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March 07, 2005

Identity theft: Bank data on 1.2 million feds missing — are you safe?

By Eileen Sullivan

Retired Air Force Col. David Peters received a letter from Bank of America on March 1 informing him the company lost data tapes that contained personal information from his government purchase card account — along with information from more than 1 million other similar government accounts.

Peters' first thought: "Oh my gosh, all of the airmen and soldiers who are mobilized and using their government credit cards are vulnerable to identity theft."

In December, Bank of America lost backup data for 1.2 million accounts belonging to federal employees enrolled in SmartPay, a government charge card program that employees use to pay for work-related purchases and travel and fleet expenses. In all, the bank has about 1.4 million Smart Pay federal credit accounts, the most of any bank. Information on these lost tapes could belong to as many as 900,000 Defense Department employees, 21,000 NASA employees and personnel from 28 other agencies, officials said.

The tapes were lost en route to a backup storage facility, Bank of America spokeswoman Alexandra Trower said. In a Feb. 28 memo to its employees, NASA said the tapes were lost as they were being transported through Dallas Fort Worth International Airport. For security reasons, Trower would not say where the storage facility is or what the company has done to make sure data isn't lost in the future. She also would not say if the data was in an encrypted form that would make it more secure. The Secret Service has been leading the investigation into the missing tapes.

As of March 4, authorities had no reports that the accounts had been exposed or misused. In its letter to customers, Bank of America said the tapes are presumed lost.

Not all of Bank of America's SmartPay cardholders are affected, the company said.

Those whose information was on the lost tapes should receive a letter from Bank of America, mailed Feb. 25. Cardholders may call a special number with questions, and the company will also issue new cards if customers feel it is necessary, Trower said.

Information on the lost tapes varied by account, but could include name, address and Social Security numbers, she said. Trower would not say what, how many or what type of tapes they were.

"Anytime somebody has access to private information, Social Security numbers, dates of birth and other things which are typically used to identify an individual, then they could perpetrate identity theft and other forms of fraudulent activity," said Amit Yoran, former cyber security czar at the Homeland Security Department. In the Bank of America case, Yoran said the information is probably protected.

But other institutions may not take these precautions. If information is not protected and gets into the wrong hands, he said, "you could open accounts, you could access accounts, you can really create a lot of discomfort in somebody's life."

The best thing these 1.2 million feds can do, Yoran said, is closely monitor their accounts and credit reports.

Identity theft

In the case of the Bank of America data tapes, the severity of the problem depends on what information is on the tapes and if the data can be accessed. Exposing Social Security numbers, for example, could lead to major problems for federal employees, said Jay Foley, co-director of the California-based nonprofit Identity Theft Resource Center. “Considering the fact that they would have security clearances that were in jeopardy, it could get real ugly for them real quick,” he said. But Foley’s understanding is that Bank of America’s tapes were encrypted, and therefore it’s highly unlikely that information could be accessed.

Protecting sensitive customer information is not a problem unique to Bank of America. In December 2002, a military health care provider lost more than 500,000 individuals’ records when computer equipment was stolen. The records were protected — the company could not say to what degree for security reasons — and included Social Security numbers, credit card numbers, medical records and birthdates. Phoenix-based TriWest never determined who stole the information. But since the theft, there have been no reported cases of that information being misused, said Elizabeth Perrine, company spokeswoman. The company notified affected people within 10 days of discovering the security breach.

And in October, hackers broke into the computers of ChoicePoint, a California-based personal information clearinghouse, and accessed information belonging to possibly 145,000 people, including Social Security numbers, credit reports, driver’s license numbers, addresses, and, in some cases, public records information such as bankruptcy reports, according to the company.

The recent problems have prompted concern in Congress. Sen. Susan Collins, R-Maine, has asked the General Services Administration, which oversees the SmartPay program, and Bank of America why it took two months to notify employees about the lost tapes. Bank of America spokeswoman Trower said the company notified customers as soon as the Secret Service gave it permission to do so. Collins also asked what steps have been taken to make sure this doesn’t happen again. Trower told Federal Times it would not disclose this information because of security risks.

In a March 2 statement, Collins said, “I am disturbed that we still do not know whether the tapes were accidentally lost or deliberately stolen.”

Lesson learned: Encrypt the data

If the information was protected or encrypted, it’s unlikely the data on the Bank of America tapes could be exposed, experts say.

Large organizations, like Bank of America and ChoicePoint, regularly deal with massive volumes of backup tapes, industry expert Rich Mogull wrote in a Web commentary March 1. Mogull is an analyst for Gartner, a Connecticut-based information technology think tank. Sensitive information on these databases should be encrypted, particularly financial information, he said.

Organizations that don’t encrypt their backups ought to be concerned, Yoran said.

Companies that store personnel information should review their security policies and procedures on their IT systems and have a series of mechanisms to protect this kind of information.

SmartPay is designed to make transactions more convenient and save billions of dollars in administrative costs. Participating agencies choose which of five preselected banks to

use. Of those five, Bank of America has the largest share, managing more than half of all SmartPay accounts.

Bank of America could potentially lose its contract with GSA — but even if it doesn't, agencies have four other companies to choose from for these services, said Mark Amtower, a consultant for companies that do business with the government. On Nov. 29, agencies will have the option to renew contracts with their current SmartPay bank or switch to another, according to GSA.

“This is exactly the type of misstep the other competitors are waiting for,” Amtower said. The bottom line, he said: Bank of America should transport backup data as valuable as these tapes itself and not through a courier. The company would not say who was in possession of the tapes when they were lost.

Conveniences such as SmartPay purchase cards — which GSA said saved agencies \$1.4 billion in administrative costs in 2004 — come with risks, Yoran said. The government has privacy laws and regulations in place about the personal data it keeps, and corporations should take similar due diligence, he said.

Private-sector companies “need to protect this information the same way they protect their own assets. They need to encrypt it; they need to make sure it's not accessible to unauthorized parties, it's not disclosed to unauthorized parties and that consumers [and] citizens have reasonable control over their own private information,” Yoran said.

Sen. Jon Corzine, D-N.J., plans to introduce legislation that would provide more protection against identity theft. His bill would call for financial institutions to notify consumers, credit reporting agencies and law enforcement when there has been a security lapse in their systems that could compromise personal financial information.

“By increasing awareness of identity theft and empowering consumers early on about potential threats, this legislation can help close the window of opportunity that criminals now exploit to abuse and wreak financial devastation on unsuspecting individuals,” Corzine said in a Feb. 28 statement.

Active-duty and reserved military tend to be the most vulnerable to identity theft because their identification numbers are their Social Security numbers, Foley said. But Colonel Peters said military members' vulnerability goes beyond that.

