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December 19, 2005

## **Defense measure includes language on military benefits**

By Megan Scully

The House approved the fiscal 2006 defense authorization conference report by a 374-41 vote early Monday after House leaders dropped a bid to attach campaign finance language affecting so-called 527 organizations.

Passage of the legislation capped a weekend standoff between House leadership and Senate Armed Services Chairman John Warner, R-Va., who had said he would use "every available means" to block the provision from his bill, which has taken a rocky path through Congress in recent months.

The Senate is expected to take up the measure Monday. The bill includes a Senate amendment requiring the president to submit quarterly, unclassified reports on the status of operations in Iraq, as well as compromise language reached last week by Sen. John McCain, R-Ariz., and the White House that bans detainee torture. It also includes defense policy provisions ranging from military benefits to weapons system acquisition.

Over the weekend, Senate Republican conferees and their Democratic colleagues from both chambers threatened to strip their signatures from the defense authorization conference report, signed Friday afternoon before House leaders disclosed their plans to add the provision to the bill.

House Armed Services Chairman Duncan Hunter, R-Calif., spent much of Sunday in talks with House leadership, continuing an ongoing struggle in both chambers to wrap the bill up before Congress adjourned for the year, aides said. Last week, Hunter had threatened to hold up the bill until after the White House assured him their agreement with McCain on detainee policy would not hinder intelligence gathering.

Specifically, House leaders wanted to add a bill sponsored by Reps. Christopher Shays, R-Conn., and Martin Meehan, D-Mass., that would subject 527 organizations to the same reporting and expenditure restrictions as political committees outlined in the Federal Election Campaign Act of 1971.

But they also planned to insert additional language contained in a competing measure introduced by Rep. Mike Pence, R-Ind., that repeals limits on the amount parties can spend on behalf of candidates in general elections. Meehan, a senior member of the House Armed Services Committee, said Sunday that the move was an "underhanded, unconscionable way for them to undo campaign finance laws."

Added House Armed Services ranking member Ike Skelton, D-Mo., "This is Christmastime, but this is no time to Christmas-tree a solid piece of legislation."

A senior GOP aide said House Republicans might revert to an earlier plan to attach the language to another piece of legislation after Congress reconvenes next year.

The bill includes language that further expands the military's TRICARE healthcare system for National Guard and reserve troops over last year's authorization measure. The bill also authorizes increases in troop levels in the Army by 30,000 troops and the Marine Corps by 4,000 in fiscal 2006, and raises enlistment and re-enlistment bonuses.

In addition, it authorizes the president's full \$1.8 billion request for the Navy's next-generation DD(X) destroyer, a program the House had recommended cutting by \$1.1 billion. It also authorizes a \$100 million cut from the administration's \$3.2 billion budget request for the Army's massive Future Combat Systems and requires the comptroller general to review the program annually, a House aide said.

December 19, 2005

## **Spending bill spares major weapons programs from big cuts**

By Megan Scully

The Defense appropriations conference report that passed the House earlier Monday provides a record \$453.5 billion for the military in fiscal 2006, with the Defense Department's big ticket procurement programs emerging largely unscathed by major budget cuts.

The report, which passed the House at 5:04 a.m., is pending before the Senate. Perhaps the biggest winner during conference negotiations was the Navy's next-generation DD(X) destroyer program, which House appropriators had recommended slashing by \$1 billion. But with the support of Senate Appropriations Chairman Thad Cochran, R-Miss., conferees ultimately opted to approve all of the Bush administration's \$1.8 billion request for the program. The Navy intends to build many of the destroyers in Mississippi, Cochran's home state.

In another nod to the struggling shipbuilding industry, conferees included \$440 million to buy two additional Littoral Combat Ships in fiscal 2006. Overall, the agreement provides \$9.4 billion for new ship construction and conversions, an increase of \$306 million above the president's request.

Meanwhile, conferees agreed to cut \$240 million from the \$3.2 billion requested for the massive Future Combat Systems program, the core of the Army's technology transformation efforts. House appropriators, concerned with program management, had favored a steep \$449 million cut, while their Senate colleagues wanted to trim only \$100 million from the program.

The Defense spending bill matches the administration's \$878 million request to buy 240 new Stryker vehicles, which have been used extensively in Iraq.

The conference agreement also includes the total \$3.2 billion sought for the procurement of 25 F-22A Raptor fighter jets for the Air Force and \$2.7 billion for 42 F/A-18 jets for the Navy. In addition, the agreement restores funding for the C-130J cargo aircraft, initially targeted for cancellation by the Pentagon, and meets the president's request for \$3.5 billion for the C-17 larger cargo aircraft.

But the Air Force and Navy's Joint Strike Fighter program took a \$232 million hit, in part because of development delays for the first production aircraft. Conferees agreed to approve most of the administration's request for space programs, but slashed two

struggling systems, Space Radar and the Transformational Satellite Communications, by \$126 million and \$400 million, respectively.

December 16, 2005

## **Government flunks annual audit, again**

By Jenny Mandel

For the ninth year running, the federal government failed to achieve a clean financial audit, largely because of accounting issues at the Pentagon.

This year's results, released on Thursday, looked much like [those from recent years](#).

Internal problems with government accounting systems prevented the Government Accountability Office from reaching a reliable conclusion about the accuracy of the Treasury Department's Fiscal Year 2005 Financial Report of the U.S. Government. The failed audit was unsurprising, as accounting problems at the Defense Department alone -- given the size of its budget -- are sufficient to introduce uncertainty into the entire federal accounting process. DoD has told lawmakers it will not be able to meet a 2007 target to clean up its accounting procedures.

GAO cited three major factors for the audit failure. In addition to "serious financial management problems at the Defense Department," the report noted an inability to account for and reconcile balances that cross agency lines, and an ineffective process for preparing the financial statements.

DoD was not alone in receiving a disclaimer, or failing mark. It was joined by NASA, the Energy Department and the Homeland Security Department. Together, these agencies represent 58 percent of the government's total reported assets, the report said.

New to this report was a warning about restatements of previous years' results. Of the 24 agencies required to submit financial statements under the 1990 Chief Financial Officers Act, seven have restated their results for fiscal year 2004. GAO's audit report warns that such restatements can harm the credibility of the accounting process.

Tabetha Mueller, a spokeswoman for the House Government Reform Subcommittee on Government Efficiency and Financial Management, said the high level of uncertainty expressed in the audit report could have several explanations.

"One of the reasons could be that the auditors are getting better at auditing," she said. "In other words, as they turn over more rocks, they're finding more."

GAO chief David Walker said the Treasury report raises broad concerns.

"The current financial reporting model does not clearly and transparently show the wide range of responsibilities, programs and activities that may either obligate the federal government to future spending or create an expectation for such spending," he wrote in a statement accompanying the audit. "Thus, it provides a potentially unrealistic and misleading picture of the federal government's overall performance, financial condition, and future fiscal outlook

Dec. 16, 2005

## **Bush order surprises watchdog group**

By Aliya Sternstein

Open government advocates say President Bush's Dec. 14 executive order fails to address the cause of problems in accessing government information through the Freedom of Information Act (FOIA).

The executive order requires federal agencies to respond courteously to FOIA requesters and to appoint chief FOIA officers. But watchdog groups question whether the order is a genuine attempt to create a more transparent government.

