

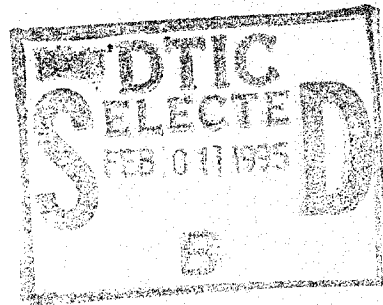
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Report to the Chairman, Legislation and
National Security Subcommittee,
Committee on Government Operations,
House of Representatives

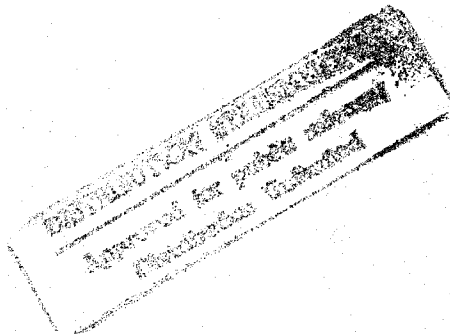
March 1992

SMALL BUSINESS PROGRAM

Efforts to Increase Participation in State Department Contracts



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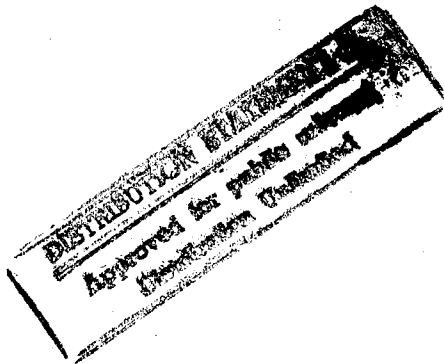
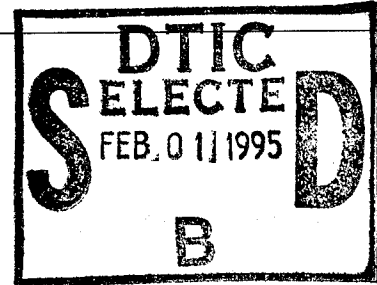
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National Security and
International Affairs Division

B-247528

March 19, 1992

The Honorable John Conyers, Jr.
Chairman, Legislation and National
Security Subcommittee
Committee on Government Operations
House of Representatives



Dear Mr. Chairman:

In response to your request, we reviewed the State Department's program to promote the participation of small, small disadvantaged, and women-owned businesses in its contracts. Specifically, we compared the Department's goals with number, type, value, and geographic distribution of contracts awarded to these targeted businesses; assessed activities of the Department's Office of Small and Disadvantaged Business Utilization; and identified the office's actions to promote overseas contracting opportunities for target businesses.

Background

Public Law 95-507 (sec. 221) requires that the head of each federal agency, after consultation with the Small Business Administration, establish realistic goals for the award of contracts to small businesses owned and controlled by socially and economically disadvantaged individuals.¹ The law also directs that small purchases be set aside for small businesses, with some exceptions. Executive Order 12138 promoted prime contract awards to women-owned businesses.

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The Office of Small and Disadvantaged Business Utilization, within the Department's Bureau of Administration, promotes the participation of target businesses in Department contracts through activities collectively referred to as the small business program. The office also serves as the Department's liaison to the Small Business Administration, which coordinates small business programs throughout the government. The office and the Small Business Administration determine the Department's annual goals for awarding contracts to target businesses. The goals are generally set to increase the participation of target businesses each year.

¹The Small Business Administration defines socially disadvantaged individuals as those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities. The Small Business Administration defines economically disadvantaged individuals as socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities compared with others in the same or similar line of business and competitive market area who are not socially disadvantaged.

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Results in Brief

State Department data for fiscal years 1990 and 1991 show that the Department met or exceeded most of its goals for awarding contracts to small, small disadvantaged, and women-owned businesses (see app. I). According to State Department officials, the majority of these contracts were awarded to businesses located in the Washington, D.C., area.

The Office of Small and Disadvantaged Business Utilization, a small office with three staff and modest resources, has a limited capacity to promote the small business program. The office uses manual files to record the capabilities of target businesses and has difficulty responding quickly to questions posed by the Department's procurement units about these firms. The office has limited interaction and lacks formal linkages with units that award contracts.