Bank of America mailed letters to addresses cardholders listed on their accounts, mostly home addresses. Therefore, deployed servicemen and women may not have any idea that their information could be exposed. In addition, if the information on the data tapes gets into the wrong hands, the deployed men and women will not be able to flag suspicious credit activity, because their statements will be mailed to their home addresses. Missing a credit card payment is a criminal offense in the military.

Peters retired in September, and his Bank of America accounts have been discontinued since then. It does not rest well with Peters that he received this letter six months after discontinuing his account.

“I was very upset by the fact that they had lost this critical information,” he said.

February 28, 2005

Problems with interagency contracting

By Stephen Losey

Government contracting officers find themselves stretched further than ever these days, and experts say that pressure is contributing to the misuse in recent years of interagency contracts.

As federal procurement staffs have shrunk from budgets cuts, their workloads have swelled dramatically, fueled by widening use of interagency contracts — that is, contracts for products and services that are negotiated by one agency but available for any agency to use for a fee. The most popular of these are the General Services Administration's federal supply schedules. These contracts accounted for \$32.5 billion in government spending in fiscal 2004 — more than eight times the level in 1992.

Meanwhile, contracting staffs have been shrinking. The government employed 27,294 contracting officers in fiscal 2002, which represents a decline of 4,500 from a decade earlier.

Combine these trends with the fact that agencies are buying far more complex and sophisticated services and technology, and that increases the potential for the misuse of contracts, experts say.

“Procurement shops are definitely slimmer than ever,” said Nick Nayak, director of the Treasury Acquisition Institute, which trains acquisition professionals for 17 agencies, including eight Treasury Department agencies. “It makes for an environment that's ripe for not following the rules.”

The Government Accountability Office on Jan. 25 placed interagency contracting on its list of federal agencies and programs that are most at risk of waste, fraud, abuse or mismanagement. And although GSA and the Defense Department have already taken steps to improve their contracting, experts agree that chronic training and staffing shortfalls for procurement staffs remain problems that will lead to more bad contracting. This is borne out by a host of federal audits in the last year that have revealed that high numbers of government purchases of services — or task orders — were awarded improperly. According to the audits, they were often awarded without a competition, or issued for services not covered by their contracts, or that applied money meant for information technology for non-IT purposes.

Among those audit findings:

- GSA's inspector general reported in December that the Federal Technology Service's regional client support centers in fiscal 2003 misused contract vehicles, inadequately competed contracts, ineffectively managed contracts and issued misleading statements of work. A second survey of task orders from the second quarter of fiscal 2004 found some improvement.
- A July GAO review found that Defense was not fully competing most task orders. GAO said that out of 74 multiple award contracts and federal supply schedule orders made in the first half of 2003, only 10 received three or more offers. For the rest, Defense contracting officers either waived the competition requirement for three or more bids or it solicited one or two offers from vendors or made awards without soliciting offers.

- The Interior Department's inspector general found that a lack of monitoring and oversight, lack of effective procedures and controls, and overeager procurement employees who cut corners on the acquisition process resulted in the misuse of GSA's schedules. A July report found that 11 of 12 procurements the IG reviewed were outside the scope of work — for example, Interior's National Business Center used information technology schedules to procure interrogation and intelligence services in Iraq and Guantanamo Bay, Cuba — and should be terminated.

Some improvements — in agency oversight and employee recruitment and training — are already under way. But some officials worry that support services such as procurement will be further cut as budgets get leaner in coming years.

Fixing the problem

GSA, under its Get It Right campaign, and several other agencies have taken steps to improve their contracting work forces.

In September, GSA launched an online test called the Applied Learning Center that is meant to measure contracting officers' competency. Randomly selected employees test themselves and supervisors assess their employees. The complete version of Applied Learning Center is due in April.

Joe Neurauter, GSA's director of procurement integrity, said Applied Learning Center will show GSA what skills need to be bolstered through training.

"The goal is to have a work force that has the tools and knowledge that they need to do their job across the board," Neurauter said.

Budget cuts vs. retirements

But the budget crunch that some say hurt the contracting work force has not gone away. Many agencies are looking at flat growth or even cuts in discretionary spending in the proposed 2006 budget. Nayak worries that not all agencies will make procurement a priority.

"Procurement is viewed as support, and support is trimmed as much as possible," Nayak said.

But procurement is as important as an agency's front-line mission, Nayak said. Proper procurement can help protect against waste, fraud and abuse and save money by negotiating better deals.

"Trimming this function is not a good idea," Nayak said.

Greg Rothwell, the chief procurement officer at the Homeland Security Department, said Homeland Security is investing in procurement, but he was not sure whether agencies facing tight budgets will find the money to restore the contracting ranks.

Nayak said agencies' procurement leadership — and especially chief acquisition officers — should emphasize how important procurement is and try to get a greater slice of the budget.

But Larry Allen, executive vice president for the Coalition for Government Procurement, does not think tight budgets are to blame. He said agencies have money to spend, but simply can't find people to replace retirees.

February 28, 2005

Agencies must justify protecting jobs from contractor competition

By Tichakorn Hill

Agencies can expect more scrutiny from the Bush administration this year when they decide to shield certain government jobs from contractor competition.

The Office of Management and Budget will issue in March new rules that require agencies to give detailed reasons if they opt not to open so-called commercial jobs — jobs held by federal employees that could be done by contractors — to competition. Such explanations were not required in the past.

Each year, agencies must take inventory of all of their jobs held by federal employees and label them as either inherently governmental, meaning they cannot be outsourced; or as commercial, which means they could. But agencies list some commercial jobs as being off-limits to outsourcing even though they are not inherently governmental. Examples include contracting officers and lawyers.

OMB is expected to issue new rules to agencies in March on how they should compile their 2005 job inventories. A draft copy of those rules, obtained by Federal Times, provides examples of acceptable reasons to shield certain commercial jobs from contractor competition. Among the acceptable exemptions are commercial jobs that are set aside for the handicapped and interns as part of government recruitment efforts.

“While this document offers examples of justifications OMB has found acceptable, agencies may also submit other justifications for consideration. However, these justifications will receive greater scrutiny by OMB,” said David Safavian, federal procurement policy administrator, in the Feb. 15 draft guidance.

Safavian said functions listed as unsuitable for competition for the first time in 2005 “will receive a closer inspection.”

An OMB official said the goal is not to open more commercial jobs to private-sector competition, but rather to make agencies’ job inventories more accurate.

The guidance lists acceptable reasons for shielding commercial jobs from competition, but it doesn’t tell agencies how to classify particular jobs, the official said. This is because agencies’ missions are different and a job deemed suitable for competition at one agency may not be so at others, the official added.