"What the order does not do is engage with the causes of the FOIA backlogs," said Steven Aftergood, director of the Project on Government Secrecy at the Federation of American Scientists. "One of those causes is the removal of public information from the Web. I would rather get more documents from a rude FOIA officer than get a courteous denial."

With respect to courtesy, the executive order states "FOIA requesters are seeking a service from the Federal Government and should be treated as such. Accordingly, in responding to a FOIA request, agencies shall respond courteously and appropriately." But Aftergood maintains the real problem with agencies' implementation of FOIA is not related to customer service. "In most cases, records that have been withdrawn from the Web are eventually released when requested under FOIA," he said. But he added "their initial removal from online access typically adds months of delay and hundreds of dollars to the disclosure process in each case."

As an example, Aftergood pointed to the Defense Department's recent decision to place the U.S. Army Weapons System Handbook offline, which is not and has never been classified, he said. After repeated requests and delays, he obtained a printed version of the handbook through a FOIA request.

Aftergood said a portion of the order that states the chief FOIA officer must consider information technology to enhance FOIA procedures is promising. FOIA requests increased 71 percent between 2002 and 2004. The backlog of unanswered requests has increased 14 percent since 2002, Government Accountability Office officials testified in May.

The presidential directive states that the chief FOIA officer "shall examine the agency's use of information technology in responding to FOIA requests, including without limitation, the tracking of FOIA requests and communication with requesters."

Aftergood said he hopes that language encourages federal departments, such as the FBI, CIA and Defense, to publish information on the Internet after they authorize individual FOIA requests.

"There's no doubt that there's a lot of room to increase the reliance on IT for FOIA processing, especially for FOIA releases," Aftergood said. "Imagine if FOIA disclosures

were automatically posted in an electronic reading room that others could search and review [online]. It's a perfectly achievable task."

The president's rationale for issuing the new FOIA rules is unclear, Aftergood said. Some lawmakers want to update FOIA by opening a window on the FOIA process. A Senate bill calls for using electronic databases to track the status of requests for government information. The Openness Promotes Effectiveness in our National Government Act also seeks the use of tougher deadlines for agency compliance and telephone and Internet hot lines to help people track their requests. Sen. John Cornyn (R-Texas) introduced the bill last February, but it has not advanced significantly. Aftergood said he doubts the order was issued to preempt congressional action, but he said he also does not think the order means the Bush administration has turned a new leaf on secrecy.

"I don't know what prompted this order," Aftergood said. "I don't believe it's a deep-rooted commitment to freedom of information because we've seen no evidence of that over the past five years." But he said he welcomes the order anyway. "When the government complies with the law, that is a good thing."

December 16, 2005

## **FY 2006 Department of Defense Authorization Update**

Phil Eskeland, Policy Director, House Committee on Small Business

### Small Business Committee Notes

FY 2006 Department of Defense Authorization bill conference report update

On Thursday, December 15, the FY 2006 Defense Department Authorization conference was informally completed. The conference report will retain the provisions from the Senate Defense Authorization bill (S. 1042) dealing with providing a battlefield exemption for security personnel hired by a small government contractor to perform work in a combat zone from small business size standards (Section 849); creating a new disaster loan program at the Small Business Administration (SBA) for non-farm small businesses suffering from severe drought (Section 852); shortening the title for the Office of Small Disadvantaged Business Utilization (OSDBU) at various federal agencies to the Office of Small Business Programs (Section 901); and improving the Small Business Innovation Research (SBIR) program to get more technologies needed by the Defense Department to move from R&D in Phase II to development and production in Phase III (Section 814).

The conferees rejected provisions that would count overseas procurements in small business goals (Section 850 of the Senate bill); improve access for small business in multiple award contracts (Section 851 of the Senate bill); and repeal the Competitiveness Demonstration Program (Section 855). Because the House also had a provision dealing with improving Phase III of the SBIR program, the House conferees receded to the Senate position and substituted their provision (Section 814) in its place in the final conference report.

The final vote on the conference report to accompany the FY '06 DoD Authorization bill is expected sometime over the next few days. For further information, please contact Nelson Crowther, General Counsel.

Dec. 16, 2005

## **Katrina taught DHS procurement**

BY Michael Arnone

Hurricane Katrina taught the Homeland Security Department important lessons about procurement, the department's acting chief procurement officer said Dec. 15.

The devastating August storm showed the need for contingency planning within each federal department and across them, Elaine Duke said at a gathering of the Association for Federal Information Resources Management, a nonprofit industry group, in Washington, D.C.

Staff members dedicated to contingency planning are essential, Duke added. "Contracting vehicles can't happen without the people piece," she said.

The hurricane helped the procurement office "recognize the need for planning, preparedness and communication at all levels" within DHS; with federal, state and local partners; and with the acquisition community, Duke said.

She defended DHS' response to Katrina. She noted that the department has established an oversight board for Katrina-related contracts and procurements. After the storm, DHS opened a contracting office specifically for those contracts, and it will remain open through January 2006, she said.

"We have responded very well to Hurricane Katrina," Duke said. "We as a federal government are very dedicated to [responding] to these disasters."

DHS' response to Katrina will not delay contract awards for two major new information technology acquisition programs, Duke said.

DHS introduced the programs, the Enterprise Acquisition Gateway for Leading Edge (EAGLE) solutions program for IT services and the First Source program for IT commodities, in August to improve how the department buys IT. The department intends to award both contracts next year and finish them within nine months of their award dates, DHS officials said.

The department will thoroughly evaluate all proposals in a timely, efficient manner, but it has not yet announced when it will award contracts, Duke said.

"These two contract programs are critical to our success," she said. "This is so important to our future that we're going to do it right."

Response to EAGLE has been overwhelming, Duke said. Response to First Source is also growing, with many proposals containing questions about configuration, she added.

First Source is designed to encourage small-business participation because it is set aside for businesses with 150 employees or fewer. EAGLE has both small-business set asides and open bidding.

Duke took over acquisition responsibility for DHS Dec. 2, when Greg Rothwell, her former boss, retired.

December 15, 2005

## **109th Congress Fails to Move Small Business Legislation**

CONTACT: Kate Davis, Allyson Ivins

Democrats release report highlighting lack of progress on small business initiatives  
WASHINGTON - With the end of the first session of the 109th Congress quickly approaching, Democrats on the House Small Business Committee released their annual End of the Year report, detailing over 40 pieces of small business legislation that have failed to move through the House and Senate over the past year. With small businesses facing an array of challenges today - from rising health care and energy costs to skyrocketing interest rates - there has been little action taken over the past year to address these issues for entrepreneurs.

"The 109th Congress started out with a great deal of promise for small businesses; however, it is clear that those promises have been left un-kept," said Congresswoman Nydia M. Velázquez, Ranking Democrat on the committee. "As the main job creators, small businesses are responsible for much of our nation's economic growth. Today's business environment is struggling, and it is a direct result of these policies not receiving attention from the Bush administration and the Republican leadership."

The report examines 11 critical issues that drive small business growth in the United States from health care, energy, and access to capital to immigration and disaster relief. Last month, Democrats on the committee released a Small Business Index (SBI) that found the economic climate for small firms had reached an eight year low. The end of year report attributed this largely to the fact that over 40 small business initiatives designed to aid small firms have been stalled in Congress.

