontracting achievements by making the achievements appear larger than they would have appeared, if only the appropriate exclusions had been made in the calculation. For SBA-reporting purposes, contractors calculate their subcontracting achievements by expressing the dollars that they directed to small business subcontracts as a percentage of the total amount they subcontracted. However, because they incorrectly excluded subcontracts that generally did not go to small businesses—such as subcontracts with other facility management contractors—the facility management contractors incorrectly reduced the total amount that was subcontracted (the denominator), without affecting the total amount going to small businesses (the numerator). As a result, the percentage of total subcontracted dollars going to small businesses appeared larger than it actually was.

The effect of making incorrect exclusions on achievement calculations is significant. At the 13 facility management contractors we visited, we analyzed the fiscal year 2004 dollar amounts associated with the subcontracts that were incorrectly excluded from the calculation of their reported subcontracting achievements. These excluded subcontracts

totaled about \$887 million. For these 13 contractors, the practice of incorrectly excluding subcontracts from their reported achievements resulted in overstating the percentage achievements by as much as 27 percent. Moreover, although 12 of the 13 contractors had appeared, from their reported achievements, to be meeting or exceeding their subcontracting goals, when the achievements were recalculated by adding the incorrectly excluded subcontracts back into the calculation, only 4 contractors would have achieved their goals. The remaining 9 contractors would have fallen short of their subcontracting goals, by as much as \$31.1 million, or about 19 percent. According to contractor officials, it is also likely that these contractors would not have agreed to as high of a subcontracting goal, if they had to include these subcontracts (see table 3).⁹

⁹The facility management contractors at the 13 sites we visited provided us with the dollar amounts associated with subcontracts excluded from their fiscal year 2004 small business subcontracting goal and achievement calculations. After the facility management contractors reviewed a statement of facts that we provided to them to ensure the accuracy of the information, several of the contractors responded that they would have negotiated lower goals if they had included all of the appropriate subcontracts in their calculations.

Table 3: Fiscal Year 2004 Small Business Subcontracting Goals, Reported Achievements, and Recalculated Achievements for 13 Facility Management Contractors

Fiscal year 2004 (percent)

Facility management contractor and location	Subcontracting goal	Reported subcontracting achievement	Recalculated achievement ^a	Extent to which the recalculated achievement differed from the subcontracting goal ^b
Battelle Memorial, Pacific Northwest National Laboratory, Wash.	55.0	60.8	42.9	(12.1)
Bechtel Hanford, Hanford Site, Wash.	50.0	65.0	64.7	14.7
Bechtel Jacobs, Oak Ridge Site, Tenn.	28.0	38.9	36.4	8.4
Bechtel National, Waste Treatment Plant, Wash.	46.0	65.2	38.1	(7.9)
Bechtel Nevada, Nevada Test Site, Nev.	62.0	70.6	58.1	(3.9)
Bechtel SAIC, Yucca Mountain Project, Nev.	55.0	57.0	36.4	(18.6)
BWXT Y-12, Y-12 National Security Complex, Tenn.	63.0	66.7	56.5	(6.5)
CH2M Hill Hanford, Hanford Site, Wash.	48.0	59.9	42.6	(5.4)
Fluor Hanford, Hanford Site, Wash.	40.0	52.1	44.6	4.6
Lockheed Martin, Sandia National Laboratories, N. Mex.	50.0	49.9 ^c	46.0	(4.0)
University of California, Lawrence Livermore National Laboratory, Calif.	35.0	39.2	31.6	(3.4)
University of California, Los Alamos National Laboratory, N. Mex.	42.0	44.0	39.3	(2.7)
UT Battelle, Oak Ridge National Laboratory, Tenn.	48.0	62.7	50.3	2.3

Source: GAO analysis of facility management contractor data.

Note: Details on selection of these 13 facility management contractors can be found in appendix II.

^aRecalculated achievements include the subcontracts that had been incorrectly excluded from the reported achievements.

^bNumbers in parentheses are negative and represent the percentage by which the contractor would have fallen short of subcontracting goals.

^cAlthough the fiscal year 2004 small business subcontracting achievement reported by the facility management contractor at the Sandia National Laboratories fell short of that contractor's subcontracting goal by less than 0.1 percent of total subcontracted dollars (or approximately \$591,000), the contractor directed the largest subcontracting dollar amounts to small businesses of the 34 facility management contractors in 3 of the 4 years of our study, including fiscal year 2004. That year, for example, the contractor directed about \$486 million to small businesses out of the \$974 million it subcontracted—\$115 million more in subcontract dollars to small businesses than the second highest facility management contractor.

The fiscal year 2004 small business subcontracting achievements reported by many of the remaining 21 contractors that we did not visit during our study also are likely overstated, although we did not document the extent of the overstatement. Based on information these contractors reported to us, all 21 contractors had incorrectly excluded subcontracts from the calculations of fiscal year 2004 subcontracting achievements. This practice will almost always result in overstating actual achievements, because the subcontracts excluded from the calculations are generally not awarded to small businesses.

Small Business Subcontracting Reporting Method Does Not Provide a True Picture of Facility Management Contractors' Performance

The method that facility management contractors use to calculate their small business subcontracting achievements for SBA reporting purposes does not present a true picture of a contractor's small business subcontracting because achievements are not calculated in relation to the total value of the facility management contract. Rather, the method for calculating small business subcontracting achievements is based on a quantity determined by the facility management contractors—namely, the portion of total work under their DOE contract that they intend to subcontract out. Thus, a contractor can appear to be performing well—i.e., directing 80 percent of its subcontracting dollars to small businesses—but that percentage is not very informative about the actual amount of subcontracting occurring with small businesses.

In our view, calculating small business subcontracting achievements in this manner invariably presents a misleading picture. For example, in fiscal year 2004, contractors at two of DOE's weapons production facilities reported substantially different small business subcontracting achievements—one reported directing 80 percent of its subcontracting dollars to small businesses (or \$92.6 million) while the other reported 57 percent (or \$109.9 million). However, these percentages hide the fact that the first contractor subcontracted out proportionally less of the work of the facility management contract than the second contractor, despite the fact that both facility management contracts were similar in size. Recalculating the subcontracting achievements as a percentage of the amount of funding directed by DOE to each facility management contract for the year reveals that the actual subcontracting achievements were quite similar—21 and 23 percent respectively of the contracts' annual funding. Thus, the contractor that appeared, from the data that DOE uses, to be significantly outperforming the other was actually devoting a slightly smaller portion of its facility management contract dollars to small business subcontracting.

Recalculating the subcontracting achievement data as a percent of the annual amount funded by DOE for each facility management contract provides a very different picture of the contractors' performance. Some contractors that appeared to be outperforming most other contractors were ranked near the bottom of the list when their achievements were measured as a percent of the annual funding on their contract. For example, the reported subcontracting achievement in fiscal year 2004 of the contractor at the Princeton Plasma Physics Laboratory appeared to be the second highest among the 34 contractors. However, after we recalculated the achievements as a percentage of annual contract funding, the contractor's performance dropped significantly to 28th out of 34 contractors (see table 4). Conversely, 6 of the 17 contractors that were in the bottom half of the rankings of reported subcontracting achievements moved to the top half, after we recalculated the achievements as a percent of the annual amount funded on each facility management contract.

Table 4: Comparison of Fiscal Year 2004 Reported Small Business Subcontracting Achievements with Achievements Recalculated as a Percent of Annual Amount Funded on the Facility Management Contract

Facility management contractor and location	Reported subcontracting achievements (percent of total dollars subcontracted)	Rank of reported achievements from highest (1) to lowest (34)	Recalculated subcontracting achievements (percent of annual amount funded on the facility management contract)	Rank of recalculated achievements from highest achievement (1) to lowest (34)
Washington TRU Solutions, Waste Isolation Pilot Plant, N. Mex.	88.0	1	27.9	5
Princeton University, Princeton Plasma Physics Laboratory, N.J.	83.2	2	12.8	28
BWXT Pantex, Pantex Facility, Tex.	80.3	3	21.2	9
Bechtel Nevada, Nevada Test Site, Nev.	70.6	4	20.5	10
BWXT Y-12, Y-12 National Security Complex, Tenn.	66.7	5	17.0	16
Midwest Research Institute, National Renewable Energy Laboratory, Colo.	66.6	6	22.7	7
West Valley Nuclear Services Company, West Valley Demonstration Project, N.Y.	66.5	7	28.6	4

Facility management contractor and location	Reported subcontracting achievements (percent of total dollars subcontracted)	Rank of reported achievements from highest (1) to lowest (34)	Recalculated subcontracting achievements (percent of annual amount funded on the facility management contract)	Rank of recalculated achievements from highest achievement (1) to lowest (34)
Bechtel National, Waste Treatment Plant, Wash.	65.2	8	29.1	3
Bechtel Hanford, Hanford Site, Wash.	65.0	9	29.2	2
Universities Research Association, Fermi National Accelerator Laboratory, Ill.	63.5	10	14.3	24
UT Battelle, Oak Ridge National Laboratory, Tenn.	62.7	11	17.0	17
Battelle Memorial, Pacific Northwest National Laboratory, Wash.	60.8	12	14.8	23
CH2M Hill Hanford, Hanford Site, Wash.	59.9	13	30.3	1
Stanford University, Stanford Linear Accelerator Center, Calif.	59.3	14	15.7	22
Bechtel BWXT Idaho, Idaho National Laboratory, Idaho	58.2	15	12.7	29
Westinghouse Savannah River, Savannah River Site, S.C.	58.0	16	7.5	34
Brookhaven Science Associates, Brookhaven National Laboratory, N.Y.	57.5	17	13.8	26
Bechtel SAIC, Yucca Mountain Project, Nev.	57.0	18	20.3	11
Honeywell Federal Manufacturing & Technologies, Kansas City Plant, Mo.	56.8	19	23.2	6
Iowa State University, Ames Laboratory, Iowa	56.7	20	9.5	33
Fluor Hanford, Hanford Site, Wash.	52.1	21	13.9	25