“So long as the correct methodology is consistently applied and documented, agencies are able to make their own determinations of whether or not a commercial function is suitable for competition,” said the OMB official, who asked not to be named. “We want to provide that guidance to ensure consistency among agencies.”

According to the draft OMB guidance, agencies can shield commercial jobs from possible outsourcing if:

- The agency needs people in a certain function to oversee workers or core responsibility.
- The agency needs specialists with expertise on agency systems.
- The agency needs experienced people with historical knowledge to ensure continuity of the agency’s core function.
- The agency needs to have positions with multiple skill sets so that the agency can rotate workers to increase productivity.
- The positions are set aside for student interns as a part of federal recruitment programs.
- The positions are set aside for the handicapped under a federal program.

- The positions are to train candidates for managerial positions.
- The positions routinely deal with proprietary business information used to make contract decisions.

Besides providing examples of acceptable reasons, the guidance also tells agencies how to write their justifications in both form and content.

Inconsistency in agencies' job inventories has been a problem in the past. Because of the lack of guidance from OMB, agencies and even bureaus within an agency have come up with varying conclusions on how to classify jobs depending on their situations and missions.

Bureaus within the Interior and Defense departments, for example, have labeled firefighters as inherently governmental, commercial but suitable for competition, and commercial but not suitable for competition. Competitive sourcing experts refer to "commercial but not suitable for competition" as commercial reason code A.

"There's a good deal of confusion about the difference between inherently governmental and commercial code A," said Scott Cameron, deputy assistant secretary for performance, accountability and human resources at the Interior Department. "In the absence of detailed guidance, people will make up their own mind on what they think is the appropriate way. So there were a number of situations where agencies had come to opposite conclusions. And there's a good deal of inconsistencies from agency to agency." Deciding which commercial jobs should not be competed is not easy, said Angela Styles, former federal procurement policy administrator at OMB and currently a partner at Miller and Chevalier law firm in Washington. The position of a lawyer, for example, could be classified either as commercial suitable for competition or commercial unsuitable for competition. Most work done by attorneys is commercial, and a lot of agencies contract that work out to private law firms. But at the same time, they also want to keep some jobs in house. That's when it's difficult to decide which one should be competed, Styles said. "It is really hard. There's no way to make a clear-cut definition that's going to fit every circumstance," she said.

When Styles was in charge of reviewing agencies' inventories at OMB, she usually let agencies decide for themselves which jobs should be competed. But she also looked out for significant numbers of commercial functions that were shielded from competition. Classifying jobs at the Defense Department is even more complicated because of Defense rules and regulations. The department, for example, exempts commercial functions from competition when certain jobs are for military career progression, military and civilian overseas rotation, and wartime assignment.

Also, the services decide not to compete a firefighting function at a particular base if it's in the middle of nowhere with no commercial sources available, said Paul Solomon, competitive sourcing deputy director at DoD.

"It's hard to look at a function and say absolutely this is inherently governmental. You have to look at individual circumstances," he said.

Solomon said the guidance is not going to change Defense's 2005 jobs inventory much because the department already has designed an elaborate system — featuring 17 detailed categories — for classifying its jobs. By comparison, OMB has only six categories of jobs. DoD also has hundreds of people working on improving the way it codes jobs, while a small agency may have only one person doing that.

“We’re way ahead of the other federal agencies. What OMB is doing here is going after those that tend to be very conservative in coding them [positions] inherently governmental,” Solomon said. “That doesn’t mean that we have perfect coding but we have much more surveillance and quality control over what we do in our coding than others.”

OMB also plans to issue a best practices guide on how to decide which jobs are inherently governmental or commercial. The guide will in part be based on the recent work of the Chief Acquisition Officers Council’s subcommittee on competitive sourcing. Interior’s Cameron, who is the subcommittee chairman, said the subcommittee in November looked at all agencies’ 2003 job inventories and found that there were four categories of jobs that were most often inconsistently classified from agency to agency.

They include:

- Management and support to research and development.
- Financial and accounting services.
- Management headquarters operation, planning and control.
- Research, development, testing and evaluation.

“Everyone has known for a long time that agencies are taking inconsistent approaches in terms of how they deal with the [jobs] inventory,” Cameron said. “So what we decided to try to do was to get some handle, some insight, some perspectives on those inconsistencies.”

February 28, 2005

Acquisition panel considers ethics in contracting

By Kimberly Palmer

Members of the Services Acquisition Reform Act Advisory Committee, a group assigned under the 2004 Defense Authorization Act to examine government procurement practices, debated their priorities in a meeting Monday at the Interior Department.

Carl DeMaio, a panel member and president of the Performance Institute, an Arlington, Va.-based think tank, urged chairwoman Marcia Madsen to add ethics and oversight as a separate working group of the panel or as a topic to be addressed by each of the panel’s five working groups.

"Ethics and oversight have been lacking," he said, adding that it would also be problematic to add so many internal controls that the government could no longer have the flexibility to shop for bargains.

The Office of Government Ethics sent a public letter to the committee asking panelists to evaluate "whether contractor employees should be subject to some type of ethics laws, rules or practices designed to prevent conflicts of interest and the appearance of conflicts of interest."

The letter pointed out that while government employees are subject to ethics rules, contractors, who perform similar work, are not. The government does not restrict contractors' post-employment opportunities or set gift rules, for example.

"For example, a contractor performing an agency's IT function could accept a free computer at a company-sponsored user conference or meeting, unless such conduct was prohibited by his company's internal policies," the letter stated. It offered several policy options, such as adding ethics rules to the Federal Acquisition Regulation, or requiring ethics provisions in contracts.

Panelist Frank Anderson, president of the Defense Acquisition University, warned of becoming obsessed with ethics. "I'd hate to see us get focused in ... on the latest issue," he said, alluding to the Darleen Druyun acquisition scandal at the Defense Department. He added that the panel did not have the power to prevent individuals from using poor judgment, and that there are always going to be misjudgments in government.

Joshua Schwartz, professor of law at George Washington University Law School, agreed. He said that trying to stop all misjudgments would be futile and could result in overregulation.

Ethics concerns were not listed on any of the working groups' initial agendas. The groups, which will focus on the acquisition workforce, commercial practices, performance-based contracting, governmentwide and interagency contacts, small business issues, and the federal workforce, will address issues such as management structure, training needs, definitions of acquisition terms, and data collection.

Madsen, a partner at the law firm Mayer, Brown, Rowe & Maw LLP, said that while she does not consider the current agenda items to be comprehensive, she wants panelists to focus on them. "I'd like to start with the issues we've identified," she said, adding that given limited time and resources, the panel was not going to be able to address every issue.

She said, however, that she welcomed suggestions from committee members as to what issues should be added or deleted.