Small business owners have been struggling with an array of issues over the past few years, such as the rising costs of health care, which increased by 70 percent in the past five years alone. Entrepreneurs in the Gulf Coast region continue to be weighed down by lack of disaster assistance and contracting opportunities, greatly inhibiting their ability to make a full recovery and rebuild. In addition, the report highlighted that small businesses continue to be shut out of the federal marketplace, are faced with rising energy costs and have difficulty in meeting their workforce needs. Despite the fact that there is legislation designed to address all of these concerns, each initiative mentioned in the report has either received little, or no, attention from the Republican-controlled Congress.

The report also highlighted several prominent pieces of legislation including the Class Action Fairness Act (PL 109-02) and H.R. 6, the Energy Policy Act of 2005, that were passed in the first session and were characterized as "wins" for small businesses, when in reality they provided little, if any benefit, and in some cases actually harmed small firms. In order for small businesses to continue creating 75 percent of all new jobs, initiatives must meet their needs, rather than pose additional burden.

Congresswoman Velázquez highlighted the fact that the majority of the initiatives mentioned in the evaluation were actually sponsored by Republican Members. Out of the 41 pieces of legislation reviewed in the report, 18 were sponsored by Democrats, 23 were sponsored by Republicans - and 22 of the initiatives were bipartisan efforts. Yet, despite the fact that it is a GOP-controlled Congress, these efforts have failed to move.

"What we are seeing today is an economy that is need of revitalization, job creation and confidence, but the federal policies that help small businesses are simply going nowhere in Congress," Congresswoman Velázquez said. "This severely dampens the business climate for entrepreneurs and until Congress recognizes the need to do more than just talk about helping small businesses, things are not going to change. The last thing we want is another do nothing Congress for small business - but if we keep pace with the record of the 1st session that is exactly what it will be."

December 14, 2005

## **Executive Order: Improving Agency Disclosure of Information**

White House Office of the Press Secretary

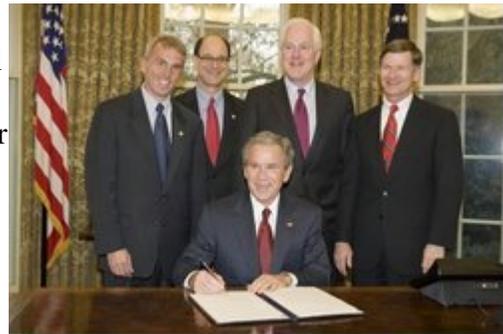
By the authority vested in me as President by the Constitution and the laws of the United States of America, and to ensure appropriate agency disclosure of information, and consistent with the goals of section 552 of title 5, United States Code, it is hereby ordered as follows:

### Section 1. Policy.

(a) The effective functioning of our constitutional democracy depends upon the participation in public life of a citizenry that is well informed. For nearly four decades, the Freedom of Information Act (FOIA) has provided an important means through which the public can obtain information regarding the activities of Federal agencies.

Under the FOIA, the public can obtain records from any Federal agency, subject to the exemptions enacted by the Congress to protect information that must be held in confidence for the Government to function effectively or for other purposes.

(b) FOIA requesters are seeking a service from the Federal Government and should be treated as such. Accordingly, in responding to a FOIA request, agencies shall respond courteously and appropriately. Moreover, agencies shall provide FOIA requesters, and the public in general, with citizen-centered ways to learn about the FOIA process, about agency records that are publicly available (e.g., on the agency's website), and about the status of a person's FOIA request and appropriate information about the agency's response.



(c) Agency FOIA operations shall be both results-oriented and produce results. Accordingly, agencies shall process requests under the FOIA in an efficient and appropriate manner and achieve tangible, measurable improvements in FOIA processing. When an agency's FOIA program does not produce such results, it should be reformed, consistent with available resources appropriated by the Congress and applicable law, to increase efficiency and better reflect the policy goals and objectives of this order.

(d) A citizen-centered and results-oriented approach will improve service and performance, thereby strengthening compliance with the FOIA, and will help avoid disputes and related litigation.

## Sec. 2. Agency Chief FOIA Officers.

(a) Designation. The head of each agency shall designate within 30 days of the date of this order a senior official of such agency (at the Assistant Secretary or equivalent level), to serve as the Chief FOIA Officer of that agency. The head of the agency shall promptly notify the Director of the Office of Management and Budget (OMB Director) and the Attorney General of such designation and of any changes thereafter in such designation.

(b) General Duties. The Chief FOIA Officer of each agency shall, subject to the authority of the head of the agency:

(i) have agency-wide responsibility for efficient and appropriate compliance with the FOIA;

(ii) monitor FOIA implementation throughout the agency, including through the use of meetings with the public to the extent deemed appropriate by the agency's Chief FOIA Officer, and keep the head of the agency, the chief legal officer of the agency, and the Attorney General appropriately informed of the agency's performance in implementing the FOIA, including the extent to which the agency meets the milestones in the agency's plan under section 3(b) of this order and training and reporting standards established consistent with applicable law and this order;

(iii) recommend to the head of the agency such adjustments to agency practices, policies, personnel, and funding as may be necessary to carry out the policy set forth in section 1 of this order;

(iv) review and report, through the head of the agency, at such times and in such formats as the Attorney General may direct, on the agency's performance in implementing the FOIA; and

(v) facilitate public understanding of the purposes of the FOIA's statutory exemptions by including concise descriptions of the exemptions in both the agency's FOIA handbook issued under section 552(g) of title 5, United States Code, and the agency's annual FOIA report, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply.

(c) FOIA Requester Service Center and FOIA Public Liaisons. In order to ensure appropriate communication with FOIA requesters:

(i) Each agency shall establish one or more FOIA Requester Service Centers (Center), as appropriate, which shall serve as the first place that a FOIA requester can contact to seek information concerning the status of the person's FOIA request and appropriate information about the agency's FOIA response. The Center shall include appropriate staff to receive and respond to inquiries from FOIA requesters;

(ii) The agency Chief FOIA Officer shall designate one or more agency officials, as appropriate, as FOIA Public Liaisons, who may serve in the Center or who may serve in a

separate office. FOIA Public Liaisons shall serve as supervisory officials to whom a FOIA requester can raise concerns about the service the FOIA requester has received from the Center, following an initial response from the Center staff. FOIA Public Liaisons shall seek to ensure a service-oriented response to FOIA requests and FOIA-related inquiries. For example, the FOIA Public Liaison shall assist, as appropriate, in reducing delays, increasing transparency and understanding of the status of requests, and resolving disputes. FOIA Public Liaisons shall report to the agency Chief FOIA Officer on their activities and shall perform their duties consistent with applicable law and agency regulations;

(iii) In addition to the services to FOIA requesters provided by the Center and FOIA Public Liaisons, the agency Chief FOIA Officer shall also consider what other FOIA-related assistance to the public should appropriately be provided by the agency;

(iv) In establishing the Centers and designating FOIA Public Liaisons, the agency shall use, as appropriate, existing agency staff and resources. A Center shall have appropriate staff to receive and respond to inquiries from FOIA requesters;

(v) As determined by the agency Chief FOIA Officer, in consultation with the FOIA Public Liaisons, each agency shall post appropriate information about its Center or Centers on the agency's website, including contact information for its FOIA Public Liaisons. In the case of an agency without a website, the agency shall publish the information on the Firstgov.gov website or, in the case of any agency with neither a website nor the capability to post on the Firstgov.gov website, in the Federal Register; and

(vi) The agency Chief FOIA Officer shall ensure that the agency has in place a method (or methods), including through the use of the Center, to receive and respond promptly and appropriately to inquiries from FOIA requesters about the status of their requests. The Chief FOIA Officer shall also consider, in consultation with the FOIA Public Liaisons, as appropriate, whether the agency's implementation of other means (such as tracking numbers for requests, or an agency telephone or Internet hotline) would be appropriate for responding to status inquiries.