Facility management contractor and location	Reported subcontracting achievements (percent of total dollars subcontracted)	Rank of reported achievements from highest (1) to lowest (34)	Recalculated subcontracting achievements (percent of annual amount funded on the facility management contract)	Rank of recalculated achievements from highest achievement (1) to lowest (34)
Southeastern Universities Research Association, Thomas Jefferson National Accelerator Facility, Va.	50.1	22	16.4	19
Lockheed Martin, Sandia National Laboratories, N. Mex.	49.9	23	21.5	8
University of Chicago, Argonne National Laboratory, Ill.	46.0	24	12.0	30
University of California, Los Alamos National Laboratory, N. Mex.	44.0	25	19.8	12
Bechtel Bettis, Bettis Atomic Power Laboratory, Pa.	39.4	26	16.5	18
University of California, Lawrence Livermore National Laboratory, Calif.	39.2	27	12.9	27
Bechtel Jacobs, Oak Ridge Site, Tenn.	38.9	28	17.8	14
DynMcDermott Petroleum Operations, Strategic Petroleum Reserve, La.	38.8	29	16.1	20
University of California, Lawrence Berkeley National Laboratory, Calif.	37.4	30	16.0	21
KAPL, Inc., Knolls Atomic Power Laboratory, N.Y.	36.4	31	11.2	32
CH2M Hill Mound, Mound Site, Ohio	36.1	32	12.0	31
Fluor Fernald, Fernald Closure Project, Ohio	33.5	33	17.7	15
Kaiser-Hill, Rocky Flats Closure Project, Colo.	33.3	34	17.8	13

Source: GAO analysis of DOE and facility management contractor data.

Note: Any apparent tie situations are due to rounding of the achievement data. Ranks in the table reflect the actual rank-order. Both the reported and the recalculated subcontracting achievements presented in this table have not been adjusted to include any subcontracts that the facility management contractors incorrectly excluded from their calculations, because we did not have information on the dollar value of the incorrectly excluded subcontracts for all 34 contractors.

While a contractor may be subcontracting a smaller percentage of its facility management contract to small businesses than other facility management contractors, there can be several reasons for differences in contractors' small business subcontracting achievements, which should be examined before concluding that a particular contractor is underperforming. For example, DOE and contractor officials told us that the type of work contractors perform at DOE sites is an important factor in determining the potential for small business subcontracting. Our analysis of the 34 facility management contractors' fiscal year 2004 small business subcontracting achievements suggests that this may be true. We found that the 16 contractors primarily involved in environmental cleanup or weapons production at DOE sites generally directed a greater percentage of their contracts' annual funding to small business subcontracting than the 16 contractors at DOE research laboratories.¹⁰ Contractor and DOE officials said that opportunities for small business subcontractors tend to be more limited at research laboratories than other types of DOE facilities, because research activities are often integrated, and fragmenting those activities among several contractors could negatively impact the work. Officials said that other types of work, such as facility construction or cleanup projects, generally have more subcontracting potential and can often be structured at such a scale that small businesses could perform the work.

Contract performance goals can also affect opportunities for small business subcontracting. For example, small business subcontracting opportunities diminished somewhat at an environmental cleanup site in Oak Ridge, Tennessee, after DOE and the facility management contractor, Bechtel Jacobs, renegotiated the contract to include more aggressive time lines and cost limitations for completing the work. In response to the changes in its contract, Bechtel Jacobs began subcontracting less of the work, including work that small business subcontractors had previously performed. DOE and contractor officials told us that the company wanted more control over the work to better ensure meeting the new time lines

¹⁰On average, facility management contractors at the DOE Environmental Management program's cleanup sites and at the NNSA's weapons production facilities directed to small businesses 20.4 percent of their contracts' annual funding. In contrast, contractors managing and operating research laboratories for NNSA and DOE directed to small businesses an average of 15.4 percent of their facility management contracts' annual funding. These calculations do not include the achievements of facility management contractors at the Yucca Mountain Project or the Strategic Petroleum Reserve, because their missions and the type of work performed there do not coincide with the two categories of DOE and NNSA facilities identified above.

and cost limitations. Officials from local small businesses that subcontract with Bechtel Jacobs said that while they did not disagree with Bechtel Jacobs's strategy for dealing with the changes to its contract, the small businesses had to adapt to a new business environment in which less subcontracting work would be available under that facility management contract.

Although differences in the type of work and contract performance goals may account for some of the differences in facility management contractors' performance in small business subcontracting, there may be other reasons for those differences. For example, contractor officials said that the timing of projects or changes in the annual funding for a facility management contract could affect opportunities for small businesses to participate in work that is generally conducive to small business subcontracting. In addition, contractors at sites with similar missions and similar types of work can vary substantially in the amount of funding that they direct to small business subcontractors. For example, contractors at the Sandia and Los Alamos National Laboratories in New Mexico ranked highly among the 34 facility management contractors—8th and 12th, respectively—in the percentage of their contracts' annual funding that they directed to small businesses in fiscal year 2004. In contrast, the contractor at the Lawrence Livermore National Laboratory in California, which conducts work similar to that of the two New Mexico laboratories, ranked much lower—27th among the 34 contractors. Contractor and DOE officials with whom we met suggested reasons for such differences in performances, for example, differences in the availability of small businesses that are capable of providing the needed goods and services or differences in the facility management contractors' commitment to providing small businesses with the maximum practicable opportunity to participate in the work.

Furthermore, actions by DOE to increase its direct, or prime, contracting with small businesses may reduce the subcontracting opportunities available for small businesses. For example, in an effort to increase the amount of prime contract dollars going to small businesses, in 2003, DOE redirected around \$30 million of work from the facility management contract for managing and operating the Strategic Petroleum Reserve in Louisiana and awarded it as a separate prime contract to a small business. Before DOE redirected the work, a contractor official said that the facility management contractor responsible for performing the work had been subcontracting most of it to small businesses. The official further stated that, as a result, DOE and the facility management contractor negotiated a lower small business subcontracting goal for fiscal year 2004 of 27.7

percent of the total dollars subcontracted, representing a 21.3 percent drop from the 49 percent goal at the end of fiscal year 2003. Although the facility management contractor exceeded its subcontracting goal in fiscal year 2004, the total dollars available for subcontracting decreased by around 12 percent (\$6.1 million), and the portion going to small businesses decreased by 9.3 percent (\$1.8 million).

Because the subcontracting achievement data that DOE relies on does not provide a true picture of the facility management contractors' performance in small business subcontracting, the department cannot meaningfully use those data to monitor performance. Without data providing a truer picture of contractors' performance, DOE lacks a basis for knowing whether differences in performance truly exist. Moreover, the department also lacks a basis for understanding whether differences in performance are legitimate—such as stemming from the types of work performed under a facility management contract—or are the result of differences in contractors' level of commitment to small business subcontracting.

Having recognized potential weaknesses in contractor-reported achievement data, at least one federal agency we contacted is taking a more innovative approach for using data to monitor subcontracting efforts.¹¹ The National Aeronautics and Space Administration (NASA), for internal management purposes, calculates small business subcontracting goals and achievements for its prime contractors as a percentage of the annual funding for the prime contracts. NASA's small business office said it uses this method to oversee contractor performance because it (1) presents a truer picture of actual achievements and (2) provides a better basis to evaluate a contractor's maximum practicable opportunity to subcontract with small businesses. This office said the data the contractors report to SBA can be misleading, in that a large percentage achievement can be reported even though a relatively small amount of dollars may actually be going to small business subcontracts.

Although DOE continues to base its facility management contractors' subcontracting goals on the total dollars subcontracted, for at least one of

¹¹We examined limited aspects of the subcontracting program managed by small business officials at the National Aeronautics and Space Administration (NASA), because DOE and NASA share some similarities in their approach to accomplishing their respective missions. For example, both NASA and DOE contract extensively to carry out their missions, accomplished in part through work at the agencies' contractor-operated research facilities.

those contractors, the department's Environmental Management program plans to use a small business subcontracting approach that is similar to NASA's approach. During a recent solicitation for bids for an environmental cleanup contract at the Hanford Site's River Corridor Project in Washington State, the program's solicitation specified that the winning bidder must subcontract 60 percent of work under the approximately \$2 billion contract, with half of that directed to small businesses, or potentially about \$600 million over the 7-year life of the contract. According to proposal documents, Environmental Management took this approach in part because of input from small businesses and because it would better ensure that small businesses had an opportunity to participate in a significant portion of the work under the contract.

DOE Oversight of Small Business Subcontracting by Facility Management Contractors Was Not Adequate to Address Identified Problems with Contractor-Reported Data

DOE had not taken adequate steps to address known problems with the small business subcontracting achievement data reported by its facility management contractors. Because misleading achievement data gave the appearance of a successful small business subcontracting program, DOE officials did not closely monitor facility management contractors' subcontracting practices or follow through to ensure that the contractors complied with SBA reporting guidelines. DOE's reliance on misleading data also resulted in a lack of assurance that the facility management contractors were providing the maximum practicable opportunities for small business subcontracting. The inadequate oversight was due, in part, to a lack of clear guidance on how DOE's various headquarters and field organizations should coordinate and integrate their efforts to effectively oversee the small business subcontracting program.