Madsen also told panelists that she cherishes her dog-eared copy of federal acquisition laws, and that she would try to make a copy to hand out. She called the list of rules "one of my favorite documents."

Some members of the audience, who were not invited to share comments, expressed concerns afterwards. Larry Allen, an executive vice president with the nonprofit Coalition for Government Procurement, which represents contractors, said his members tell him that the current structure of competitions reduces the number of companies that compete.

Procurement officers often discuss what they want with companies prior to issuing a request for proposal, making it difficult for companies that haven't had those conversations to compete, he said. "Half the competition takes place before the RFP," he said.

The next panel meeting will be held March 30. The working groups are expected to meet privately and discuss agenda items in the interim. The panel will invite private sector guests to explain their acquisition approaches in March and April.

February 28, 2005

Set-Aside Programs Fall Short of Goals

By Dina ElBoghdady

When retired Air Force Maj. Robert C. Sharps launched his civil construction business three years ago, he hoped to profit from a law that requires the federal government to set aside 3 percent of all contracts for firms owned by veterans, like himself, who have disabilities related to their military service.

But as of last week, Sharps said VSA Construction Services LLC in Jessup has not won a single contract even though it bids on about four a month. His firm is losing ground in an open market, he said, because contracts are not being set aside as promised.

"As a small business, sometimes we're not as competitive as larger companies. So we lose out to cheaper bids," said Sharps, 58, a Vietnam veteran who has chronic knee and back problems. "The law is not working as it was intended."

The complaint is common among veterans groups as federal agencies struggle to meet the 3 percent goal, a target missed by a substantial margin every year since the set-aside law was enacted in 1999. The federal government annually awards \$250 billion to \$300 billion in contracts to private companies.

The veterans' concerns have taken on added urgency during wartime, as thousands of injured personnel confront the task of rejoining the civilian workplace. President Bush recently signed an executive order meant to speed the flow of contracts to disabled veterans, but Small Business Administration rules may get in the way, veterans groups contend.

To ensure competition, the SBA has required that agencies not award "sole source" contracts to companies owned by disabled veterans if they "have a reasonable expectation" there are other veteran-owned companies qualified to bid.

The awarding of set-aside contracts "is not automatic," said William D. Elmore, head of veterans business development at the SBA. "There is no guaranteed success in this."

"It's an opportunity . . . to compete," he said.

Veterans groups say the SBA's approach is unworkable and wants contracts awarded even without competition if the company is qualified and the price is fair.

Set-aside programs, they said, are not meant to deliver the lowest price to the government, but to help fledgling firms owned by designated classes of people get a foothold in the market and become competitive in their own right.

"It's an earned benefit" to further compensate veterans for their service to the country, said Richard F. Weidman, director of government relations at Vietnam Veterans of America and chairman of the Task Force for Veterans Entrepreneurship.

The most recent surveys from the U.S. Census Bureau indicate that about 53,900 businesses with employees were owned by service-disabled veterans in 2002. That is less than 1 percent of the nation's 7.7 million businesses.

The set-aside program for disabled veterans has been controversial since its inception in 1999. Veterans have argued that they lost years of earnings potential and marketplace experience serving the country and need a boost to get their businesses off the ground. That applies even more, they say, to those with disabilities.

But supporters of other government set-aside programs worried that it would cut into contracts for businesses owned by women, ethnic minorities and other economically disadvantaged groups. The SBA is supposed to ensure that 23 percent of government contracts go to small, disadvantaged businesses each year.

Moreover, the definition of "disabled" is broad, and SBA officials say the law does not require them to verify the status of each bidder's health. To qualify, veterans do not have to have been wounded in action or have suffered crippling injuries. Sharps developed his knee and back problems from an accident suffered onboard a military plane. His partner and fellow Vietnam vet, retired Air Force Capt. Richard Vance, 56, said he suffered a 50 percent hearing loss in each ear from being in high-noise areas during his 23-year military career. He also suffered knee and back injuries while working a military construction job.

"You don't have to have lost an arm or leg to be disabled," said Wayne M. Gatewood Jr. , 55, a Vietnam veteran and owner of Landover-based Quality Support Inc., which organizes conferences and works with the federal government. "You have people who are psychologically disabled and people who have serious arm and leg injuries because of the rigors of training. You can't see those things."

Quality Support has won two contracts from the Defense Department under the set-aside program, one for about \$400,000 and another for about \$2.8 million, said Gatewood, who declined to reveal the nature of his disability.

Steven J. Kelman, former head of the Office of Federal Procurement Policy in the Clinton administration, said the debate over veteran set-asides is familiar.

Set-aside programs date to the 1950s, and have been "fairly controversial because by limiting competition to a certain kind of business it may have negative impact on the price and quality of what the government buys," said Kelman, now a public management professor at Harvard University. "You may be excluding a firm from bidding that may be cheaper or better suited to do the jobs."

So far, the program has fallen short of its aims: Since it was enacted in 1999, less than 1 percent of federal contracts have gone to firms owned by disabled veterans. In December 2003, President Bush signed legislation meant to invigorate the program, and a year later he issued an executive order demanding that each agency submit detailed plans for meeting the 3 percent target.

Some veterans, such as retired Navy Lt. Lani H. Rorrer, say they are seeing results. Rorrer, a former naval intelligence officer and a Naval Academy graduate, launched Fairfax-based Lanmark Technology Inc. five years ago and now employs 50 people.

Under the service-disabled set-aside program, the State Department granted her firm a five-year, \$5 million contract for logistics support, and the Defense Logistics Agency awarded her a six-month, \$2 million contract for logistics software development and support.

Rorrer, 29, said she qualifies for other set-asides, including those for women-owned and socially and economically disadvantaged firms. But those are saturated markets, she said, unlike the relatively new market for service-disabled veterans.

Having the service-disabled status "adds another feather to my cap," Rorrer said. "I've grown the company because other companies that are not eligible for set-asides now want to team up with me for the opportunities they could not go after."

Megan Gamse, a senior analyst at research firm Input in Reston, said she expects more success stories in the future. Gamse, who tracks the information technology sector, predicted that the government will reach its 3 percent goal in the next few fiscal years. She estimated that by 2009 service-disabled veterans in the IT sector may win as much as \$2.7 billion in annual contracts.

But Gatewood, the Vietnam veteran in Landover, maintained that the success stories are the exception for now and not the rule.

"Veterans deserve consideration above and beyond anyone else in America," he said.

February 24, 2005

Pentagon investigating former officials working for contractors

By George Cahlink

The Defense Department is investigating a pool of former senior military and civilian Defense managers now working for government contractors for possible criminal violations of federal conflict-of-interest rules, according to law enforcement officials. "Certain names popped up. We do have a pool of candidates we are working from," says Joseph McMillan, special agent in charge of the mid-Atlantic field office of the Defense Criminal Investigative Service, who is heading the investigation.