### Sec. 3. Review, Plan, and Report.

(a) Review. Each agency's Chief FOIA Officer shall conduct a review of the agency's FOIA operations to determine whether agency practices are consistent with the policies set forth in section 1 of this order. In conducting this review, the Chief FOIA Officer shall:

(i) evaluate, with reference to numerical and statistical benchmarks where appropriate, the agency's administration of the FOIA, including the agency's expenditure of resources on FOIA compliance and the extent to which, if any, requests for records have not been responded to within the statutory time limit (backlog);

(ii) review the processes and practices by which the agency assists and informs the public regarding the FOIA process;

(iii) examine the agency's:

(A) use of information technology in responding to FOIA requests, including without limitation the tracking of FOIA requests and communication with requesters;

(B) practices with respect to requests for expedited processing; and

(C) implementation of multi-track processing if used by such agency;

(iv) review the agency's policies and practices relating to the availability of public information through websites and other means, including the use of websites to make available the records described in section 552(a)(2) of title 5, United States Code; and  
(v) identify ways to eliminate or reduce its FOIA backlog, consistent with available resources and taking into consideration the volume and complexity of the FOIA requests pending with the agency.

(b) Plan.

(i) Each agency's Chief FOIA Officer shall develop, in consultation as appropriate with the staff of the agency (including the FOIA Public Liaisons), the Attorney General, and the OMB Director, an agency-specific plan to ensure that the agency's administration of the FOIA is in accordance with applicable law and the policies set forth in section 1 of this order. The plan, which shall be submitted to the head of the agency for approval, shall address the agency's implementation of the FOIA during fiscal years 2006 and 2007.

(ii) The plan shall include specific activities that the agency will implement to eliminate or reduce the agency's FOIA backlog, including (as applicable) changes that will make the processing of FOIA requests more streamlined and effective, as well as increased reliance on the dissemination of records that can be made available to the public through a website or other means that do not require the public to make a request for the records under the FOIA.

(iii) The plan shall also include activities to increase public awareness of FOIA processing, including as appropriate, expanded use of the agency's Center and its FOIA Public Liaisons.

(iv) The plan shall also include, taking appropriate account of the resources available to the agency and the mission of the agency, concrete milestones, with specific timetables and outcomes to be achieved, by which the head of the agency, after consultation with the OMB Director, shall measure and evaluate the agency's success in the implementation of the plan.

(c) Agency Reports to the Attorney General and OMB Director.

(i) The head of each agency shall submit a report, no later than 6 months from the date of this order, to the Attorney General and the OMB Director that summarizes the results of the review under section 3(a) of this order and encloses a copy of the agency's plan under section 3(b) of this order. The agency shall publish a copy of the agency's report on the agency's website or, in the case of an agency without a website, on the Firstgov.gov website, or, in the case of any agency with neither a website nor the capability to publish on the Firstgov.gov website, in the Federal Register.

(ii) The head of each agency shall include in the agency's annual FOIA reports for fiscal years 2006 and 2007 a report on the agency's development and implementation of its plan under section 3(b) of this order and on the agency's performance in meeting the milestones set forth in that plan, consistent with any related guidelines the Attorney General may issue under section 552(e) of title 5, United States Code.

(iii) If the agency does not meet a milestone in its plan, the head of the agency shall:

- (A) identify this deficiency in the annual FOIA report to the Attorney General;
- (B) explain in the annual report the reasons for the agency's failure to meet the milestone;
- (C) outline in the annual report the steps that the agency has already taken, and will be taking, to address the deficiency; and

(D) report this deficiency to the President's Management Council.

Sec. 4. Attorney General.

(a) Report. The Attorney General, using the reports submitted by the agencies under subsection 3(c)(i) of this order and the information submitted by agencies in their annual FOIA reports for fiscal year 2005, shall submit to the President, no later than 10 months from the date of this order, a report on agency FOIA implementation. The Attorney General shall consult the OMB Director in the preparation of the report and shall include in the report appropriate recommendations on administrative or other agency actions for continued agency dissemination and release of public information. The Attorney General shall thereafter submit two further annual reports, by June 1, 2007, and June 1, 2008, that provide the President with an update on the agencies' implementation of the FOIA and of their plans under section 3(b) of this order.

(b) Guidance. The Attorney General shall issue such instructions and guidance to the heads of departments and agencies as may be appropriate to implement sections 3(b) and 3(c) of this order.

Sec. 5. OMB Director. The OMB Director may issue such instructions to the heads of agencies as are necessary to implement this order, other than sections 3(b) and 3(c) of this order.

Sec. 6. Definitions. As used in this order:

(a) the term "agency" has the same meaning as the term "agency" under section 552(f)(1) of title 5, United States Code; and

(b) the term "record" has the same meaning as the term "record" under section 552(f)(2) of title 5, United States Code.

Sec. 7. General Provisions.

(a) The agency reviews under section 3(a) of this order and agency plans under section 3(b) of this order shall be conducted and developed in accordance with applicable law and applicable guidance issued by the President, the Attorney General, and the OMB Director, including the laws and guidance regarding information technology and the dissemination of information.

(b) This order:

(i) shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations;

(ii) shall not be construed to impair or otherwise affect the functions of the OMB Director relating to budget, legislative, or administrative proposals; and

(iii) is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

GEORGE W. BUSH

THE WHITE HOUSE,

December 14, 2005

## **DOD reforming acquisition system**

By Frank Tiboni

In a bold move to fix the military's acquisition system, the Defense Department released a report Dec. 14 that offers eight recommendations that would make the system simpler and faster.

The recommendations, called performance improvements, cover every aspect of the military's acquisition system, including organization, workforce, budget, requirements, acquisition and industry. The new Defense Acquisition Performance Assessment (DAPA) Project, which issued the report, thinks the changes can speed delivery of weapon systems to the battlefield and preserve the U.S. industrial base. The project is a group of nine military, industry and education officials who studied the problem.

"There are fundamental disconnects in DOD management systems and congressional oversight, driven by competing values and objectives that create government-induced instability in our acquisition programs," DAPA Project members wrote in the executive summary of the 35-page report labeled for official use only.

The most significant recommendation involves creating Service Systems Commands in the Army, Navy and the Air Force. A four-star general or flag officer would lead the new organizations and report to the services' acquisition secretaries and top officers. The commanders of Service System Commands would oversee acquisition workforce training, education and experience. The DAPA Project believes the new organization will help enhance how the services' top officers manage workforce training, education and experience.

Another important recommendation is a distinct modernization account budgeted and managed by the undersecretary of Defense for acquisition, technology and logistics, DOD's top acquisition official. The account would cover all military programs that complete the system development and demonstration acquisition phase to ensure they stay on budget and operate as expected.

Gordon England, DOD's acting deputy secretary, initiated the DAPA Project this summer to create an acquisition system with clear responsibility, authority and accountability. He has also taken steps to improve DOD business processes and systems, and he established the Defense Business Transformation Agency this fall.

"We have a deputy Defense secretary who is paying a lot of attention to the problems. We have not had that lately," said John Douglass, president and chief executive officer of the Aerospace Industries Association. He spoke Dec. 14 at the association's annual holiday luncheon in which he updates industry officials and the media on the state of the aerospace industry.