Reliance on Misleading Data Undermined DOE's Oversight

DOE knew there were problems with the data reported by the facility management contractors but did not take adequate corrective action. This had several undesirable consequences: (1) it created the false impression that DOE was meeting its small business subcontracting goals, (2) it caused errors in recognizing and rewarding contractor performance, and (3) it undermined efforts to ensure that facility management contractors were providing the maximum practicable subcontracting opportunities for small businesses.

False impression that DOE was meeting its small business subcontracting goals. The misleading data that DOE was using gave the appearance of a successful small business subcontracting program. As a result, DOE officials were not inclined to closely monitor facility management contractors' subcontracting practices or to fully address

known problems with the achievement data. DOE officials in the small business and procurement offices told us that they recognized in 2002 that the facility management contractors were not consistently following SBA guidelines on what subcontracts could be excluded when calculating small business subcontracting goals and achievements. In April 2002, DOE's Small Business Office provided clarifying information in an e-mail message to small business program managers both in the DOE program offices and the facility management contractors. The information emphasized the importance of consistently following SBA guidelines. Although DOE provided subsequent training for small business program managers, DOE officials did not take adequate steps to ensure that the contractors were correctly applying SBA guidelines. Based on our analysis of fiscal year 2004 subcontracting practices, none of the 34 facility management contractors fully complied with the SBA guidelines.

In some cases, DOE actually approved the incorrect reporting practices by its facility management contractors. For example, we found 10 instances where DOE had reviewed and approved subcontracting plans that specifically called for incorrectly excluding subcontracts from the calculations of small business subcontracting goals and achievements. In two other cases, the facility management contractors specified incorrect exclusions in annual planning documents for fiscal year 2004. DOE uses these planning documents to evaluate overall contractor performance for the year. DOE contracting officers told us that they had approved or allowed the incorrect practices because they did not believe these subcontracts could practically go to small businesses anyway. For example, the facility management contractors may have had existing long-term subcontracts with large businesses to provide information technology assistance, building maintenance, or other site support services.

Recent program reviews by DOE's Small Business Office were also not sufficient to identify and rectify these incorrect practices. In September 2002, the Secretary directed the Small Business Office to develop a strategic plan for providing maximum practicable opportunities to small businesses, including subcontracting by facility management contractors. As part of its May 2003 strategic plan, the Small Business Office stated that it would periodically review the small business subcontracting efforts of the facility management contractors. During fiscal year 2004, the Small Business Office performed reviews of the small business subcontracting programs at five of DOE's facility management contractors. These reviews focused primarily on determining if the small business subcontracting plans contained the information required by federal regulations and

whether the contractors met their annual small business subcontracting goals. The reviews did not evaluate how the facility management contractors were developing the annual small business subcontracting goals or whether all appropriate subcontracts were included in the goal and achievement calculations. DOE Small Business Office officials told us that, based on the results of our work, they are considering revising their review methodology to include these steps.

In March 2005, near the end of our review, DOE and NNSA procurement organizations issued additional guidance on small business contracting goals. The guidance stressed that the accuracy of contractor-reported data was vital to the credibility of the department's performance in small business subcontracting. The guidance emphasized that, in calculating and reporting small business subcontracting goals and achievements, contractors could exclude only the subcontract types allowed by SBA guidelines. The guidance further states that contracting officers shall ensure that facility management contractors are aware of these procedures and do not apply additional exclusions when developing their subcontracting goals. However, given DOE's oversight of these practices in the past, it remains to be seen whether DOE will now follow through and ensure that facility management contractors comply with this guidance.

Errors in recognizing and rewarding contractor performance. DOE's Small Business Office established a Secretarial Small Business Awards program to recognize and acknowledge outstanding performance on an annual basis. One of these awards—the facility management contractor small business achievement award—is presented each year to the facility management contractor with the highest percentage increase in subcontract awards to small businesses from the previous year.

We reviewed the facility management contractor small business achievement awards DOE presented in fiscal years 2003 and 2004. Although the fiscal year 2003 award appears to be appropriate, the fiscal year 2004 award went to a facility management contractor who directed fewer dollars to small businesses from one year to the next. Specifically, the data DOE used to make the determination showed that the percentage of subcontracting dollars going to small businesses increased from 61 percent in fiscal year 2002 to 66 percent in fiscal year 2003, a 5 percentage point increase. However, during the same period, the total dollars subcontracted by the facility management contractor dropped from \$60.7 million to \$52.1 million, and the subcontracting dollars directed to small businesses dropped from \$36.8 million to \$34.4 million. If DOE had

measured the change in the contractor's small business subcontracting achievements by comparing them with the annual funding on the facility management contract, DOE officials would have discovered that the contractor's performance actually declined by about 7 percent during the period (from 19.7 percent of annual funding on the contract to 13.0 percent). DOE Small Business Office officials told us that they based this award on increases in the percentage of subcontracting dollars going to small businesses rather than changes in the total dollars directed to small businesses. Officials said using changes in total dollars directed to small businesses would not be fair to all the contractors because the facility management contractors with multibillion dollar annual funding on their contracts would have an advantage in showing increased dollars to small businesses. While we agree that using dollars to compare the performance among contractors could favor those with greater annual funding, relying solely on the percentage of subcontracted dollars going to small businesses may result in rewarding declining performance, as demonstrated above.

Undermined efforts to ensure maximum practicable opportunities for small businesses. DOE's reliance on misleading data created an environment in which DOE officials were not inclined to closely monitor the small business subcontracting program. For example, DOE allowed facility management contractors to incorrectly exclude subcontracts when calculating their small business subcontracting achievements, which led to the incorrect perception that they were achieving their subcontracting goals. Without accurate and consistent data on the subcontracting efforts of the facility management contractors, DOE has no way of determining whether a facility management contractor is providing the maximum practicable opportunity for small businesses.

Another consequence of these program weaknesses is a perception among members of the small business community that DOE's facility management contractors could do better at providing opportunities for meaningful subcontracting work. This perception has led to distrust and criticism of DOE's facility management contractors by small business associations and advocates. For example, during a May 2004 congressional hearing on DOE's direct contracting with small businesses, small business advocacy groups raised concerns about whether the level of subcontracting by DOE facility management contractors reflected

maximum practicable opportunities.¹² Additionally, small business associations have expressed concerns about what they perceive as unfair treatment by DOE facility management contractors, such as using small business subcontractors to perform work that provides little opportunity for the small business to develop technical capabilities. Small business advocacy groups that we contacted said that if DOE held the facility management contractors more accountable for achieving small business subcontracting results, such as by using data that provided a truer picture of actual performance, the small business groups would have a basis for greater confidence in DOE's small business subcontracting program.

Oversight Responsibilities for the Small Business Subcontracting Program Were Not Clearly Defined or Integrated

DOE officials did not address problems with the small business subcontracting program, in part, because the various headquarters and field organizations that must work together to provide oversight of the small business subcontracting program did not do so effectively. Oversight of facility management contractors' small business subcontracting efforts includes reviewing and approving facility management contractors' small business subcontracting plans and annual goals, monitoring the contractors' progress toward achieving small business subcontracting goals, and taking action when necessary to ensure that the contractors meet their small business subcontracting goals.

Although DOE contracting officers have final responsibility for providing direction to the facility management contractors on all aspects of DOE contracts, other DOE headquarters and field offices, such as the Small Business Office and the program offices, share responsibilities for monitoring and overseeing the small business subcontracting activities of facility management contractors. DOE contracting officers, usually located at DOE field locations, have primary responsibility for communicating with facility management contractors on all aspects of the contracts, including the contractors' small business subcontracting efforts.¹³ DOE's Small Business Office has the overall responsibility for managing the department's small business programs and monitoring performance

¹²U.S. Government Printing Office, *DOE Contracting with Small Business: Hearing Before the Committee on Energy and Natural Resources, United States Senate*, S. Hrg. 108-610 (Washington, D.C.: May 18, 2004).

¹³In addition, contracting officers usually review upcoming subcontract procurements exceeding a specified dollar amount to determine if facility management contractors have given adequate consideration to small business opportunities.

toward meeting annual goals. Since the Small Business Office has no direct authority over DOE's facility management contractors, it coordinates the subcontracting program efforts by using small business program managers within DOE's program offices and field locations. The small business program managers at the field locations review subcontracting plans and annual goals, and they provide input to the contracting officers.

Effective oversight requires more than just carrying out these activities, but also collectively ensuring that the activities identify and correct problems and that program goals are achieved. Effective oversight was not happening, in part, because DOE guidance does not clearly define the roles, responsibilities, and needed interaction of the various headquarters and field organizations involved. DOE guidance on the small business program clearly defines only the roles of the contracting officer, which include review of small business subcontracting plans, annual goals, and reported achievements. The guidance also states that the contracting officer is responsible for ensuring that facility management contractors comply with the SBA guidelines on which subcontracts may be excluded from their subcontracting goals and achievements. However, the guidance does not clearly define roles or responsibilities for the Small Business Office, small business program managers, or others who need to coordinate their efforts to achieve department goals.¹⁴ Absent this guidance, we found that the collective efforts of these officials were not sufficient to identify and correct the problems discussed in this report or to ensure that program goals were being achieved.