Federal law sharply restricts how civil servants may negotiate jobs with future employers who have government contracts. Critics have charged that despite such "revolving door" regulations, it's still too easy for managers and executives to arrange lucrative jobs with contractors.

McMillan declined to say how many former officials were under investigation, but noted that most worked in the acquisition field. He said it was too early to tell how long the probes would last or whether any charges would be filed, saying that investigators are still requesting documents from contractors that have hired former feds.

DCIS launched its review, known as the Senior Official Project, eight months ago. It covers former civilian and military managers who negotiated and managed large contracts at the Pentagon after 2001 and then went to work in the defense industry. The project was a result of the admission by former Air Force acquisition official Darleen Druyun admission that she favored Boeing in contract negotiations in exchange for jobs for herself and family members.

Paul McNulty, U.S. district attorney for the Eastern District of Virginia, cited the DCIS review as example of the work his newly formed task force, known as the Procurement Fraud Working Group, is doing. He says he'd like non-Defense agencies to conduct similar reviews. "The Druyun case certainly sensitized us to the issue," said McMillan. The review only goes back to 2001 because there is a five-year statute of limitations for prosecuting federal conflict-of-interest violations. McMillan says DCIS is relying on data-mining technology to review contracts for names of former officials who might have negotiated or managed contracts with their future employers. He stresses that Defense managers can recuse themselves from contracts involving firms they are seeking employment with, and then legally accept positions with the companies "Just because you leave government and go to a contractor," said McMillan, "does not mean we are going to open a case on you."

February 24, 2005

GSA to issue vets GWAC

BY Michael Hardy

Disabled veterans who own businesses will soon be able to compete for a new contract that General Services Administration officials are creating just for them. The governmentwide acquisition contract will be called Veterans Technology Services, or VETS, and will be available to veterans who were disabled in the line of duty. President Bush directed GSA officials to create such a contract in a 2004 executive order. GSA officials have submitted a business case to the Office of Management and Budget for the 10-year contract with a \$5 billion ceiling. Officials plan to issue the request for proposal this spring and to award the contract in 2006.

The GWAC will have two functional areas: information systems engineering and systems operations and maintenance.

"We believe that serving those who have served the nation so ably is the right thing to do," said GSA Administrator Stephen Perry in a statement.

GSA's Small Business GWAC Center in Kansas City, Mo., will manage the VETS procurement. Brad Scott, GSA Heartland Regional Administrator, is also the designated GSA senior official for service disabled veteran matters.

February 22, 2005

When is a Small Business Not a Small Business?

BY Shera Dalin

The U.S. Small Business Administration is tinkering with the question of how "small" is a small business, and the answer could force little companies to battle behemoths for hefty government contracts.

The SBA, in an attempt to streamline its system, is proposing to change the limits on what makes up a small business. The limits are generally based on annual revenue in thousands of industry categories known as the North American Industry Classification System codes.

A year ago, the SBA proposed changing from revenue-based standards to measuring firms from 50 to 1,500 employees. About half of the 4,500 comments the agency received on the proposal were opposed to it, and the effort was abandoned.

The SBA has resumed the process of revamping the size standards and is seeking public

comment through April 1 on what it needs to take into consideration. Once it has reviewed those comments and held public hearings across the nation, the SBA will issue its standards and seek comments on the specific changes.

No dates have been set for the hearings or publication of the changes.

Small businesses are concerned that the new standards will be similar to last year's proposals. Some fear they will be forced to compete against much larger companies that have them outgunned in people, money and political clout.

Others have commented to the SBA that if the limits are lowered or based solely on employees, they may have to lay off workers to keep their small-business status, according to the SBA's Office of Advocacy.

Under last year's proposal, 35,200 new small businesses would have become eligible for federal programs, and 34,100 would have lost their small-business designation.

"Instead of bidding against 50 companies, I may be bidding against 300 companies. It's always harder when you have to compete with large companies," said Annetta Vickers, owner of TAB Co. Inc. of St. Louis.

TAB received its first federal contract in December. It supplies bond paper to Scott Air Force Base.

With five employees and \$2.5 million in revenue, TAB would be overshadowed if the categories it competes in were opened up to bigger firms, Vickers said. She sent a letter to the SBA outlining her concerns and also plans to write to Republican Sens. Christopher "Kit" Bond and Jim Talent of Missouri to boost their awareness of the stakes.

Small businesses would particularly be burdened by having to track employees if the standards switch to that basis, said Terry Williams, president of the National Procurement Council in Washington.

Companies might have to track full-time and part-time employees over a period of time -- perhaps several years -- maybe even down to the level of hours worked per employee per day, Williams said.

"It would be very rigorous to track. Businesses should comment on the onerous need to track their employees and even the need to keep up with federal regulations," Williams said.

Instead, the SBA should consider a tiered system that encourages microbusinesses to grow into small businesses, which would then be able to grow into larger companies, Williams suggested.

Without a tiered system, a small business that wins a large government contract could

suddenly be considered a large business and prevented from receiving a contract again, she said.

Legislation may be necessary to prevent small or medium-sized firms from being thrust into the same league as conglomerates such as Boeing Co. or Lockheed Martin Corp., Williams said. It could also give the SBA enforcement power against companies that cheat the system, she said.

The SBA's budget has been cut in half under the Bush administration, making it difficult for the agency to manage the most basic business-building functions, she said, much less an overhaul of this magnitude.

Changes may hurt micro or small businesses more than medium-sized firms, businesses say.

Suzanne McGee Joyce, president of defense contractor TechGuard Security LLC of Chesterfield, acknowledges that her 31-person company could be hurt by the changes.

"I intend to grow. It looks like it increases the opportunity instead of limiting it. I take the long view," Joyce said.

As the standards are drafted, Essex Industries of Affton wants the SBA to take into consideration the demands that large contractors are placing on smaller firms like Essex. The nearly \$100 million company is a subcontractor for Boeing, which is pushing Essex and other subcontractors to become systems integrators.

Rather than supply one part to the defense giant, Boeing wants them to provide entire systems, including finding suppliers for a whole range of individual parts.

"We've got to become systems integrators or we'll be acquired by integrators," said Essex's director of business development, Cyril Narishkin. The company, which recently acquired another firm for its home health division, must be cautious in how much it grows or it could be eliminated from consideration for contracts as a small business.

"We're what they affectionately call, in D.C. now, a 'tweener,' " Narishkin said. "Maybe having a tiered system would help us."