December 14, 2005

## **Panel recommends Defense acquisition overhaul**

By Kimberly Palmer

A Defense acquisition panel on Wednesday recommended that the Pentagon move away from cost-based competitions for contracts, establish a new fund for Defense programs and give industry more details about its needs.

The Defense Acquisition Performance Assessment Project - - a panel made up primarily of industry members and authorized by acting Deputy Defense Secretary Gordon England -- reviewed 1,500 documents and heard from 107 acquisition experts over the last six months. Its findings were similar to those in more than 100 past reviews of Defense acquisition.

The group found that there is no standard way to track costs, that budget schedules often interfere with acquisition planning and that complicated oversight processes delay purchases.

Retired Air Force Lt. Gen. Ron Kadish, panel chairman and a partner at the McLean, Va.-based consultancy Booz Allen Hamilton, acknowledged that some of the recommendations, particularly regarding cost-based competitions, would be controversial, but he said he and other panel members were prepared to defend them. Asking contractors to compete based on costs creates "strange behavior" because they are not accountable for the success of the project, Kadish said. Anyone can give a number that is lower than other bids, he said, and that doesn't guarantee that the lowest-bid contractor offers the best solution.

The panel suggested that contractors and the government should determine the price together, and then the government should base its selection on technical competency and the risk associated with proposals.

The constantly changing budget is another source of problems for Defense acquisition, Kadish said. "When budgets change as many times as we've observed, it is not a healthy situation," he said. Instability wastes time and makes acquisition planning difficult, he added.

To combat this instability, the panel recommended an Acquisition Stabilization Account that could fund programs that are affected by budget shortfalls. Kadish said the panel would leave details on how such an account would work to the Defense Department and Congress.

Earlier this year, a different panel focused on governmentwide acquisition heard program managers voice [similar complaints](#) regarding budget instability.

The Defense panel also recommended sharing a roadmap of what the Pentagon wants and needs with contractors. If contractors had a better sense of requirements, then the companies could target their investments more productively, Kadish said.

Workforce improvements also would help acquisition, the panel said. Acquisition executives should be promoted and held to five-year terms to encourage stability, and

commanders in the field should be on the lookout for their command's short- and long-term needs, and transmit that information to acquisition officials, the group recommended.

Within the next 10 days, the DAPA office will release its full-length report, Kadish said. The panel expects its recommendations to be implemented over the next calendar year.

December 13, 2005

## **GSA moving forward with reorganization**

By Rob Thormeyer

Despite uncertainty surrounding the agency's leadership, the General Services Administration plans to continue moving forward with its reorganization.

One top official said that a little help from Congress would go a long way toward making that transition easier.

G. Martin Wagner, associate administrator for GSA's Office of Governmentwide Policy and soon-to-be acting Federal Acquisition Service commissioner, said his agency will keep the pace as it restructures its acquisition forces despite losing key officers in recent weeks.

Over the past two months, a pair of key officers associated with the reorganization—former GSA administrator Stephen Perry and acting FAS commissioner Barbara Shelton—resigned. David Bibb was tapped to fill Perry's spot on an acting basis. Wagner will officially [take over](#) for Shelton Dec. 21.

Although GSA does not have permanent leadership in place, and next year is critical for the agency's reorganization plans, Wagner said he does not anticipate GSA missing a beat. "The government can't function based on waiting around," Wagner added.

The reorganization was officially [launched](#) in September when Perry combined the Federal Supply and Federal Technology services into FAS. The new acquisition shop will help streamline the buying process for GSA's customers and, officials hope, present a more nimble and responsive agency.

The process is far from complete, though, as Congress needs to sign off on a corresponding proposal to merge the separate General Supply and IT acquisition funds into the OneFund for government procurement needs. The House approved legislation allowing the funds to merge earlier this year, but the Senate won't move ahead until a

permanent [replacement](#) for Perry is found.

Wagner believes the reorganization can still move forward without Senate action, although it will certainly be more difficult. “Having one fund would make the job here much less difficult,” Wagner said.

GSA wants to merge the funds because the difference between business and IT acquisitions has blurred in recent years as technology has changed, according to Wagner. Consolidating them makes business and economic sense, he added. “There is a significant administrative burden to managing two funds.”

Meanwhile, although the political wrangling surrounding GSA’s planned reorganization gathers most of the headlines, the agency is putting the finishing touches on solving some internal problems that could complicate the process.

Casey Coleman, acting CIO of the new FAS, said today that GSA is close to an agreement among the several different offices—including the Federal Technology, Federal Supply and Public Building services—that would consolidate their IT functions at GSA’s Washington headquarters.

“There is an agreement in principle to do the consolidation, [but] the final memorandum of understanding between the different offices and executives hasn’t been signed,” said Coleman, speaking after a breakfast meeting in Falls Church, Va., sponsored by the American Council for Technology and the Industry Advisory Council.

The agreement would change how the separate GSA divisions operate and maintain their IT systems, Coleman said. She estimates that a deal could be finalized over the next two quarters.

Currently, each office has its own standalone technology office that provides IT functions, which include e-mail, network support and desktop management. The help desks in the separate offices had different response times, Coleman said, all of which have complicated the reorganization.

“With the creation of FAS, people are moving between facilities, occupying FSS space or FTS space,” Coleman said. “So for that reason, as well as for economies, efficiencies and best practices, we’re consolidating those functions under the GSA CIO’s office.”

December 12, 2005

## **SBA Increases Small Business Size Standards**

Contact: Tiffani Clements

WASHINGTON – The U.S. Small Business Administration has increased its small business size standards to account for inflation, restoring small business eligibility to those firms that may have lost their small business status because of inflation since February 2002.

SBA has adjusted its dollar based small business size standards, which are based on receipts, net worth and financial assets, to reflect inflation that has occurred since February 2002, when SBA last adjusted them for the same reason. Since the February 2002 inflation adjustment, prices have generally increased 8.7 percent. SBA increased the familiar “anchor” size standard from \$6.0 million to \$6.5 million. Size standards that are higher than \$6 million also reflect similar percentage increases.

“These changes to our size standards and eligibility criteria will ensure that growing small businesses whose growth has matched the inflation rate will continue to have access to SBA’s financial and contracting assistance programs,” said SBA Administrator Hector V. Barreto. “We decided to make these changes immediately, rather than wait, because of the pressing needs that so many small businesses have in the Gulf Coast and in Florida from the recent destructive hurricanes.”

SBA also changed how it determines the size of small business concerns when they apply for SBA Business Loans and for Economic Injury Disaster Loans (EIDL). Instead of looking only at the loan applicant’s primary industry, SBA now looks at both its primary industry and the primary industry of the applicant together with its affiliates. This will provide additional assistance to small businesses that have subsidiaries and affiliates.

SBA also changed procedures for determining size status for the purpose of EIDL applications for businesses located in disaster areas declared because of Hurricanes Katrina, Rita, and Wilma. For an EIDL loan, instead of having to show it was a small business when these hurricanes struck, the firm only has to fit the new small business size standard when SBA accepts its application for processing.

SBA issued an Interim Final Rule on December 6, 2005, and the revised size standards took effect the same day for its loan programs. For federal procurement, the new size standards become effective on January 5, 2006.

For more information about SBA’s increase to its small business size standards for inflation, please see <http://www.sba.gov/size/indexwhatsnew.html#%20inflIFR>.