Conclusions

Creating opportunities for small businesses to participate in providing goods and services to DOE's facility management contractors supports federal policy and produces benefits for both DOE and the small business community. Because about 85 percent of DOE's funding currently goes to its facility management contractors, none of which are small businesses, the small business subcontracting efforts of those facility management contractors are of even greater importance to DOE. However, misleading data has created the false impression that DOE is meeting its small business subcontracting goals, undermined DOE's oversight of

¹⁴In addition to DOE guidance on small business programs, NNSA has issued policy guidance on small business that defines requirements and responsibilities but has limited information on how various organizations should coordinate oversight efforts for small business subcontracting.

subcontracting efforts, and generated mistrust among members of the small business community. Furthermore, DOE actions to date have not adequately addressed problems with misleading data. Until the problems with contractor-reported achievement data are resolved and the program oversight issues are addressed, DOE cannot ensure that the federal policy of providing the maximum practicable opportunity for small businesses is being achieved.

Recommendations for Executive Action

To ensure that facility management contractors comply with SBA guidelines and follow a consistent practice for calculating and reporting small business subcontracting goals and achievements, we recommend that the Secretary of Energy direct the appropriate officials responsible for DOE's Small Business Office and procurement organizations to ensure, through regular oversight and review activities, that facility management contractors comply with DOE's March 2005 guidance on small business procurement goals.

To ensure that DOE has useful data for managing its small business subcontracting program and for measuring and comparing contractors' performance in pursuing the maximum practicable opportunity for small business subcontracting, we recommend the Secretary of Energy direct the appropriate officials responsible for DOE's Small Business Office and procurement organizations to use, for internal management purposes, data on facility management contractors' annual small business subcontracting achievements calculated as a percentage of the obligated dollars facility management contractors received that year on their contract with DOE.

To improve DOE's oversight of the small business subcontracting program and to provide the maximum practicable opportunity for small businesses to subcontract at DOE sites, we recommend that the Secretary of Energy take steps to strengthen oversight of the program, including issuing guidance clarifying the roles, responsibilities, and necessary interactions among DOE small business office, program office, and procurement officials responsible for managing the small business subcontracting program.

Agency Comments

We provided a draft of this report to DOE for review and comment. In written comments the Secretary of Energy generally agreed with the report and two of the recommendations but disagreed with one of the recommendations. The department agreed with our recommendation to strengthen oversight of its small business subcontracting program. DOE

said that it is in the process of revising existing guidance to clarify oversight roles and responsibilities and the necessary coordination and integration of oversight efforts between DOE headquarters and field organizations.

The department also agreed with our recommendation to ensure that the facility management contractors follow a consistent practice for calculating and reporting their small business subcontracting goals and achievements, as outlined in DOE's March 2005 guidance. In its comments, DOE outlined several steps it had taken to provide training, clarifying information, and guidance on the importance of accurate and consistent small business subcontracting data. However, effective oversight requires more than providing guidance and training. We believe that regular review and oversight activities will also be necessary to verify that contractors are complying with the guidance.

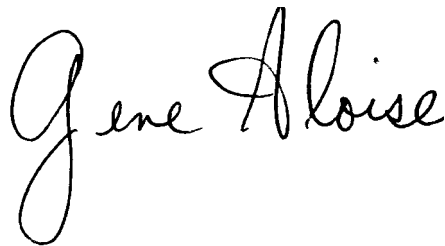
Regarding our recommendation that the department use data on its facility management contractors' small business subcontracting achievements—recalculated as a percentage of the dollars obligated on their prime contract—to internally manage its program, DOE disagreed with the recommendation and proposed to continue calculating the achievements as a percentage of the total dollars subcontracted. While we agree that DOE should continue to follow SBA guidance for SBA reporting purposes, we continue to believe that this calculation method fails to provide a true picture of the facility management contractors' small business subcontracting performance, which is necessary for effective oversight. As our report clearly demonstrated, the method can overstate the performance of contractors that devote a relatively small portion of their total contract to subcontracting. Thus, to ensure that DOE is providing the maximum practicable subcontracting opportunities to small businesses, for internal program management purposes, the department should use subcontracting achievement data calculated as a percentage of the facility management contract obligations. As described in our report, one of the department's programs intends to use this approach to internally manage the small business subcontracting goals and achievements for the \$2 billion contract to clean up the Hanford Site's River Corridor in Washington State.

DOE also provided technical comments on the facts presented in the report, which we incorporated as appropriate. DOE's comments and our responses are presented in appendix III.

We conducted our review from June 2004 to April 2005, in accordance with generally accepted government auditing standards. Appendix II provides details on our scope and methodology.

As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies to the Secretary of Energy. We will also make copies available to others on request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions on this report, please call me at (202) 512-3841. Other staff contributing to this report are listed in appendix IV.

A handwritten signature in black ink that reads "Gene Aloise". The signature is written in a cursive style with a large, looped initial "G".

Gene Aloise
Director, Natural Resources and Environment

Appendix I: DOE Facility Management Contractors' Annual Small Business Subcontracting Goals and Achievements

Facility management contractor, location, and fiscal year (FY)	Subcontracting goal (percent of total dollars subcontracted)	Subcontracting dollars to small businesses	Total dollars subcontracted	Subcontracting achievement (percent of total dollars subcontracted)	Annual funding received on the facility management contract	Recalculated subcontracting achievement (percent of annual funding)
Battelle Memorial, Pacific Northwest National Laboratory, Wash.						
FY 2001	47.0	\$54,357,833	\$104,872,886	51.8	\$421,791,076	12.9
FY 2002	47.0	59,788,116	131,556,970	45.5	470,448,150	12.7
FY 2003	47.0	75,350,321	114,311,713	65.9	555,727,382	13.6
FY 2004	55.0	81,388,171	133,912,552	60.8	550,910,993	14.8
Bechtel Bettis, Bettis Atomic Power Laboratory, Pa.						
FY 2001	30.0	53,093,888	162,362,210	32.7	342,340,000	15.5
FY 2002	30.0	71,145,858	136,485,213	52.1	343,972,000	20.7
FY 2003	30.0	55,542,807	135,949,919	40.9	334,771,000	16.6
FY 2004	35.0	62,811,750	159,372,044	39.4	381,767,479	16.5
Bechtel BWXT Idaho, Idaho National Laboratory, Idaho						
FY 2001	70.0	123,469,383	171,069,181	72.2	643,793,953	19.2
FY 2002	60.0	103,106,547	153,887,715	67.0	681,960,071	15.1
FY 2003	60.0	100,852,558	155,992,132	64.7	809,719,475	12.5
FY 2004	60.0	98,794,079	169,798,501	58.2	775,716,116	12.7
Bechtel Hanford, Hanford Site, Wash.						
FY 2001	50.0	18,287,757	34,632,902	52.8	131,770,462	13.9
FY 2002	50.0	15,967,088	36,927,958	43.2	127,488,208	12.5
FY 2003	50.0	13,210,454	35,202,892	37.5	110,244,402	12.0
FY 2004	50.0	38,940,166	59,915,369	65.0	133,563,675	29.2
Bechtel Jacobs, Oak Ridge Site, Tenn.						
FY 2001	46.0	134,014,921	292,351,969	45.8	488,503,515	27.4
FY 2002	34.0	142,094,257	335,397,251	42.4	476,330,731	29.8
FY 2003	38.0	140,783,155	358,596,321	39.3	489,003,276	28.8
FY 2004	28.0	116,441,561	299,533,583	38.9	653,252,083	17.8

**Appendix I: DOE Facility Management
Contractors' Annual Small Business
Subcontracting Goals and Achievements**

Facility management contractor, location, and fiscal year (FY)	Subcontracting goal (percent of total dollars subcontracted)	Subcontracting dollars to small businesses	Total dollars subcontracted	Subcontracting achievement (percent of total dollars subcontracted)	Annual funding received on the facility management contract	Recalculated subcontracting achievement (percent of annual funding)
Bechtel National, Waste Treatment Plant, Wash.						
FY 2001	46.0	34,590,534	53,276,882	64.9	339,471,427	10.2
FY 2002	46.0	122,452,585	217,707,111	56.3	646,035,709	19.0
FY 2003	46.0	167,633,416	290,642,324	57.7	653,965,320	25.6
FY 2004	46.0	196,320,937	301,003,381	65.2	675,301,802	29.1
Bechtel Nevada, Nevada Test Site, Nev.						
FY 2001	50.0	54,888,245	85,069,821	64.5	287,008,003	19.1
FY 2002	55.0	56,746,250	83,089,259	68.3	409,298,787	13.9
FY 2003	62.0	83,639,885	121,103,349	69.1	434,472,175	19.3
FY 2004	62.0	95,085,821	134,734,610	70.6	464,972,914	20.5
Bechtel SAIC, Yucca Mountain Project, Nev.						
FY 2001	60.0	22,607,401	42,993,104	52.6	173,504,003	13.0
FY 2002	55.0	36,779,883	60,749,142	60.5	187,150,369	19.7
FY 2003	55.0	34,363,154	52,122,410	65.9	265,198,002	13.0
FY 2004	55.0	60,965,967	106,904,609	57.0	300,692,496	20.3
Brookhaven Science Associates, Brookhaven National Laboratory, N.Y.						
FY 2001	55.0	55,169,181	96,259,669	57.3	453,190,513	12.2
FY 2002	55.0	69,726,716	127,327,687	54.8	460,076,142	15.2
FY 2003	55.0	62,610,576	108,708,417	57.6	440,919,419	14.2
FY 2004	55.0	58,257,687	101,331,077	57.5	422,891,497	13.8
BWXT Pantex, Pantex Facility, Tex.						
FY 2001	60.0	36,294,115	57,583,576	63.0	329,219,350	11.0
FY 2002	60.0	72,514,853	97,829,311	74.1	404,242,527	17.9
FY 2003	60.0	74,018,228	99,218,150	74.6	424,131,223	17.5
FY 2004	60.0	92,587,654	115,264,030	80.3	437,236,858	21.2