The St. Louis Minority Business Council, which helps minority-owned companies compete for government contracts, is joining with its 38 sister councils nationwide to craft a list of concerns they want addressed by the SBA's size standards, said council President James Webb. The council was opposed to last year's proposed changes.

"Our whole hope is that if you do this, you do it on an industry-by-industry basis rather than across the board or some arbitrary basis," Webb said.

TO COMMENT

E-mail: restructure.sizestandards@sba.gov. Include RIN 3245-AF22 in the subject line of the message.

Fax: 202-205-6390

Mail: Gary M. Jackson, Assistant Administrator for Size Standards, 409 Third Street SW, Washington, D.C. 20416

For more information, contact the SBA's Office of Size Standards at 202-205-6618 or at www.sizestandards@sba.gov.

February 21, 2005

OMB's policy needs help

BY J. Timothy Sprehe

The Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) recently issued "Policies for Federal Agency Public Web sites," guidance that represents a big step backward.

The pablum OIRA serves as Web site policy was yesterday's news several years ago. Hello, OIRA! Did you ever hear of evaluation? How about telling agencies to institute programs for evaluating their Web sites to see whether the sites are doing the jobs they are intended to do? If Web sites are so important to citizen-centered government, surely it is not too much to ask that agencies evaluate their effectiveness.

Hello, OIRA! Read OMB Circular A-11, especially the part about performance plans and performance measures. Did it occur to you to require that agencies devise performance goals and measurements for Web sites? Such measures provide valuable information about how the Web site is performing relative to overall agency goals. Officials can get feedback from users and use the information to improve the Web site. OIRA's Web policy seems unaware of this.

Web sites are tools for the performance of agency missions and the conduct of programs. It is reasonable to ask for performance measurements and evaluation of these tools to determine whether they are helpful or a hindrance, but OIRA's policy does not do so.

Hello, OIRA! Do you recall the Government Information Locator Service (GILS)? Although apparently forgotten, the service is still an operative section of the Paperwork Reduction Act, which OIRA administers. Where does GILS fit into OMB's Web site policy guidance? Nowhere, it seems.

When the act was last amended in 1995 and GILS was added as Section 3511, National Archives and Records Administration officials produced a set of core elements or metadata for GILS. Why doesn't OIRA address the use of agency-standardized metadata as an important aid to help the public find information on government Web sites?

Telling agencies to include a search function, as the policy does, is no help. OIRA will have a hard time finding a single agency Web site that does not already include a search function — a clear indicator this policy is outdated.

The smarter agencies recognize that search engines alone will not find information with precision. Unless an agency uses standard metadata elements in its Web site, members of the public will get many imprecise hits when searching for information. President Bush's executive order on sharing terrorism information, issued last August, recognizes the need for metadata to increase search precision.

It is nice that OMB finally issued a Web site policy, but it is sad that the policy is so far behind today's public information needs.

February 21, 2005

GSA and DOD apparently disagree about who gets to reap any savings

BY Jonathan S. Aronie

As anyone who sells services to the government through a multiple-award schedule contract knows, General Services Administration officials are interested in prices, not costs. This price-centricity is driven, in part, by federal regulations that explicitly instruct GSA to avoid seeking cost information from schedule contractors except in rare circumstances. It also is driven by GSA's stated goal of making the schedule program as commercial as possible.

For subcontracted services, GSA's focus is no different. When a schedule holder subcontracts with a nonschedule holder for the performance of services, GSA expects to be billed at the company's published prices for those services, regardless of the cost to the company.

The contractor benefits if the subcontractor charges less than the schedule holder for the services. The government benefits if the subcontractor charges more.

Last year, however, this fundamental precept of the GSA schedule program came into question when leaders at the Defense Contract Audit Agency (DCAA) publicly advised field auditors about how they should review orders placed under schedule contracts.

DCAA officials said a schedule holder providing service to the government through a subcontractor may not charge the government more than the amount the schedule holder paid the subcontractor.

In other words, if a schedule holder manages to get a better deal with a subcontractor, it must pass the savings on to the government. If this sounds at odds with GSA's apparent understanding of its own schedule program, that's because it is.

The basis for DCAA's position is a clause found in many, if not most, schedule contracts. The specific language appears in the Payments Under Time-and-Materials and Labor-Hour Contracts clause, or FAR 52.232-7 for those of you who, like me, keep a well-worn copy of the Federal Acquisition Regulation by your bed. Unfortunately, the clause

appears to say exactly what DCAA says it does. It also appears to give the agency certain rights to audit contractor compliance.

Not surprisingly, GSA officials disagree with DCAA's interpretation of the clause, at least in the context of the schedule program. And word has it that GSA officials have written to the agency expressing this disagreement. While those officials work out their differences — and proposed changes to the applicable regulation cross the desks of people who enjoy thinking about these matters — the rest of us are left to operate in an environment of conflicting regulatory guidance.

This is unfortunate. At the end of the day, of course, it is possible that the conflict between GSA and DCAA will turn out to be much ado about nothing.

So far, DCAA auditors in the field do not appear to be spending much time focusing on this issue. But as Jack Palance said in "City Slickers," "The day ain't over yet."

February 21, 2005

GSA merger would improve efficiency: budget

By Stephen Losey

President Bush's proposal to combine the General Services Administration's two main contracting divisions — one for supplies and one for technology — is a move in the right direction, many industry leaders say.

The president's 2006 budget request, which the White House released Feb. 7, said breaking down the "artificial barriers" between the Federal Technology Service and Federal Supply Service would increase efficiency, streamline functions and save money. "Due to the evolution of how information technology is acquired — buying solutions that are a mix of products and services rather than stand-alone hardware or services — two separate supply and technology organizations are no longer needed," the budget said.

The budget said the services should be combined into a Federal Supply and Technology Service, and the White House ordered GSA to finish the merger by July.

GSA has formed three task forces to oversee the reorganization of the services, as well as the merger of the information technology and general supply funds, as the budget calls for, GSA Administrator Stephen Perry announced in a Feb. 7 memo.

Numerous officials from GSA and its customer agencies declined to discuss the plan to reorganize the agency and what it might mean for federal contracting.

Industry experts, however, generally support the idea.

Alan Balutis, of Reston, Va.-based market research firm INPUT, agreed that the evolution of the IT market and the increasing integration of products and services mean changes are needed.

"The old arguments for keeping them separate don't hold water," Balutis said.

Ray Bjorklund, of marketing consulting firm Federal Sources Inc., said removing the boundary between the services would make it simpler for officials to consult on how certain contracts are used.

Bjorklund and Larry Allen, of the Coalition for Government Procurement, said a merger also could help FTS and FSS do their jobs with declining staffs.

Exactly how a reorganization might take shape is undecided. Perry formed the task forces, as well as a steering team, to outline what steps to take.