December 09, 2005

## **FY 2006 Department of Defense Authorization Bill Conference**

Phil Eskeland, Policy Director, House Committee on Small Business

### Small Business Committee Notes

On Wednesday, December 7, House Small Business Committee Chairman Donald Manzullo, after being appointed as an outside conferee to the Defense Authorization bill by the Speaker of the House, was able to address the House and Senate Members attempting to finalize the bill to govern the operations of the Defense Department. Both House and Senate defense bills (H.R. 1815 and S. 1042, respectively) contained provisions that fell within the legislative jurisdiction of the Small Business Committee. Below is a copy of Chairman Manzullo's remarks:

"Thank you for the opportunity to participate in this conference and to express briefly my views concerning provisions within the House and Senate Defense Authorization bills that affect small business. I thank the Chairmen of the House and Senate Armed Services Committee for their fine work in producing the legislation that is now before the conference.

The Small Business Committee was granted outside conferee status on eight provisions in either the House or Senate bills. I want to briefly explain my position on these provisions.

First, there are two competing provisions in the House and Senate bills with respect to the Small Business Innovative Research or SBIR program. Both attempt to address the issue of taking technology out of the research lab and putting that knowledge into creating products that the war-fighter needs.

But I believe the SBIR provisions in the Senate bill are much broader and superior, including the implementation of the President's Executive Order to more focus the SBIR program on manufacturing, to the provisions in the House bill so I would encourage the conference to adopt Section 814 of the Senate Defense Authorization bill.

Second, I support the inclusion of Section 849 of the Senate bill dealing with a battlefield exemption from small business size standards into the conference report. It is only a matter of common sense that if a small business is paid for security services to protect its personnel and property in order to perform its contractual obligations in combat zones like Iraq and Afghanistan that amount should not be used in determining the size of the company.

Third, I do not believe that creating a new Small Business Administration (SBA) disaster loan program to deal with drought relief for small businesses who are not farmers is an appropriate matter for the Defense Authorization bill. I support the removal of Section 852 of the Senate bill from the conference report. This is more appropriately dealt with in the Small Business Committee when we focus on reauthorizing the programs of the SBA next year.

Fourth, I oppose repealing the Comp Demo program. I support the removal of Section 855 of the Senate bill from the conference report. The Comp Demo program prevents federal agencies from relegating small business contracts into industries historically dominated by small business, mostly in the low-tech area, and aims to expand the participation of small business in industries that were traditionally dominated by large businesses.

The Comp Demo program requires that small businesses receive a fair proportion of government contracts in each industry, rather than just a few. The Comp Demo program was created in 1988 and amended as part of larger bills that either passed by wide margins or by unanimous consent. The House had a vote on this issue last June and a repeal effort was defeated by a vote of 180 to 235. The House has spoken on this issue and I urge this effort not undermine the House position by not including Section 855 of the Senate bill in the conference report.

Fifth, I support the inclusion of Section 901 of the Senate bill into the conference report. This is merely a change in name to reflect the expansion of small business programs over the past decade to include service-disabled veterans, women, and HUBZones as well as small disadvantaged businesses.

Sixth, there is some concern about Section 850 of the Senate bill dealing with counting overseas procurements in small business goals. Let me make a few points. First, this section is not mandatory but states that federal agencies shall endeavor to meet small business contracting goals regardless of where the contract is performed. Second, the Small Business Committee strongly believes that small business should get a fair share of procurement dollars no matter where the contract is performed. We should not have a bias that only large or foreign firms can perform work overseas. The number of small business exporters has tripled over the past 15 years to over 225,000 firms so small businesses can go global. Finally, the conference may be interested to know that the U.S. Army and the U.S. Agency for International Development have voluntarily put small business subcontracting plans in prime contracts to be performed in Iraq.

Seventh, there is also some concern about Section 851 of the Senate bill dealing with fair access to multiple award contracts. Again, this section is not mandatory but states that federal agencies should endeavor to treat small businesses fairly when awarding tasks under multiple award contracts. This contracting vehicle should not be used to circumvent goals established to award a fair share of procurement dollars to small businesses. The Small Business Committee hears many complaints from small businesses across the nation - including some in your states and districts - about how task orders and multiple award contracts stack the deck against small business. Section 851 is a modest proposal to try to remedy those complaints.

Finally, I applaud the Conference of the emphasis on provisions such as Sections 231, 232 and 233 of the Senate bill that are aimed at developing advanced manufacturing technologies and effectively using them to maintain this country's defense industrial base. Adam Smith wrote in *The Wealth of Nations*: "It is of importance that the kingdom should depend as little as possible upon its neighbors for the manufactures necessary for its defense." Manufacturing is, indeed, the core of our nation's strength. With a strong manufacturing base comes engineering, R&D, and innovation. If we only look at the costs and determine that another country can do it cheaper, we are risking

losing our edge in not only manufacturing, but the ability to perform the R&D developing new better products and the know-how to manufacture them.

Again, thank you for the opportunity to appear before the conference and to express my views.”

For further information, please contact Nelson Crowther, General Counsel.

Dec. 9, 2005

## **The 'You're fired!' approach**

By Steve Kelman

Recently, I was seated at a dinner table with John Johnson, head of the upcoming Alliant contract, the General Services Administration's information technology governmentwide acquisition contract. We started talking about how Alliant could increase the value it offered federal customers and, hence, its attractiveness during a time when GWACs are facing increased scrutiny and competition from other vehicles.

I don't exactly remember how the idea first came up -- it doesn't really matter -- but we talked about a thought John soon dubbed the “You're Fired!” strategy (from the TV show, “The Apprentice”).

The basic idea would be this: GSA chooses Alliant winners. After contracts are awarded, GSA collects past performance report card ratings on each task order in the contract. Following a period of time, it terminates the vendor(s) with the poorest past-performance ratings, and opens the competition again to replace the departing vendor(s) with new ones. After the first cycle, the same process is repeated for each year of the contract. Thus, remaining on the contract are only the best of the best. And the desire to stay on contract in the first place will improve performance levels of all the GWAC holders. Johnson hasn't decided yet whether GSA will use this approach for Alliant. I hope they do. (If GSA or any other agency does this, they would obviously need to announce their intention in the initial request for proposals for the contract.)

The conversation itself, however, reveals two interesting things about our procurement system right now. The first is that the easy days for GWACs and the GSA schedule contracts are over, and those managing these vehicles need to give serious thought to how to make them more valuable to agency customers.

In my view, GWACs and schedule contracts are extremely valuable parts of the procurement system. Because they have streamlined ordering procedures, obviously, they make it easier to get quick access to vendors to help with needed agency missions. Beyond that, the ease of getting on contract also means it is easy to change vendors if they don't perform well, and easier to do modular contracting, both of which are good for the government.

Furthermore, the competition these vehicles provide agency procurement shops and the possibility of adding contract personnel to an undermanned system are also good. But GWACs and the schedule contracts got themselves -- and the government -- into trouble by tolerating too many de facto sole-source awards for too long, and other problems.

Now these vehicles need to think creatively about new ways to create value. This may involve offering more contract management services. It may involve more help crafting performance-based, or share-in-savings, or other kinds of complex contracts. It may also involve approaches such as the one John Johnson is considering for Alliant.

The second message from my dinner conversation was that, despite the vicious pressures beating on government employees to retreat into their shells and stop thinking, we are still blessed with many John Johnsons. They refuse to hand in their brains. They refuse to hand in their hearts. They continue to try to find ways to get agencies best value through contracting. They deserve our gratitude and support.