**Appendix I: DOE Facility Management
Contractors' Annual Small Business
Subcontracting Goals and Achievements**

Facility management contractor, location, and fiscal year (FY)	Subcontracting goal (percent of total dollars subcontracted)	Subcontracting dollars to small businesses	Total dollars subcontracted	Subcontracting achievement (percent of total dollars subcontracted)	Annual funding received on the facility management contract	Recalculated subcontracting achievement (percent of annual funding)
BWXT Y-12, Y-12 National Security Complex, Tenn.						
FY 2001	40.0	69,072,392	130,070,576	53.1	889,855,250	7.8
FY 2002	50.0	88,579,725	139,672,095	63.4	574,888,585	15.4
FY 2003	50.0	86,985,976	140,627,195	61.9	707,392,050	12.3
FY 2004	63.0	114,442,560	171,568,241	66.7	675,042,163	17.0
CH2M Hill Hanford, Hanford Site, Wash.						
FY 2001	32.0	36,726,618	106,629,667	34.4	380,827,936	9.6
FY 2002	36.0	59,584,936	92,552,044	64.4	277,569,297	21.5
FY 2003	48.0	55,134,273	114,819,210	48.0	363,753,927	15.2
FY 2004	48.0	103,529,585	172,878,788	59.9	342,276,389	30.3
CH2M Hill Mound, Mound Site, Ohio ^a						
FY 2003	62.0	10,158,519	20,966,482	48.5	85,566,434	11.9
FY 2004	62.0	12,064,809	33,408,204	36.1	100,904,523	12.0
DynMcDermott Petroleum Operations, Strategic Petroleum Reserve, La.						
FY 2001	46.0	24,470,589	51,250,166	47.8	119,355,167	20.5
FY 2002	47.0	37,801,131	79,267,315	47.7	158,111,114	23.9
FY 2003	49.0 ^p	19,475,303	51,608,283	37.7	156,520,402	12.4
FY 2004	27.7 ^b	17,655,913	45,487,040	38.8	109,940,228	16.1
Fluor Fernald, Fernald Closure Project, Ohio						
FY 2001	50.0	25,068,949	64,304,653	39.0	287,185,818	8.7
FY 2002	50.0	59,830,146	108,034,504	55.4	227,425,087	26.3
FY 2003	36.0	68,038,876	170,975,046	39.8	317,787,501	21.4
FY 2004	36.8	57,402,853	171,172,293	33.5	323,951,180	17.7
Fluor Hanford, Hanford Site, Wash.						
FY 2001	38.0	88,065,808	165,445,464	53.2	634,136,465	13.9
FY 2002	50.0	76,600,234	158,177,744	48.4	646,094,972	11.9

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FY 2003	34.0	93,676,386	169,044,664	55.4	663,332,198	14.1
FY 2004	40.0	97,261,252	186,626,708	52.1	702,003,969	13.9
Honeywell Federal Manufacturing & Technologies, Kansas City Plant, Mo.						
FY 2001	39.6	79,894,524	156,636,154	51.0	461,742,878	17.3
FY 2002	43.6	78,418,650	150,710,281	52.0	444,906,343	17.6
FY 2003	48.0	95,707,764	163,478,172	58.5	477,229,514	20.1
FY 2004	50.4	109,887,925	193,471,624	56.8	473,410,852	23.2
Iowa State University, Ames Laboratory, Iowa						
FY 2001	50.0	2,646,192	4,101,321	64.5	24,840,396	10.7
FY 2002	50.0	3,454,193	5,279,121	65.4	30,371,174	11.4
FY 2003	50.0	2,752,123	4,557,186	60.4	23,839,727	11.5
FY 2004	50.0	3,012,140	5,311,183	56.7	31,619,046	9.5
Kaiser-Hill, Rocky Flats Closure Project, Colo.						
FY 2001	28.0	162,257,410	563,299,072	28.8	628,143,478	25.8
FY 2002	28.0	264,673,600	584,969,258	45.3	650,955,392	40.7
FY 2003	32.0	176,490,595	500,214,847	35.3	676,926,087	26.1
FY 2004	32.0	115,112,878	346,231,264	33.3	645,566,636	17.8
KAPL, Inc., Knolls Atomic Power Laboratory, N.Y.						
FY 2001	30.0	41,862,997	120,798,260	34.7	269,009,235	15.6
FY 2002	30.0	32,610,006	109,724,015	29.7	258,475,000	12.6
FY 2003	30.0	33,006,151	105,297,202	31.4	277,624,659	11.9
FY 2004	30.0	46,460,851	127,753,113	36.4	416,417,286	11.2
Lockheed Martin, Sandia National Laboratories, N. Mex.						
FY 2001	55.0	360,026,522	517,397,711	69.6	1,612,890,671	22.3
FY 2002	50.0	387,917,485	694,278,857	55.9	1,851,953,436	21.0
FY 2003	50.0	458,883,711	866,283,746	53.0	2,027,314,032	22.6
FY 2004	50.0	486,348,399	973,878,609	49.9	2,259,983,950	21.5

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Facility management contractor, location, and fiscal year (FY)	Subcontracting goal (percent of total dollars subcontracted)	Subcontracting dollars to small businesses	Total dollars subcontracted	Subcontracting achievement (percent of total dollars subcontracted)	Annual funding received on the facility management contract	Recalculated subcontracting achievement (percent of annual funding)
Midwest Research Institute, National Renewable Energy Laboratory, Colo.						
FY 2001	60.0	56,987,818	81,181,977	70.2	214,696,696	26.5
FY 2002	60.0	46,934,755	70,828,281	66.3	211,027,075	22.2
FY 2003	60.0	52,932,233	81,724,746	64.8	229,855,701	23.0
FY 2004	60.0	48,276,350	72,503,042	66.6	212,381,970	22.7
Princeton University, Princeton Plasma Physics Laboratory, N.J.						
FY 2001	52.0	9,925,776	14,701,621	67.5	74,149,076	13.4
FY 2002	52.0	8,043,427	10,670,803	75.4	74,716,992	10.8
FY 2003	55.0	5,928,245	7,905,233	75.0	68,961,918	8.6
FY 2004	60.0	9,901,358	11,895,244	83.2	77,635,828	12.8
Southeastern Universities Research Association, Thomas Jefferson National Accelerator Facility, Va.						
FY 2001	46.0	22,966,248	36,869,558	62.3	106,312,598	21.6
FY 2002	50.0	23,663,361	41,217,369	57.4	108,275,952	21.9
FY 2003	50.0	16,561,882	25,653,401	64.6	98,731,409	16.8
FY 2004	48.0	18,697,871	37,285,236	50.1	113,896,732	16.4
Stanford University, Stanford Linear Accelerator Center, Calif.						
FY 2001	55.0	31,172,615	51,630,433	60.4	204,122,243	15.3
FY 2002	56.0	28,252,330	51,405,657	55.0	210,650,537	13.4
FY 2003	57.5	39,451,555	62,778,071	62.8	230,864,436	17.1
FY 2004	56.0	39,419,478	66,461,098	59.3	250,900,104	15.7
Universities Research Association, Fermi National Accelerator Laboratory, Ill.						
FY 2001	50.0	44,450,000	91,872,000	48.4	307,997,017	14.4
FY 2002	50.0	45,862,000	87,820,000	52.2	309,200,090	14.8
FY 2003	50.0	39,552,000	77,990,000	50.7	316,292,588	12.5
FY 2004	50.0	45,284,000	71,268,000	63.5	316,519,364	14.3

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Facility management contractor, location, and fiscal year (FY)	Subcontracting goal (percent of total dollars subcontracted)	Subcontracting dollars to small businesses	Total dollars subcontracted	Subcontracting achievement (percent of total dollars subcontracted)	Annual funding received on the facility management contract	Recalculated subcontracting achievement (percent of annual funding)
University of California, Lawrence Berkeley National Laboratory, Calif.						
FY 2001	51.8	60,364,815	129,655,264	46.6	471,669,387	12.8
FY 2002	51.8	61,485,715	157,523,278	39.0	471,786,072	13.0
FY 2003	34.0	48,337,720	114,788,499	42.1	456,533,356	10.6
FY 2004	32.0	63,686,742	170,154,503	37.4	397,451,166	16.0
University of California, Lawrence Livermore National Laboratory, Calif.						
FY 2001	46.0	168,927,591	423,235,849	39.9	1,389,055,837	12.2
FY 2002	46.0	182,167,689	497,929,164	36.6	1,562,149,121	11.7
FY 2003	35.0	175,743,871	470,886,313	37.3	1,556,259,049	11.3
FY 2004	35.0	204,297,721	520,668,966	39.2	1,589,252,698	12.9
University of California, Los Alamos National Laboratory, N. Mex.						
FY 2001	35.0	314,500,000	846,300,000	37.2	2,056,138,764	15.3
FY 2002	42.0	431,300,000	1,072,100,000	40.2	1,968,726,402	21.9
FY 2003	42.0	370,700,000	854,600,000	43.4	1,984,708,594	18.7
FY 2004	42.0	371,100,000	843,200,000	44.0	1,876,507,610	19.8
University of Chicago, Argonne National Laboratory, Ill.						
FY 2001	48.0	66,709,921	127,394,963	52.4	498,328,731	13.4
FY 2002	48.0	66,089,187	120,411,075	54.9	530,767,915	12.5
FY 2003	48.0	65,525,795	120,451,914	54.4	525,415,187	12.5
FY 2004	50.0	70,362,618	152,980,199	46.0	585,987,022	12.0
UT Battelle, Oak Ridge National Laboratory, Tenn.						
FY 2001	46.0	68,303,840	141,080,341	48.4	667,887,413	10.2
FY 2002	43.0	91,435,096	185,694,443	49.2	849,633,299	10.8
FY 2003	46.0	118,547,793	219,013,040	54.1	807,960,210	14.7
FY 2004	48.0	170,389,081	271,744,455	62.7	1,005,411,132	17.0