The office has done little to promote target business participation in overseas procurements, which may account for about half (\$500 million) of the Department's contracting opportunities. The office does not review contracts awarded by posts overseas to determine if they could be awarded to target businesses. On the basis of 1980 policy guidance from the Office of Federal Procurement Policy, the Department believed there was no legal requirement for the participation of target businesses in overseas procurements. Therefore, the office has excluded overseas contracts from departmental goals for participation by target businesses.

Department Has Met Most Goals

The Department has met or exceeded most of its goals for the participation of target businesses in its contracts (see app. I). According to procurement officials, the majority of contract actions awarded to target businesses were for small purchase orders, including recurring service contracts and delivery orders. Other contracts were for automated data processing, construction, and architecture or engineering services. In January 1992, the Small Business Administration commended the Department for its accomplishments in supporting procurement goals for small and small disadvantaged businesses.

An Office of Small and Disadvantaged Business Utilization official estimated that about 90 percent of the target businesses awarded Department contracts are located in the Washington, D.C., area. The Department does not have goals by geographic area for the award of contracts. Procurement officials told us that the Department's centralized location in Washington, D.C.; the travel costs to Washington, D.C., to pursue contract opportunities; and the lack of awareness of contracting

opportunities by target businesses located outside the Washington, D.C., area impede wider geographical distribution of contract awards to target businesses.

Office officials explained that they may not have complete data on the number and value of contracts awarded to target businesses. According to these officials, three units that award roughly 80 percent of the Department's domestic contracts (the Office of Acquisition, the Office of Foreign Buildings Operations, and the Foreign Service Institute) do maintain this type of data. The office bases its reports on the small business program primarily on data from these three units.

According to procurement officials, in fiscal year 1990, the Department awarded 15,947 contracts to small businesses, 320 contracts to businesses designated as 8(a)² by the Small Business Administration, and 336 contracts to women-owned businesses. In fiscal year 1991, the Department awarded 16,201 contracts to small businesses, 380 contracts to 8(a) businesses, and 460 contracts to women-owned businesses.

Program Activities Are Limited

According to the Director, since its inception in 1980, the Office of Small and Disadvantaged Business Utilization has had at most three staff members. For 8 months in 1991 the office operated with only two staff. Office activities primarily consist of (1) establishing goals for and reporting on Department performance on awarding contracts to target businesses, (2) reviewing domestic contracts valued at over \$25,000 to determine if they should be awarded to target businesses, and (3) conducting limited training and outreach activities designed to inform Department staff of the availability of target businesses and attract these businesses to participate in contracting opportunities.

Office officials said they receive goal proposals from each Department unit that has domestic procurement authority. The office accepts the proposed goals or negotiates different goals. All unit goals are then incorporated into the Department's proposed fiscal year goals, which are submitted to the Small Business Administration for consideration and further negotiation. The office reports annually to the Small Business Administration on the Department's performance. The Small Business Administration annually reports to Congress on the data from the Department and other federal

²Section 8(a) of the Small Business Act provides authority for the Contracting and Business Development Program. The Small Business Administration, which administers the program, has designated specific small businesses owned by socially and economically disadvantaged persons as eligible for the program. These businesses are commonly referred to as 8(a) businesses.

agencies. The office also reports annually to the Department of Commerce on the value of contracts awarded to target businesses.

The office receives notices of potential contracts valued over \$25,000 from contract offices (primarily the Office of Acquisition, the Office of Foreign Building Operations, and the Foreign Service Institute). Office officials said they review, on average, about two to three contract notices weekly containing the contract officer's recommendation that the contract be awarded competitively or reserved for a target business. Office officials also said they can attempt to influence the contracting officer's recommendation, but the contracting officer generally has final authority. However, the office Director said there is an appeal process to help resolve disputes. Office officials said that there had been very few cases in which the office disagreed with the contracting officer's recommendation and were not able to agree on a course of action.

The office sponsors or participates in activities to promote the use of small, small disadvantaged, and women-owned businesses. For example, in November 1991, the office sponsored a small business technology exhibit at the State Department and participated in a federal procurement conference in Norfolk, Virginia, sponsored by the Virginia Chamber of Commerce. The Director said for 1991, office staff participated in 23 outreach programs to promote the small business program, and 18 of these were conducted outside the Washington, D.C., area.