December 9, 2005

## **Defense business modernization still a work in progress**

By Daniel Pulliam

The Defense Department has not satisfied all the requirements for modernizing its business systems outlined in the 2005 Defense Authorization Act, according to the Government Accountability Office.

The department has fully complied with only one of the act's provisions, GAO stated in a recent report ([GAO-06-219](#)).

Defense officials have fulfilled the act's requirement to delegate responsibility for information technology systems to specific authorities, the auditors found. But while the department has established structures for reviewing and approving IT purchases, it has yet to put them in place, and some reviews have not followed criteria in the authorization law.

The Pentagon's business systems modernization project has been designated as high risk since 1995 by GAO and will remain that way until Defense complies with the six requirements outlined in the 2005 law, the auditors said. Despite repeated attempts, the Pentagon has yet to "modernize its timeworn business systems," the report stated.

Defense Secretary Donald Rumsfeld estimated that improvements to business systems and operations could generate annual savings of as much as 5 percent of the department's budget. This would amount to more than \$20 billion in savings a year, according to GAO.

The Pentagon recently [created an agency](#) devoted to business change -- dubbed the Business Transformation Agency -- that will bring departmentwide projects like the Defense Travel System, the Defense Cash Accountability System and the Standard Procurement System under one roof.

The Pentagon's fiscal 2006 budget includes \$4.2 billion for business modernization efforts, of which \$777.7 million is slated to go to departmentwide projects. The fiscal 2007 budget for business transformation is projected to drop slightly, to \$4.19 billion overall, with \$739.5 million allocated for departmentwide projects.

In response to the report, Paul Brinkley, Defense deputy undersecretary for business transformation, wrote that he disagreed with some of the GAO findings, including a

recommendation to create a current description, or architecture, of the department's business processes and information technology systems.

Dec. 9, 2005

## **DOD rule limits task-order contracts**

By Michael Hardy

A new rule limits Defense Department task-order contracts to five years with a provision to go to 10 years through option periods in the contract.

The final rule follows two interim rules that were published in 2004 and open to public comments. It implements provisions passed in the Defense Authorization acts of 2004 and 2005. Section 813 of the 2004 legislation limited task-order contracts to five years. Section 843 of the 2005 bill amended that to include the possibility of an optional extension to 10 years. The new rule opens the door for contracts to exceed 10 years if the agency's leader authorizes it.

The rule applies to full and open competitions and not to purchases through the General Services Administration schedule or some other contract types.

One procurement expert who declined to be identified said the rule is the final stage of changes that have been under way since 2004. "The law change was significant," the expert said. "This is just the bureaucratic implementation."

December 8, 2005

## **Minority Business Owners Face Challenges**

CONTACT: Kate Davis, Allyson Ivins

WASHINGTON - With minority business owners playing an increasingly important role in the U.S. economy, Democrats on the House Small Business Committee released a report today outlining the unique challenges facing minority entrepreneurs, and offered a series of legislative solutions to address these issues. While minority business owners own 4.1 million firms today, employing over 7 million workers, the report found they face serious barriers when it comes to securing capital and accessing the federal marketplace. The findings are based on discussions that took place during the annual Minority Business Summit hosted by Democrats in September on Capitol Hill.

"Minority entrepreneurs represent the future of this nation's economy," Congresswoman Nydia M. Velázquez, Ranking Democrat on the House Small Business Committee said.

"It is this nation's minority business owners that are spurring job creation and economic development - yet even with these great strides, they have a number of obstacles standing in their way. Democrats, through forums such as the Minority Business Summit, are listening to their needs, and are working to find solutions to resolve these ongoing barriers."

The Minority Business Summit, which served as the basis for the report's findings, was attended by over 70 minority business owners, representing all regions of the country, and industries. During the summit, minority business owners expressed their concerns, and discussed their needs as business owners with Members of Congress.

The report found that minority business owners generally have a more difficult time accessing capital and the federal marketplace. Minority entrepreneurs are receiving less contracting opportunities today - last year while the federal marketplace increased by three percent, contracts to minority business owners decreased by nine percent. The report addressed the need to make policy changes that will help reverse this negative trend, such as modernizing vital assistance programs. In addition, it was highlighted that on average, minority entrepreneurs are receiving smaller loans from banks, are more likely to be denied lending opportunities, and are receiving less venture capital - leaving many minority business owners looking to other means of financing for their business ventures. The report reiterated the need for increased investment in minority owned businesses.

Based on the findings of the reports, two initiatives were introduced to address the needs of minority business owners. Rep. John Barrow ( D - GA) introduced the Minority Owned Venture Empowerment (MOVE) Act that modernizes the Small Business Administration's (SBA) 8(a) program. The 8(a) program is a business development program designed to help minority entrepreneurs access the federal marketplace. However, the program has not been updated in nearly two decades, which has reduced the competitiveness of the program. In FY 2004, the 8(a) program lost a record of \$2.4 billion in contracting opportunities, illustrating the need for modernization. Mr. Barrow's legislation will make it easier for minority business owners to access federal contracts by refocusing the 8(a) program on business development.

"There is a serious business ownership divide in this country when minorities make up nearly one-third of the population, but own only 15 percent of businesses," Congressman Barrow said. "The 8(a) program is the country's principal minority business development initiative, but it's been almost 20 years since it was last updated. The MOVE Act will bring the 8(a) program up to speed with the times and help ensure that America's emerging minority-owned businesses get a fair shake at government contracts."

The report also found that minority entrepreneurs are receiving less venture capital - studies have shown that minority entrepreneurs receive less than two percent of venture capital. To compound the situation, a major component of the Small Business Investment Company (SBIC) program, the participating securities program, was recently terminated by the Bush administration, making it even more difficult for minority entrepreneurs to obtain venture capital. To expand opportunities for minority business owners to access capital, Congresswoman Velázquez introduced the Angels Nurture Growing Entrepreneurs into Long Term Successes (ANGELS) Act, which encourages investment in minority entrepreneurs. The legislation creates an angel investment program within

SBA that would give priority to minority business owners. Angel financing is less formal than traditional venture capital investing, and targets early stage start-ups.

"It has become clear that minority entrepreneurs are not receiving adequate financial assistance today - and this bill will address that need," Congresswoman Velázquez said.

"By working to ensure angel investors make investment in minority entrepreneurs a priority, we are increasing the amount of capital that is going into the hands of our nation's minority business owners."

The report found that while minority business owners are increasing their presence, the challenges they face continue to grow. The MOVE Act and the ANGELS Act are the first of a number of initiatives that will be introduced to address the needs of minority entrepreneurs. Democrats plan to introduce further legislation throughout the year based on the needs highlighted in the Minority Business Summit report, and will also use the findings to shape legislative changes and priorities for the upcoming SBA reauthorization.

Dec. 8, 2005

## **FebBizOpps contract goes to Symplicity**

By Michael Hardy

Symplicity, an 8(a) company based in Arlington, Va., has won a \$17.5 million contract to provide information technology services to the Federal Business Opportunities Web site, FedBizOpps.gov, which provides information on contracting opportunities.

The General Services Administration announced Symplicity's win on the site today.

The contract calls for re-engineering the site, hosting, maintenance and related services. It spans a three-year base period and five one-year options.

"We're very excited about it," a Symplicity spokesman said. "We really believe this can revolutionize government procurement."