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Facility management contractor, location, and fiscal year (FY)	Subcontracting goal (percent of total dollars subcontracted)	Subcontracting dollars to small businesses	Total dollars subcontracted	Subcontracting achievement (percent of total dollars subcontracted)	Annual funding received on the facility management contract	Recalculated subcontracting achievement (percent of annual funding)
Washington TRU Solutions, Waste Isolation Pilot Plant, N. Mex.						
FY 2001	75.0	20,291,938	26,456,431	76.7	111,360,499	18.2
FY 2002	75.0	33,534,321	44,576,023	75.2	118,905,751	28.2
FY 2003	75.0	38,629,035	45,053,723	85.7	124,985,758	30.9
FY 2004	60.0	39,136,122	44,500,492	88.0	140,432,118	27.9
West Valley Nuclear Services, West Valley Demonstration Project, N.Y.						
FY 2001	46.0	22,445,717	36,359,853	61.7	95,636,099	23.5
FY 2002	50.0	32,013,652	45,896,861	69.8	91,345,339	35.1
FY 2003	55.0	21,906,883	37,503,459	58.4	95,835,513	22.9
FY 2004	45.0	26,661,695	40,088,050	66.5	93,272,276	28.6
Westinghouse Savannah River, Savannah River Site, S.C.						
FY 2001	50.0	193,000,000	367,000,000	52.6	1,498,224,335	12.9
FY 2002	48.0	171,800,000	298,000,000	57.7	1,419,323,559	12.1
FY 2003	51.0	169,700,000	291,000,000	58.3	1,478,654,637	11.5
FY 2004	51.0	109,500,000	188,900,000	58.0	1,452,022,082	7.5

Source: GAO analysis of DOE and facility management contractor data.

Note: The subcontracting achievements—both as a percent of total dollars subcontracted and as a percent of annual funding—presented in this table have not been adjusted to include any subcontracts that the facility management contractors incorrectly excluded from their calculations because we did not know the dollar value of the incorrectly excluded subcontracts for all 34 contractors.

^aWe omitted subcontracting goal and achievement data for DOE's Mound Site in Ohio for fiscal years 2001 and 2002, because the contractor that managed and operated the site in 2001 and 2002 is not the same contractor that did so from 2003 through the duration of our study. While we included subcontracting achievement data from the previous contractor in the aggregated data for all facility management contractors in table 1, we did not include those data in this appendix because the fiscal year 2001 and 2002 data for the Mound Site came from a different source than the rest of the subcontracting goal and achievement data in this appendix. As a result, we had not assessed the reliability of the fiscal year 2001 and 2002 data for the Mound Site to be able to publish the contractor-level subcontracting goal and achievement data.

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^bThe facility management contractor managing and operating the Strategic Petroleum Reserve had a small business subcontracting goal of 47.0 percent for the first half of fiscal year 2003, but the goal was increased to 49.0 percent for the second half of the fiscal year, after the contractor was awarded a new facility management contract with DOE for the same site, and they negotiated a new subcontracting goal. However, for fiscal year 2004, the contractor's subcontracting goal dropped to 27.7 percent. According to a contractor official, DOE and the contractor renegotiated the lower goal after DOE removed about \$30 million of work from the facility management contract in fiscal year 2003. The facility management contractor had been subcontracting a majority of that work to small business subcontractors.

Appendix II: Scope and Methodology

We determined (1) the usefulness of the data reported by the Department of Energy's (DOE) facility management contractors for monitoring contractor performance in small business subcontracting and (2) the actions that DOE has taken to address any problems identified with its facility management contractors' small business subcontracting efforts. To conduct our work, we contacted DOE and contractor officials, as well as representatives from the Small Business Administration (SBA) and from small-business advocacy groups. We also collected data from all 34 of DOE's facility management contracts on their subcontracting activities and took steps to assess the reliability of the contractors' data, which included reviews of subcontracting files at 13 of the 34 contractors.

Determining the Usefulness of the Facility Management Contractor-Reported Data

To determine the usefulness of the facility management contractor-reported data for DOE monitoring purposes, we requested data from DOE's 34 facility management contractors on their annual small business subcontracting goals and achievements. Specifically, we asked the contractors to provide the subcontracting percentage-goals that they negotiated with DOE for fiscal years 2001 through 2004, as well as the dollar figures comprising those percentages, including the total dollars to be subcontracted during the year and the portion of subcontracting dollars they expected would go to small businesses.¹ We also asked the contractors to provide us with their subcontracting percentage achievements for fiscal years 2001 through 2004 and the dollar figures comprising those percentages—namely, the total dollars that were subcontracted and the small business subcontracting dollars. (Selected subcontracting goal and achievement data appear in app. I.) Additionally, in our data request, we asked the contractors to identify the types of subcontracts that they included or excluded from their small business subcontracting goals and achievements for fiscal year 2004. Furthermore, we requested copies of the contractors' small business subcontracting plans that were in effect during fiscal year 2004.

We used a data collection instrument to obtain data from the facility management contractors on their fiscal year 2001 through 2004 small business subcontracting goals and achievements. In the data collection

¹Although contractors are required to establish annual subcontracting goals for various subcategories of small businesses, such as small disadvantaged or women-owned small businesses, during our study, we only examined small business subcontracting as an overall category. We did not examine the contractors' subcontracting activities with respect to any subcategories.

instrument, we provided tables for the contractors to enter their subcontracting information, and we included instructions on how to complete the tables. The data collection instrument also included a series of questions on various aspects of the reliability of the data they provided, as part of our assessment of data reliability described later in this appendix.

Because we received the requested information from all 34 of DOE's facility management contractors, we did not rely on results from any subset of those contractors to conduct our analysis and, therefore, no sampling error is associated with our work. However, data gathering methods, such as the ones we used, may introduce error into the data that is not associated with statistical sampling, commonly referred to as nonsampling errors. For example, difficulties in how a particular instruction was interpreted, in the availability of the information requested, and in how the data were entered into the tables could introduce unwanted variation into the data collected. We took steps in the development of the data collection instrument to minimize these nonsampling errors. For example, we pretested a draft of the data collection instrument with 3 facility management contractors. In addition, we provided the draft to 5 knowledgeable small business and procurement officials in DOE headquarters. Within GAO the data collection instrument was reviewed by the Office of General Counsel and by experts in federal contracting and research methodology. We modified the data collection instrument as appropriate to reflect the comments and suggestions of the contractor, DOE, and GAO reviewers, and sent the data collection instrument to all 34 of DOE's facility management contractors. We received responses from all 34 contractors.

We then assessed the reliability of the subcontracting data we received from each of the 34 facility management contractors. To assess the data reliability, we (1) analyzed the contractors' responses to the data reliability questions that were included in the data collection instrument and (2) conducted a more detailed review of subcontract files at 13 of the 34 contractors.

First, we reviewed the contractors' responses to the series of data reliability questions in the data collection instrument, which addressed such areas as data entry, data access, quality control procedures, and data accuracy and completeness. Follow-up questions were added as necessary. In consultation with a GAO expert in research methodology, we analyzed the contractors' responses for weaknesses in data reliability that would make their data unusable for analysis and reporting purposes. In

their responses, 7 of the 34 contractors discussed minor limitations to their data control processes that might affect how the data should be interpreted. For example, 3 contractors stated that their subcontracting data was both accurate and complete, while noting that it was such to the extent that they could make it. Another contractor reported that the data it provided for fiscal years 2001 and 2002 may be less accurate than the data for fiscal years 2003 and 2004, because prior to 2003, the contractor did not require that its small business subcontractors self-certify or provide documents that verify their small business status.

Second, we visited a nonprobability sample² of 13 of the 34 facility management contractors to conduct a more detailed assessment of the reliability of the fiscal year 2004 subcontracting achievement data that they provided in response to our data collection instrument. We used several criteria to select facility management contractors for site visits, including a contractors' association with DOE's three largest component organizations—Environmental Management, the National Nuclear Security Administration (NNSA), and the Office of Science—as well as geographic location, and the type of work performed under the facility management contract. The three DOE component organizations we focused on control 30 of DOE's 34 facility management contracts, and their annual budgets account for over 70 percent of DOE's overall budget. In selecting NNSA contractors, we chose both research laboratories and weapons production facilities, to ensure inclusion of the types of work that NNSA uses to carry out its missions. In addition, to obtain geographically diverse cases, we selected contractors from four states in the Western U.S.—California, Nevada, New Mexico, and Washington—and one Eastern state, Tennessee. Nearly one-half of the 34 DOE facility management contractors are located within these five states.