GSA spokeswoman Mary Alice Johnson said it is too soon to tell how the proposed merger might take place.

“This is one of the ‘devil’s in the details’ sort of things,” said Balutis, who is president and chief executive officer of government strategies at INPUT.

Balutis said he could not predict how the changes would affect IT acquisition until more specific proposals are made.

“They’ve just started to meet,” Balutis said. “The question is: What will be merged, and what will be purged?”

Concerns

Not everyone is convinced GSA is on the right path. Industry Advisory Council chairman Bob Woods, a former commissioner of FTS, is concerned that the merger would make things worse.

While there is some duplication between FSS and FTS, the services’ missions are fundamentally different, Woods said. “Why don’t we be the Federal Technology, Supply and Fishing Service?” Woods said.

He said combining the Public Buildings Service and FTS would be a better fit, since both are service-oriented and deal with people in the field. FSS, on the other hand, runs GSA’s federal supply schedules program.

To see real improvement, Woods said, GSA should streamline its headquarters.

A merger of the two GSA divisions may ultimately hurt IT acquisition, he argued.

Without a service exclusively focused on IT, GSA might put less of an emphasis on technology. Customers also could be confused about where to go and may doubt the new service’s ability to provide IT.

“I’d want to keep my IT image,” Woods said.

Contract specialist Mark Jefferson of the Treasury Department’s Financial Management Service said he also is concerned that GSA’s ability to provide IT services would suffer without a service entirely devoted to technology.

Small agencies especially depend on FTS’ services, which help agencies define their IT requirements and write statements of work, Jefferson said.

“FTS is one of the few objective groups you can go to,” Jefferson said. “Otherwise, you have to go to a consultant.”

And some of those private consultants may have ulterior motives, he said. For instance, a consultant may push a brand of software in which they have an interest, but which may not be best for an agency.

Allen and Bjorklund, however, doubted that IT services would suffer because of a merger. Allen said GSA will still have its IT expertise, but it must make sure customers can easily access that expertise.

Woods also is concerned that the government is not consulting the IT industry on changes. Bjorklund agreed that all stakeholders need to be consulted, but he said the process has just begun and he does not feel that industry has been cut out.

Creating a new general services fund out of the combined IT and general supply funds would bring oversight under GSA Chief Financial Officer Kathleen Turco and improve accountability, the budget said.

Agencies use the IT fund to extend by up to five years the time they have to spend money on IT purchases. Although IT fund money is meant only for IT purchases, GSA's inspector general has found instances where IT money was used to pay for other expenses, such as construction, health care and drug testing.

Allen said GSA overreacted to those problems by restricting agencies so they can only pay for IT purchases with money from the IT fund. He said merging the funds should end those restrictions.

More reforms needed

While GSA is exploring the merger of its technology and supply services, it should look at other reorganization issues as well, some experts said.

Balutis hopes GSA will look at the streamlined contracting vehicles called multiple-award contracts and governmentwide acquisition contracts. The government is overusing the vehicles, Balutis said, adding that the purpose of those contracts should be better defined, and small businesses should have more opportunities under the vehicles.

"Someone needs to go through and say, 'Do we need this many?'" Balutis said. "Now, there's a plethora of them without rhyme or reason."

Also, GSA leaders should be careful not to allow the merger to distract them from other important projects, such as the award next year of the massive Networkx telecommunication contract.

"If schedules start slipping and long-term plans change, there would be major problems," Balutis said.

GSA also must reconsider the agency's regional structure if it truly wants to improve its operations, some experts said.

Employees now report to superiors in both their regional offices and in Washington, said Allen. That is a deeply flawed system, he said.

"They're trying to serve two masters," Allen said. "No matter how talented they are, that's difficult to do."

Drew Crockett, spokesman for House Government Reform Committee Chairman Tom Davis, R-Va., said legislation may be needed for GSA to reorganize. But he said Davis is pleased to see GSA take the initiative by forming the task forces, and he said the committee will hold a hearing on the reorganization in the next two months.

"It's good to see we're all on the same sheet of music," Crockett said.

The three GSA task forces will study acquisition services, financial management, and IT systems. Acting FTS commissioner Barbara Shelton and FSS commissioner Donna Bennett will chair the acquisition services panel, Turco will head the financial management panel, and GSA Chief Information Officer Michael Carleton will head the IT systems panel.

February 17, 2005

Small Business Battle Continues

BY Joi Preciphs

WASHINGTON, -- Radically different views are shaping the debate on the government's commitment to the nation's small businesses. The ranking Democrat on the House Small Business Committee has drawn a line in the sand, saying that the aggregate impact of recommended program restructuring and funding reductions in the president's fiscal 2006 budget proposal will disproportionately hurt the interests of small business owners, a key constituency that supported President George W. Bush's successful re-election last year.

Rep. Nydia Velazquez of New York, a vocal critic of Bush administration policies, joined four other Congressional Democrats to outline concerns about 50 programs across seven federal agencies that are positioned for elimination, restructuring or monetary cuts.

"This budget is a disaster," Velazquez said at the Capitol on Wednesday.

Although the group spent a lot of time discussing the negative economic impacts of phasing out the popular Community Development Block Grant and Empowerment Zone programs under other departments -- propositions that the National League of Cities and community development groups have protested strongly -- they expressed a high amount of concern about proposed changes to long-established capital support programs that fall under the jurisdiction of the U.S. Small Business Administration.

The president's budget calls for the elimination of the SBA's Microloan program, which finances smaller loans to entrepreneurs, while the fees that borrowers and lenders pay to access the agency's 7(a) loan program, which was subsidized in part with taxpayer dollars until last year, would most likely increase under the current proposal, something the lawmakers said reduces opportunities for people to utilize the financing.

Rep. Danny Davis, D-Ill., said that most small businesses fail because they don't have enough money to keep going, and that the loss of manufacturing jobs in his district warrants the kind of support that the SBA loan programs and other federal initiatives provide.

"It's kind of like talking peace and waging war," Davis said of the administration's budgetary objectives.

The Republican chairman of the Small Business Committee, Don Manzullo of Illinois, however, expressed his support for the administration's budget proposal at a committee hearing last week. A spokesman with Manzullo's office reiterated the congressman's statement that the SBA under administrator Hector Barretto's leadership has been able to demonstrate a strong capacity "to do more with less."

Manzullo's spokesman, Rich Carter, said some of the changes Velazquez and the other lawmakers identified, especially increasing the fees for lenders and borrowers under 7(a) program, are warranted in light of the problems the program faced last January, when it was forced to shut down temporarily because it didn't have enough money to meet the demand for assistance. The program has long been a financial godsend to those looking to start businesses or increase their operations.