However, the spokesman said it is too early to detail Symplicity's plans.

FedBizOpps evolved from the old Electronic Posting System in 1999 and 2000, becoming the designated central repository of information on contract opportunities throughout the federal government in 2001. It is where contractors and agencies go to find requests for proposals, modifications to RFPs, updated information on proposal deadlines and similar informatio

December 2, 2005

## Programs for disabled and blind facing increased scrutiny

By Neil Munro

Two federal programs that provide jobs for disabled and blind Americans are under scrutiny in the Senate and face possible overhauls after operating for decades with minimal government oversight.

The Javits-Wagner-O'Day, or JWOD, program aimed at employing disabled workers and the Randolph-Sheppard program for the blind are likely to be the subjects of lobbying fights on Capitol Hill. The programs' beneficiaries, including many disabled entrepreneurs and workers, are fighting among themselves for shares of available funding, even as senators sketch out possible reforms.

Sen. Michael Enzi, R-Wyo., the chairman of the Health, Education, Labor, and Pensions (HELP) Committee, says that the two programs are "well-intentioned" but "long overdue for oversight." At a committee hearing in October, ranking member Sen. Edward Kennedy, D-Mass., echoed Enzi's criticisms, declaring that "there's no excuse for fraud and abuse. The time is right for reform."

JWOD was created in 1938 and amended in 1971. Its governing board is appointed by the president. JWOD serves as the government's broker for approximately \$2 billion worth of low-tech services and products, such as office supplies, janitorial services, and furniture, purchased by federal departments and agencies. The supplies and services are provided by JWOD-approved private businesses that employ roughly 45,000 disabled workers nationwide.

These businesses face minimal competition within the JWOD program. JWOD officials decide which private enterprises get particular contracts, and also set the prices that federal agencies must pay to these enterprises. Moreover, about 4 percent of the \$2 billion in annual sales, or \$80 million, is rebated to two JWOD nonprofit management companies, the National Industries for the Blind in Alexandria, Va., and NISH, formerly the National Industries for the Severely Handicapped, in Vienna, Va.

Commercial vendors and some groups representing the disabled have loudly criticized JWOD, saying that the program excludes them and their workers from government contracts. These critics also say that the program segregates disabled workers from the commercial market, overcharges the federal government, and generates excessive profits for the owners of the JWOD-sanctioned enterprises, most of whom are not disabled.

At the hearing, Enzi released a report that said only 2,370 disabled workers had moved from the JWOD program into the commercial marketplace in 2004, and it highlighted numerous examples of "excessive executive compensation, lavish perquisites, conflicts of interest, and self-dealing" within JWOD enterprises.

In July, JWOD officials dropped plans for new oversight rules for JWOD enterprises.

These rules would have set salary caps for executives and established conflict-of-interest provisions for the enterprises' governing boards. JWOD "is planning on issuing a new proposed rule by the end of the year," a program spokesman said in an interview.

Enzi also criticized the 1936 Randolph-Sheppard Act, which puts blind business owners first in line to run kiosks and dining halls at federal buildings and camps. The program awards some lucrative contracts to blind business owners without ensuring employment for disabled workers, he said.

Enzi gave little indication of what reform would involve, but said, "We can do better than this by getting more workers into the employment mainstream." No reform bill will likely appear this year, said Enzi spokesman Craig Orfield. "We're several steps away from introducing a bill."

James Gashel, executive director for strategic initiatives for the National Federation of the Blind, said that the 2,600 blind business owners working under Randolph-Sheppard want to keep their program intact because it works well. The two Randolph-Sheppard programs, NIB and NISH, also face competition from JWOD contractors.

Gashel spends much of his time fending off efforts by JWOD enterprises to gain control of military dining hall contracts now held by 39 blind business owners. "We tried for two, three years to be accommodating with them in Congress by offering agreements that they never would accept," he said.

NISH is the leading player in the JWOD sector, in part because it serves as the back office for roughly 80 percent of the JWOD-affiliated enterprises. With its share of the rebate, NISH identifies products for inclusion in the JWOD program and searches for commercial opportunities for the JWOD enterprises, including the contracts now held by the Randolph-Sheppard businesses.

Tony Young, NISH's wheelchair-bound senior public policy director, testified to Enzi that military dining halls don't belong in the Randolph-Sheppard program. He urged greater federal use of the JWOD program, and declared that NISH is proud of the employment, wages, and dignity brought to the program's disabled workers.

Commercial vendors of office products and furniture, allied under the Independent Office Products and Furniture Dealers Association, want to shrink or change the JWOD program. The group complains that the program has taken business and jobs away from its members.

Paul Miller, government affairs director of the association, says that his group's companies can employ a larger number of disabled people, but they need incentives from the government to pay the cost of extra aid and technology for these workers. Private companies, he said, also need liability protection to avoid the legal risks involved in laying off disabled workers along with other workers.

November 28, 2005

## **Acting acquisition commissioner at GSA steps down**

By David Perera and Kimberly Palmer

Barbara Shelton's reign over procurement at the General Services Administration will end Dec. 21 when she steps down as acting commissioner of the Federal Acquisition Service. She will return to her previous job as GSA's regional administrator of the mid-Atlantic region.

Marty Wagner, the associate administrator for GSA's office of governmentwide policy, will replace her.

Shelton's departure comes as little surprise to many in the federal acquisition community. "I think Barbara served her function as a transition leader, but from the beginning it was not envisioned that she would be there for the long term," said Warren Suss, president of Suss Consulting in Jenkintown, Pa. Shelton joined GSA headquarters in February 2005. Weeks of speculation preceded GSA's official Nov. 28 announcement. Shelton is closely linked with former GSA Administrator Stephen Perry, who [left the agency](#) Oct. 31. "Once Stephen Perry left, it was basically almost a matter of time," said one industry official who asked to remain anonymous.

Shelton initially attracted criticism for her lack of experience. She hastened further disapproval by making herself inaccessible and insisting that she always be addressed as "Miss Shelton," some government acquisition observers say.

Her job was difficult, however. Following pressure from the House Government Reform Committee, GSA reorganized its acquisition organization, merging its two services into a single Federal Acquisition Service. Shelton served as the acting commissioner for the two outgoing acquisition services, as well as the acting head of the nascent combined organization.

The reorganization is incomplete and must still clear some congressional hurdles.

"It's tough coming in from a region to manage a central office because what's required is a different skill set, and the scope of work is different," said Larry Allen, executive vice president of the Coalition for Government Procurement. Different constituencies vie for influence within GSA, the Office of Management and Budget and the private sector, Allen added. "A lot of wild cards, a lot of variables, and it's tough to rein it all in when you're trying to get everything done," he said.

The new commissioner will face a host of additional challenges. Wagner "has some very definite ideas about what GSA should be," Allen said. "I think it will be interesting to work with him on those."

GSA "has been adrift for a while, and has lacked a vision," Suss said. Wagner is "the kind of person that can both help to formulate the vision for where they need to go and to help execute it," he added.

Wagner was a force behind instituting e-government in federal agencies, but since the Office of Management and Budget said in late 2004 that it would cut his policy shop's budget by 15 percent, Wagner has been underemployed, some government observers say.

"Marty is a perfect person for this job at this time," said Sandy Bates, a former commissioner of one of the two merged GSA acquisition services. "He will be able to take the new service to the next steps."

John Sindelar, currently the deputy associate administrator for the office of governmentwide policy, will serve as acting associate administrator.