The resources of the Office of Small and Disadvantaged Business Utilization are limited. The office lacks an automated file detailing the capabilities of target businesses. The office Director said without an automated file it is difficult to quickly respond to inquiries from contracting officers about the capabilities of target businesses. Automated records could provide instant, updated information to procurement units involved in acquisition planning. Office staff said that a simple automated file containing brief descriptions of professional and technical capabilities of target businesses, including Standard Industrial Classification codes, could be developed at little cost using existing programs.

Several procurement officials in the Department said that the small business program receives little attention and that unit management and staff with procurement authority often do not understand the program's role in the acquisition process. Procurement officials told us that the limited awareness and understanding of the program exists, in part, because there is no formal relationship and little interaction between the

Office of Small and Disadvantaged Business Utilization and the units at State Department with procurement authority. Several procurement officials suggested that regular meetings with the Office of Small and Disadvantaged Business Utilization be conducted to increase awareness of the program. In addition, procurement officials said that each unit involved in the procurement process needed to fully understand its role and responsibilities under the small business program. These officials said that a written description of roles and responsibilities through memorandums of understanding or other means was needed.

The Director of the Office of Small and Disadvantaged Business Utilization told us that she planned to begin new initiatives to promote the small business program. However, current staff levels will limit the pace, magnitude, and effectiveness of the initiatives.

In addition to activities of the Office of Small and Disadvantaged Business Utilization, the Office of Foreign Buildings Operations established a coordinator for small and disadvantaged businesses in 1987. This coordinator serves as a liaison between the Office of Foreign Buildings Operations, the Office of Small and Disadvantaged Business Utilization, special interest and congressional groups, building professional and trade associations, and minority and small businesses. The coordinator said that he has also conducted outreach programs and that he maintains data on the professional and technical capabilities of minority and small businesses. Other procurement offices within the Department do not have small business program coordinators.

Participation in Overseas Contracts Is Limited

Until late 1991, the Office of Small and Disadvantaged Business Utilization did not promote the participation of target businesses in overseas contracts. The office has not reviewed overseas procurement contracts to see if they could be awarded to target businesses. Furthermore, the office has excluded overseas contracts from its goals for target business participation because it believed that the participation of target businesses in overseas procurement opportunities was not required by law. The office bases this belief on 1980 guidance from the Office of Federal Procurement Policy. This guidance directs federal agencies to exclude contracts that are awarded or performed entirely outside the United States from goal setting under procurement preference programs.

In September 1991, the office Director told us she had asked the Department for a legal opinion on whether Federal Acquisition Regulation 13.105, which requires that all domestic procurements under \$25,000 be set aside for small businesses, also applies to overseas procurements, the majority of which are less than \$25,000. In October 1991, the Department's Legal Advisor determined that contracts for goods and services outside the United States are exempt from the regulation. We believe that this interpretation is reasonable.

In its October 1991 opinion, the Legal Advisor encouraged actions to assist overseas contracting officers to use small and other target businesses when reasonable and practicable. In January 1992, the office Director discussed the small business program with officials of the Department's regional procurement office in Bonn. While in Bonn, the Director said she set up a voluntary program to increase participation by U.S. small businesses in contract awards made by the Bonn office. The Director also held a meeting in November 1991 to explain the program to foreign service officers who were to be assigned overseas as general service officers with procurement authority. The office Director and staff acknowledged that they needed to explore other ways of promoting target business participation in overseas contracts but that a plan for doing so has not been developed.

The Department is developing a data base on overseas procurements that is scheduled for completion by March 1992, according to a procurement official. When the data base is completed, the office expects to be able to determine which and how many target businesses are participating in overseas contracts. Although there is currently no data on target business participation in overseas contracts, the Director of the Office of Small and Disadvantaged Business Utilization believes that the level of participation is probably very low—perhaps less than 5 percent.

Recommendations

We recommend that the Secretary of State direct the Bureau of Administration to develop a plan to promote participation by small, small disadvantaged, and women-owned U.S. businesses in overseas procurements; prepare written descriptions identifying the roles and responsibilities of the major procurement units under the small business program; and automate records maintained by the Office of Small and Disadvantaged Business Utilization on target businesses.

Scope and Methodology

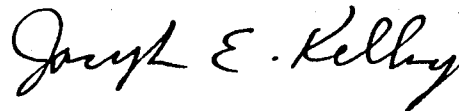
We interviewed officials of the State Department's Office of Small and Disadvantaged Business Utilization, Office of Acquisition, Office of Foreign Buildings, and Foreign Service Institute. We also interviewed officials from the Small Business Administration and representatives from small, small disadvantaged, and women-owned businesses.

