



*U.S. Women's
Chamber of Commerce*

**Testimony of
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**Before the
U.S. House of Representatives
Committee on Small Business**

**Hearing on
*Contracting and the Industrial Base Part III:
Reverse Auctions, Verification and the SBA's Role in Rulemaking***

March 19, 2015

Chairman Hanna, Ranking Member Velázquez and Members of the Committee. Thank you for the opportunity to provide testimony this morning on behalf of the over 500,000 members of the U.S. Women's Chamber of Commerce, three-quarters of whom are American small business owners and federal contractors. Today, as the

Committee discusses contracting and the industrial base, I will address our views on the use of reverse auctions, size and socio-economic verifications and the SBA's role in rulemaking and enforcement.

Reverse Auctions

While reverse auctions have the potential to deliver savings for the federal government when purchasing supplies, commodities and other services, we have a number of concerns with the reverse auction process and outcomes:

1. Given the complexity of pricing and delivery of supplies and commodities, small business owners may be pushed in the moment to lower bids to their own detriment.
2. Low bidders may try to win a contract and then seek to make up lost profits through price adjustments.
3. When procurements include a mix of products and/or services, the variables may be too complex to be adequately managed through the pressures of reverse auction.
4. The complexity and risks involved in an auction environment may actually drive down competition by causing potential bidders to not participate.
5. There is a risk of circumventing regulations related to the small business and socio-economic requirements.
6. Past performance is not given consideration.
7. Due to the extreme focus on lowering pricing, there is a risk that defective products or counterfeit parts may be provided.
8. With the 3% fee to the reverse auction provider, it may often be more efficient to simply purchase off a schedule.

Verifications

Our members are very concerned about the failure of the Small Business Administration to verify the veracity of firms claiming to be small and meeting certain socio-economic requirements for set-asides and other programs.

Congress has established a number of programs to assist small businesses competing for federal contracts. These programs support our nation's efforts to reach full productive capacity and assuring that a fair portion of the total purchases and contracts for property and services for Government in each industry category are placed with small business concerns. These focused programs require that the SBA accurately identify and verify eligible firms. This verification includes determining if the business is small, the business is veteran-owned, women-owned, disadvantaged-owned, in a HUBZone, etc.

Unfortunately, the SBA has failed at this most basic requirement for more than a decade. For the last decade, the SBA Inspector General's annual "Report on the Most Serious Management and Performance Challenges Facing the Small Business Administration," has listed as SBA management's top challenge - flaws in the procurement process allow large firms to obtain small business awards, and allow agencies to count contracts performed by large firms toward their small business goals. Yes, a decade.

The SBA's failure to verify small business and socio-economic claims became a major issue when the Service Disabled Veteran-Owned Small Business set-aside was created. During the process to create regulations, the SBA did not establish any eligibility verification for the SDVOSB program. This regulatory failure led to hundreds of millions of dollars in fraud and abuse as contract went to ineligible firms.

The veteran's contracting issue became more complicated when the U.S. Department of Veterans Affairs began their own Vets First Contracting Program with its own verification. The Vets First Contracting Program is only for specific contracting opportunities within the U.S. Department of Veterans Affairs. It is wholly separate from the SBA and has different eligibility requirements from the SBA's Service Disabled Veteran Small Business program which is used all across the federal government.

Now, we understand some members of Congress have suggested the VA's verification of veteran-owned firms for the Vets First Contracting Program should be moved to the SBA and paid for by the VA. This idea comes from a lack of understanding that the Service Disabled Veteran-Owned Small Business set-aside program, which is under the

SBA's management and enforcement, has a different purpose and different requirements from the VA's Vets First Contracting Program. Since the SBA failed to create a verification program for the Service Disabled Veteran-Owned Small Business set-aside program, businesses and agencies are confused and hundreds of millions of dollars have been lost to legitimate SDVOSB firms due to fraud and abuse.

Additionally, if the SBA took on the VA's verification for the Vets First Contracting Program and the VA paid for this program, what would happen when the VA runs into budgetary challenges and doesn't want to pay for the services anymore?

More recently, due to the SBA's poor regulatory implementation of the Women-Owned Small Business set-aside program, the Government Accountability Office found that more than forty-percent of businesses (that previously received contracts) it examined for program eligibility should not have attested they were WOSBs or EDWOSBs at the time of review.

Thankfully, Congress and the President acted together through the recent passage of the FY15 National Defense Authorization Act to remove self-certification from the Women-Owned Small Business set-aside program which, when implemented, will certainly elevate the scrutiny of verification for this program. We appreciate Congress stepping up to force the SBA to do what it should have done all along. We strongly implore this committee to hold SBA accountable for the creation of strong regulations to improve the verification and use of this program.

SBA's Role in the Rule Making Process

The SBA's role in the rule making process includes the development and enforcement of regulations to enact federal laws. Both steps are vitally important to our nation's goal to reach full productive capacity and assure that a fair portion of the total purchases and contracts are placed with small business concerns.

So, as Congress passes legislation aiming to achieve these goals, we must rely upon the SBA to prepare and enforce regulations that successfully fulfill your intent. In this area, the SBA has failed woefully.

1. The regulations developed and enforced by the SBA for the implementation of the Women-Owned Small Business set-aside program were flawed from the very start. The SBA ignored the input from stakeholders on the inability of the processes brought about through the regulations to effectively insure that only qualified women-owned firms received access to set-asides. The SBA created a grossly complex method of managing the documents secured from firms seeking access to the program. The SBA turned contracting officers into de facto certifiers - driving down their desire to use the program. And, the SBA devoted very limited resources and funding to the implementation of the program, education of contracting officers and oversight/enforcement of the regulations.
2. The SBA failed to create a verification program for the Service Disabled Veteran-Owned Small Business set-aside program. The consequence has been that hundreds of millions of dollars have been lost to legitimate SDVOSB firms due to fraud and abuse and there is a great deal of confusion between the SBA's SDVOSB and the VA's Vets First program.
3. We also see the failings of the SBA in the failure of the agency to staff an appropriate number of Procurement Center Representatives. PCR's work all across the U.S. to enforce the requirement for small business set-asides in their regions. The most crucial, front-line team that acts to assure that a fair portion of the total purchases and contracts are placed with small business concerns - is clearly not a regulatory enforcement priority of the Small Business Administration.

The U.S. Women's Chamber of Commerce agrees with the budget views of this committee: the SBA must allocate greater use of their funds to the core, Congressional mandated activities of the agency. And, this Committee must provide strong oversight and accountability. Rather than funding the SBA's extra layer of non-essential national and regional management and non-mandated programs - we recommend funds be directed to regulatory enforcement and services provided directly to assist and protect small business owners.

And, I ask you to help us assure that the SBA properly implements the provisions in the FY15 National Defense Authorization Act that will bring greater verification and accountability to the Women-Owned Small Business set-aside program.

Thank you for the opportunity to provide this input.