Based on these selection criteria, we made visits to the following 13 facility management contractors:

Battelle Memorial, Pacific Northwest National Laboratory, Wash.;
Bechtel Hanford, Hanford Site, Wash.;
Bechtel Jacobs, Oak Ridge Site, Tenn.;
Bechtel National, Waste Treatment Plant, Wash.;

²Results from a nonprobability sample cannot be used to make inferences about a population, because in a nonprobability sample, some elements of the population being studied have no chance or an unknown chance of being selected as part of the sample.

Bechtel Nevada, Nevada Test Site, Nev.;
Bechtel SAIC, Yucca Mountain Project, Nev.;
BWXT Y-12, Y-12 National Security Complex, Tenn.;
CH2M Hill Hanford, Hanford Site, Wash.;
Fluor Hanford, Hanford Site, Wash.;
Lockheed Martin, Sandia National Laboratories, N. Mex.;
University of California, Lawrence Livermore National Laboratory, Calif.;
University of California, Los Alamos National Laboratory, N. Mex.; and
UT Battelle, Oak Ridge National Laboratory, Tenn.

Collectively, these 13 contractors had subcontracts worth about \$4.2 billion in fiscal year 2004 (or 64.2 percent of the total subcontracting dollars for all 34 facility management contractors). Of that amount, over \$2.1 billion went to small businesses, accounting for nearly two-thirds of the almost \$3.3 billion in subcontract dollars that the 34 contractors directed to small businesses that year.

During our visits to these 13 facility management contractors, we looked at the reliability of the fiscal year 2004 small business subcontracting achievement data that the contractors provided in the data collection instrument. Even though our data covered fiscal years 2001 through 2004, for our more detailed review of data reliability, we focused on fiscal year 2004, because we performed most of our analyses on data from that year.

Although individual contractors may manage thousands of small business subcontracts in a given year, for each of the 13 contractors, we chose separate nonprobability samples of 5 small business subcontracts—for a total of 65 subcontracts—that the facility management contractors had included in the fiscal year 2004 small business subcontracting achievements. We selected each nonprobability sample from a complete list of the contractors' fiscal year 2004 small business subcontracts, which we obtained prior to visiting the contractors. The criteria we used for selecting contracts was the subcontract amount and the goods and services provided. We selected subcontracts that received among the largest dollar commitments in fiscal year 2004 and that encompassed a variety of the types of goods and services provided by small business subcontractors. In total, the 65 subcontracts in our nonprobability samples accounted for 17.2 percent (\$368.1 million) of the \$2.1 billion dollars committed to small business subcontracts in fiscal year 2004 by the 13 facility management contractors.

At each contractor's facility, we reviewed documents for each of the five subcontracts, in order to verify the dollar commitments to those

subcontracts in fiscal year 2004, that the contractor included in their response to the data collection instrument. We also reviewed any documents certifying the small business status of those subcontractors at the time the subcontracts were awarded. In addition, to understand the effect of excluding certain subcontracts from the contractors' small business subcontracting achievement calculations, these 13 contractors provided us with data on the dollar amount of their excluded subcontracts in fiscal year 2004.

For all 65 of the small business subcontracts we reviewed, we were able to verify through documents in the subcontract files that the amount of dollars committed to the selected subcontracts in fiscal year 2004 equaled the dollar amounts that the facility management contractors had taken credit for when reporting their small business subcontracting achievements for that year. Also, for 63 of the selected subcontracts, we were able to find documents that certified the subcontractor's status as a small business at the time the subcontract was awarded. However, for the 2 remaining subcontracts—which were from 2 different facility management contractors—documents showed that the subcontractors had been classified as large businesses at the time the subcontract was awarded.³ Therefore, these 2 subcontracts should not have been reflected in those contractors' fiscal year 2004 subcontracting achievements as small business subcontracts. Because this only occurred with 3 percent of the 65 subcontracts (representing 5.7 percent of the total \$368.1 million value of those subcontracts), we did not consider it to be a material weakness of the subcontracting achievement data. In both instances where facility management contractors had mistakenly included a large business subcontract in their small business subcontracting achievements, the contractors subsequently restated their fiscal year 2004 subcontracting

³In addition to the two facility management contractors, one other facility management contractor informed us, prior to the site visit, that one of the five subcontracts in the nonprobability sample had turned out to be awarded to a large business. The contractor said that, as a result, they were restating their reported small business subcontracting achievement data. Therefore, we selected an additional subcontract to complete the nonprobability sample of five, before beginning our review of this contractor's subcontracting files.

achievements.⁴ The subcontracting achievement data included in this report reflect the restated amounts.

Based on all of our efforts to assess data reliability, we believe that the data are sufficiently reliable for characterizing the 34 facility management contractors' fiscal year 2004 small business subcontracting achievements.

Determining Actions Taken by DOE to Address Problems

To determine the actions that DOE has taken to address any problems identified with its facility management contractors' small business subcontracting efforts, we visited officials at the nonprobability sample of 13 of the 34 facility management contractors previously described. We also met with the field-based DOE small business officials and contracting officers responsible for overseeing the facility management contractors' performance in small business subcontracting.

In addition to our site visits, in DOE's headquarters we interviewed officials from DOE's Small Business Office and small business officials from the major component organizations, as well as DOE and NNSA procurement officials, to learn about their role and actions for overseeing the facility management contractors' small business subcontracting efforts. From these officials, we obtained policy guidance, results of field reviews, and other documents related to DOE and NNSA's oversight activities. We also interviewed headquarters and field-based officials from SBA's Office of Government Contracting to further understand SBA guidelines for contractor reporting of small business subcontracting data. Furthermore, we spoke with representatives from three small business advocacy groups—the East Tennessee Environmental Business

⁴Following our reliability assessment, one contractor reported that it encountered other problems with potential miscoding of large business subcontracts as small in the data system that the contractor uses to calculate its small business subcontracting achievements. A contractor official said that the contractor is implementing corrective actions, such as requiring its procurement staff to manually enter subcontractors' business size information into the contractor's procurement data system.

Association, the New Mexico 8(a) and Minority Business Association, and the Small Environmental Business Action Coalition.

We conducted our work from June 2004 to April 2005 in accordance with generally accepted government auditing standards.

Appendix III: Comments from the Department of Energy

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



The Secretary of Energy
Washington, DC 20585

May 3, 2005

Mr. William R. Swick, Assistant Director
Natural Resources and Environment
U.S. Government Accountability Office
701 5th Avenue, Suite 2700
Seattle, Washington 98104

Dear Mr. Swick:

The Department of Energy (DOE) has reviewed the draft report entitled Department of Energy: Improved Oversight Could Better Ensure Opportunities for Small Business Subcontracting (GAO-05-459).

The attached comments reflect DOE's position with regard to the report findings and recommendations. The comments fall into three categories: "technical comments," "substantive comments," and Recommendations for Executive Action. We respectfully request that the substantive comments and the Recommendation for Executive Action be included in the appendix to the final report and that the technical comments be used to make needed corrections to the report.

As regards the specific recommendations of the report, DOE concurs with the recommendations. With regard to recommendations one and three for strengthening oversight of the subcontracting program and for ensuring regular oversight and reviews of facility management contractors, DOE has begun the process of implementing these recommendations through the issuance of several documents and directives. In reference to recommendation two, the department proposes to continue to capture its award information based on the guidance provided by SBA that reflects small business subcontract awards as a percentage of the subcontract base; and not of the total contract.

In June of this year we will be hosting the 6th Annual DOE Small Business Conference and will be providing training for all small business and contracting staff as well as DOE contractors in attendance on small business procurement goals.

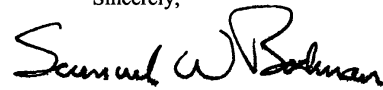


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Should you have any questions regarding the DOE response, please contact
Ms. Theresa Speake, Director of the Office of Small and Disadvantaged Business
Utilization at (202) 586-8383.

Sincerely,

A handwritten signature in black ink that reads "Samuel W. Bodman". The signature is written in a cursive style with a large, prominent "S" and "B".

Samuel W. Bodman

Enclosure

**DOE COMMENTS ON GAO DRAFT REPORT (05-459)
DEPARTMENT OF ENERGY: IMPROVED OVERSIGHT COULD BETTER
ENSURE OPPORTUNITIES FOR SMALL BUSINESS SUBCONTRACTING**

Substantive Comments:

See comment 1.

- 1) On the Highlights Page the GAO has stated that "DOE has not taken adequate steps to address known problems with the contractor-reported data." They further state that DOE officials became aware in 2002 that contractors were not following federal guidelines...[and] failed to ensure that the guidelines were being followed...." Additionally, the GAO states that "DOE has not clearly defined the roles, responsibilities and needed interaction of the various headquarters and field organizations...."