As you requested, we did not obtain written agency comments on this report. However, we discussed a draft of this report with the Director of the Office of Small and Disadvantaged Business Utilization. We also discussed a draft with officials at the Small Business Administration that are knowledgeable on the State Department's program. We incorporated comments by these officials where appropriate. We conducted our work between October 1991 and February 1992 in accordance with generally accepted government auditing standards.

As arranged with your office, unless you publicly announce this report's contents earlier, we plan no further distribution until 30 days after its issue date. At that time we will provide copies to the Department of State and the Small Business Administration. We will also make copies available to others on request.

Please contact me at (202) 275-4128 if you or your staff have any questions concerning this report. Major contributors to this report are Thomas Schulz, Associate Director; John Brummet, Assistant Director; and John Townes, Evaluator-in-Charge.

Sincerely yours,



Joseph E. Kelley
Director, Security and
International Relations Issues

Goals and Performance of State Department's Small Business Program

For the last 2 fiscal years, the Department has met most of its goals for awarding prime contracts and subcontracts to small businesses, small disadvantaged businesses designated as 8(a) businesses, small disadvantaged businesses not designated as 8(a), and women-owned businesses. In fiscal year 1990, the Department exceeded its goals for awarding prime contracts to target businesses and subcontracts to small disadvantaged businesses but not to small businesses (see table I.1).

Table I.1: Fiscal Year 1990 Goals and Performance

Figures in percent		
Description of goal	Goal	Performance
Contracts awarded to small and other target businesses	41.6	53.6
Contracts awarded to 8(a) businesses	4.6	18.4
Contracts awarded to small disadvantaged businesses not designated 8(a)	2.1	3.6
Contracts awarded to women-owned businesses	2.5	4.1
Subcontracts awarded to small and other target businesses	60.0	42.0
Subcontracts awarded to small disadvantaged businesses	6.1	7.3

Note: Goals and performance are primarily based on the number of contracts awarded domestically by the Office of Acquisition, the Office of Foreign Buildings Operations, and the Foreign Service Institute.

In fiscal year 1991, the Department met its goals for awarding prime contracts to small businesses, small disadvantaged businesses designated 8(a) by the Small Business Administration, and women-owned businesses but not to small disadvantaged businesses not designated 8(a). For subcontract awards, the Department exceeded its goal for small disadvantaged businesses but not for small businesses (see table I.2).

Appendix I
Goals and Performance of State Department's
Small Business Program

Table I.2: Fiscal Year 1991 Goals and Performance

Figures in percent

Description of goal	Goal	Performance
Contracts awarded to small and other target businesses	41.6	42.0
Contracts awarded to 8(a) businesses	6.0	15.2
Contracts awarded to small disadvantaged businesses not designated 8(a)	2.1	1.8
Contracts awarded to women-owned businesses	3.0	4.2
Subcontracts awarded to small and other target businesses	60.7	60.3
Subcontracts awarded to small disadvantaged businesses	6.0	12.0

Note: Goals and performance are primarily based on the number of contracts awarded domestically by the Office of Acquisition, the Office of Foreign Buildings Operations, and the Foreign Service Institute.

According to the Director, in addition to goals negotiated with the Small Business Administration, the Department of Commerce has established goals for the value of State Department contracts to be awarded to minority businesses³ without regard to size. In fiscal year 1990, the Department of State reported that minority businesses were awarded contracts valued at \$72.8 million, which exceeded the Department of Commerce's goal of \$66.5 million. For fiscal year 1991, the State Department reported that contracts valued at \$135 million were awarded to minority business—twice the Department of Commerce's goal of \$67.5 million. This amounted to 30 percent of the value its contracts awarded in the United States.

³The Small Business Administration defines a minority business as "a business which is at least 51% owned by one or more minority individuals—those U.S. citizens who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as members of a designated group without regard to their individual qualities. Designated groups include, but are not limited to: Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans and other groups whose members are found to be small and disadvantaged by the Small Business Administration pursuant to Section 8(d) of the Small Business Act as amended (15 U.S.C. 637(d)), or the Secretary of Commerce—or in the case of any publicly owned business, at least 51% of the voting stock is owned by one or more minority individuals. The daily business operations are likewise managed by the minority owner."