DOE has taken numerous actions to address these issues. Specifically, these actions include the provision of written guidance by the OSDDBU to the field in mid 2002, numerous meetings with both internal procurement and small business staff and external contractors to specifically discuss small business goaling and reporting requirements beginning in August of 2003 and running through December 2004. In May of 2004 DOE issued Acquisition Letter 2004-03 which addresses improving the accuracy of small business information including conforming to the SBA document, *Goaling Guidelines for the Small Business Preference programs for Prime and Subcontract Federal Procurement Goals & Achievements*. In December of 2004, a video was prepared (which is available on-line) providing information on small business subcontracting, including the establishment of the goaling base. In March of 2005, DOE issued Acquisition Letter 2005-06 that specifically addresses the establishment of subcontract bases, subcontracting goals and specific requirements for subcontracting plans as established in FAR 19.704.

To ensure the accuracy of contractor-reported data and the implementation of these guidelines, OSDDBU has completed subcontract reviews of five DOE prime contractors and has planned additional reviews.

Now on p. 8.
See comment 2.

- 2) On pages 8 & 9 the GAO has stated that "...even if the facility management contractors were correctly reporting their small business contracting achievements, the methods for calculating those achievements does not provide a true picture of contractors' performance. The method can make the contractor appear to be performing well - for example, by directing 80 percent of subcontracting dollars annually to small businesses- when, in fact, that percentage is based on a small amount of dollars."

The Small Business Act and the Federal Acquisition Regulations that cover all Federal agencies/departments do not require a specific level of subcontracting for each subcontracting plan. The contractor is responsible for determining the level of work it will perform and the level it will subcontract. Once a subcontracting base is determined, small business goals become applicable against that level of work.

Now on p. 12.
See comment 3.

See comment 4.

Now on p. 21.
See comment 5.

Since we compute the goals as percentage rather than dollars available for awards, any percentage of its total available subcontracting dollars to small business is in fact a true reflection of the contractors' actual performance.

- 3) On page 11, the GAO states that 13 contractors incorrectly excluded subcontracts from their reported achievements resulting in overstating those achievements by as much as \$214 million, or 27 percent.

DOE is concerned that this statement could lead the reader to conclude that the dollars reported were not actually awarded to small business as claimed, which is not accurate. The dollar awards for small business are actual; although the percentage may vary because of the actual subcontract baseline. DOE requests that the GAO either remove the dollar reference or restructure the sentence to ensure that it clarifies that the dollars reported as awarded are actual.

- 4) On Page 10, the GAO states that all 34 of the contractors reported achievements incorrectly excluded other types of subcontracts, beyond what SBA guidelines allow. The statement goes on to state that "...contractors we visited generally told us it was their normal practice to make these types of exclusions... and that ...they were following their past practices...."

It should be noted that for the ten years prior to Fiscal Year 2000, the Department's facility management contractors' subcontracting activities were considered as prime contracts for the purpose of small business goaling and, therefore, had different exclusions than if they were subcontracts. These past practices support the reporting of exclusions as disclosed by these contractors to the GAO.

DOE has, however, noted in its most recent Acquisition Letter 2005-06 that "DOE shall comply with the SBA's Goaling Guideline..." that spells out the specific exclusions for each type of contract. Furthermore the Acquisition Letter specifically identifies the two exclusions listed on the Standard Form SF 294 and SF 295 forms used for reporting subcontracts.

- 5) On page 20 the GAO attributes problems with DOE taking steps to take action to address known problems with subcontracting achievements to the inadequate oversight "...due, in part, to a lack of clear guidance on how DOE's various headquarters and field organizations should coordinate and integrate their efforts to effectively oversee the small business subcontracting programs."

DOE has an existing Acquisition Letter 2004-03 that addresses procedures that may not be sufficiently clear with regard to the coordination and integration of small business efforts between headquarters and the field. That Acquisition Letter is currently in the process of being rewritten to better define the role and responsibilities of the various parties. Additionally, training of small business managers and contracting officers throughout DOE is being planned for the DOE 6th Annual Small Business Conference to be held on June 12-15, 2005. Finally,

Now on p. 23
See comment 6.

all small business managers throughout the department (both at headquarters and in the field) are being provided a "desk manual" that contains all the applicable laws and regulations required for small business goaling, reporting and monitoring.

- 6) On Page 22 and 23 the GAO states that "In March 2005, near the end of our review, DOE and NNSA procurement organizations issued additional guidance on small business contracting goals. It remains to be seen whether DOE will now follow through and ensure that facility management contractors comply with this guidance."

DOE has established a process to establish its subcontracting goals as negotiated with SBA, and plans to follow through with its implementation.

See comment 7.

- 7) In several places in the report the GAO states that, "more small business subcontracting is always better."

Whereas we agree with the GAO in principle that more subcontracting is always desirable, it is important to note that each contract varies significantly and requires its own separate review to determine what opportunities are available in a given year as well as determining the best contracting method to support the mission.

See comment 8.

Technical Comment:

- 1) References to the Fiscal Year 2004 subcontract data are premature. No data has been submitted by the prime contractors to DOE or to the new eSRS system; therefore, DOE does not have this information and cannot verify the data in the report. Once the data is received, DOE will be able to respond as to its conformance with SBA's "baseline guidelines" issued in July 2003.

See comment 9.

Recommendations for Executive Action:

- 1) Secretary of Energy direct the appropriate officials responsible for the DOE's Small Business Office and procurement organizations to ensure, through regular oversight and review activities, that facility management contractors comply with DOE's March 2005 guidance on small business procurement goals.

We note that DOE's Secretarial policy statement encourages the expansion of procurement opportunities for small business policy. As a result, the Department continues to enhance small business participation in both prime and subcontracting opportunities.

- 2) Secretary of Energy direct the appropriate officials responsible for the DOE's Small Business Office and procurement organizations to use, for internal management purposes, data on facility management contractors' annual small business subcontracting achievements calculated as a percentage of the obligated dollars facility management contractors received that year on their contract with DOE.

DOE disagrees with this recommendation. The department proposes to continue to capture its award information based on the guidance provided by SBA that reflects small business subcontract awards as a percentage of the subcontract base; and not of the total contract.

- 3) Secretary of Energy take steps to strengthen oversight of the program, including issuing guidance clarifying the roles, responsibilities, and necessary interactions among DOE small business office, program office, and procurement officials responsible for managing the small business subcontracting program.

DOE agrees with this recommendation.

The following are GAO's comments on the Department of Energy's letter dated May 3, 2005.

GAO Comments

1. We acknowledge in the draft report and highlights page that DOE had taken steps to address the problems with contractor-reported data, including issuing clarifying information in 2002 and additional guidance in March 2005. However, we stated that these steps had not been adequate to ensure that the facility management contractors were complying with the guidance. The draft report also stated that the reviews of the five facility management contractors performed by DOE's Small Business Office did not include an evaluation of whether the facility management contractors were following SBA guidelines for developing small business subcontracting goals.
2. We agree that the Small Business Act and the Federal Acquisition Regulation do not require a specific level of subcontracting and that individual contractors determine the amount of work that will be subcontracted. The draft report reflects these two statements. However, we also stated in the draft report that if a contractor determines that only a small percentage of the work will be subcontracted, calculation of small business subcontracting achievements as a percentage of that percentage can be misleading.
3. We agree and modified the final report.
4. We modified the final report to acknowledge that prior to fiscal year 2000, DOE was able to include the small business subcontracting achievements of its facility management contractors toward the department's small business prime contracting goals. However, while it may have been an acceptable past practice for the facility management contractors to exclude more subcontracts under these conditions, the practice should have been discontinued in fiscal year 2000.
5. In the draft report, we acknowledged that DOE is in the process of revising existing guidance to clarify oversight roles and responsibilities and the necessary coordination and integration of oversight efforts between DOE headquarters and field organizations.
6. In the draft report, we stated that effective oversight of facility management contractors' practices for calculating and reporting their small business subcontracting goals and achievements will require more than providing guidance and training. We believe that regular

oversight activities will also be necessary to verify that contractors are complying with this guidance.

7. Our draft report does not state that “more small business subcontracting is always better.” The draft report does discuss federal policy, set out in the Small Business Act, that small businesses shall have the maximum practicable opportunity to provide goods and services to the federal government and its contractors, consistent with efficient contract performance. The draft report also states that there can be several reasons for differences in contractors’ small business subcontracting achievements, including type of work, contract performance goals, and changes in the annual funding for a contract.
8. We disagree that the fiscal year 2004 subcontracting achievement data are premature. Although the facility management contractors have not yet submitted their fiscal year 2004 subcontracting reports to DOE, we obtained this data directly from the 34 facility management contractors so that we could include the most recent results in our report. We obtained fiscal year 2004 data after the end of the fiscal year so that it would reflect the final subcontracting activities for the year. We assessed the reliability of the data for accuracy and completeness (see app. II). In addition, in March 2005, we provided a statement of facts to the contractors for their review to ensure the accuracy of the information.
9. DOE disagreed with our recommendation that, for internal management purposes, the department use data on its contractors’ subcontracting achievements, calculated as a percentage of the dollars obligated to their prime contract with DOE. While the contractors should continue to report their subcontracting achievements as SBA requires, we continue to believe that, for internal management purposes, the data do not provide a true picture of their performance, which is necessary for the department to perform effective oversight.

Appendix IV: GAO Contacts and Staff Acknowledgment

GAO Contacts

Gene Aloise, (202) 512-3841
William R. Swick, (206) 287-4851

Acknowledgments

In addition to the individuals named above, Carole Blackwell, Ellen Chu, John Delicath, Doreen Feldman, Dominic Nadarski, Judy Pagano, Laina Poon, Jeff Rueckhaus, and Ginny Vanderlinde made key contributions to this report.

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