Although the 7(a) shut down was due in part to budget reductions SBA experienced between 2001 and 2004, Carter said the majority leadership of the committee set out to modify the program so that it would remain solvent without relying on federal subsidies. By the end of fiscal year 2004, the program provided more than \$12 billion in loans, a record number, which accounted for 30 percent of all long-term small business lending in the country.

"The fees paid by the borrowers and the lenders are enough to cover the default rate on the loan, so you don't need a taxpayer subsidy," Carter said, stressing that the statistics show the program is operating "better than it ever had previously."

"The statistics show that the small business owners that need the loans are getting the loans, and actually they're in much better shape because they know the program is self-sustaining and no longer has to rely on the whims of Congress," he said.

Manzullo's office also released a statement last year hailing achievements for small business, such as increasing the amount that can be written off as business expenses from \$25,000 to \$100,000 through 2005, changes to the definition of S-corporations, the capital gains tax cut, and the Health Savings Account provision enacted under the Medicare Prescription Drug Act of 2003.

Yet Velazquez has continued to challenge the relative impact of legislation passed during the 108th Congressional session, saying in media accounts that the small business community experienced nominal gains, with the majority of the legislative spoils going to large corporate interests and wealthier individuals.

Considering that the SBA has seen its budget reduced by a quarter during Bush's first term, concerns are surfacing at the local level about the administration's commitment to the agency. Oliver Singleton, president of the Metropolitan Business League in Richmond, Va., said that while he's pleased with what his regional SBA office has been able to do for the 400 members of his organization -- which has focused on minority and small business development for more than 30 years -- he is concerned about the agency's role in the future.

"Our regional SBA office is broke," Singleton said, stating that the level of technical assistance the agency provides has decreased. He also said the increasing level of consolidation among financial institutions in his area has caused lenders to become "choosier and choosier about financing," which concerns him.

As for the much-ballyhooed capital gains tax cut that was enacted during Bush's first term and was heavily supported by organizations such as the National Federation of Independent Business, Singleton's response was less than enthusiastic.

"None of my members were affected in a positive way (by the tax cuts)," he said.

Still, there are some things that Small Business committee members and small business advocates across different ideological spectrums agree on, such as easing certain tax and regulatory burdens, helping the government do a better job at engaging small businesses for federal procurement and other contractual opportunities, and creating an environment where the cost of running businesses isn't unreasonable due to the tremendous increase in health care costs over the last decade.

In particular, Singleton said he hopes to see more "debundling" of federal contracts to make it easier for small and emerging minority businesses to "get a piece of the pie."

Velazquez and her colleagues said that while they don't agree with grandfathering some of the tax cuts that Bush pushed through Congress during his first term -- a move they said would contribute to the ballooning of the federal deficit -- they do support "targeted tax relief" for small businesses. The best way to help, they said, is supporting the programs that are already in place, which stimulate the economy and create jobs.

The SBA's Office of Advocacy reported last year that small businesses, defined as businesses with 500 people or less, employ half of the nation's private sector employees and have generated 60 to 80 percent of net new jobs annually over the last decade,

although the rate of business openings roughly matches the rate of those that have closed since 2003.

February 15, 2005

Online Registration Officially Opens for SBA Expo

Contact: Cecelia Taylor (202) 401-3059

Internet Address: <http://www.sba.gov/news>

Small business owners, entrepreneurs and others who would like to take part in the National Small Business Week celebration in April can now register online to attend the event, the SBA said today. The annual celebration honoring the National Small Business Person of the Year will take place in Washington, D.C., April 26-28, 2005, at the Hilton Washington Hotel. It will showcase Small Business Persons of the Year winners from each state, and feature a special awards ceremony for Government Procurement winners, Women in Business and the SBA Hall of Fame recognizing successful companies that started with SBA assistance. Business owners, business organizations and other individuals can register for SBA Expo events online at www.sba.gov/expo. Additional information on SBA Expo events is available on the SBA conference Web site, and will be updated regularly with new event information. Registrants who complete the process by March 24, 2005, will be given an "early bird" registration discount. March 24 is also the deadline for the conference hotel room rate at the Hilton. Exhibitor registration will be available online by the end of February. To register for SBA Expo and for additional information, visit online at www.sba.gov/expo.

February 14, 2005

GSA hearing coming

BY Aliya Sternstein

The House Government Reform Committee will hold its first hearing on restructuring the General Services Administration within several weeks, a committee official said today. The committee will look at the continued expansion of share-in-savings and language regarding reverse contracts, said Melissa Wojciak, staff director for the House Government Reform Committee, during an Industry Advisory Council session this morning. Rep. Tom Davis (R-Va.), committee chairman, plans to hold the first hearing on the GSA's reorganization before Easter, Wojciak said.

"We've been through a very fatiguing year with GSA," she said. Recently, GSA's inspector general conducted a series of probes into the agency's client support centers. GSA's Federal Technology Service operates client support centers in each of GSA's 11 regions. The IG found that employees in many of those offices have been violating various federal contracting rules for the past several years. Experts said the violations were mostly the result of shortcuts that FTS employees took to satisfy customers' needs quickly and were not for personal gain.

The chairman wants a fairly "ambitious" GSA reorganization. Davis has proposed removing the Federal Supply Service and Federal Technology Service from the regions, focusing, instead, on Public Buildings Service. PBS manages many of the federal facilities across the country, including their security.

As for the long-term future of the committee, she said newly-named House Subcommittee on Energy and Natural Resources Chairman Darrell Issa (R-Calif.), might step up to fill the void left by Rep. Adam Putnam (R-Fla.), former chairman of the Technology, Information Policy, Intergovernmental Relations and the Census Subcommittee. Issa has indicated an interest in information technology. The Government Reform Committee recently announced the full committee will oversee IT.

During her talk, Wojciak, a mother of two, also endorsed telework, saying how it allowed her to rebound from maternity leave and produced similar results for employees across the government. With a scratchy voice left over from her child's cold, Wojciak said, within a week of returning home after giving birth, she was responding to e-mail daily. Davis "is a very strong proponent of telework," she added. Eyes should be on what workers are producing, "not whether they're at their desks at 8:30 and sit there until 5:00. ... That's just a dim view that doesn't apply to this workplace anymore," Wojciak said.

February 14, 2005

Gonzales Takes Oath as Attorney General

Texas lawyer Alberto Gonzales was sworn in Monday as attorney general, becoming the highest-ranking Hispanic in U.S. government history.

The oath of office to Gonzales, a confidant of President George Bush, was administered by Supreme Court Justice Sandra Day O'Connor at a ceremony at the Department of Justice attended by Bush.

"Attorney General Gonzales has my complete confidence," Bush said. "From his early days of selling soda at Rice University football games to his time in the Air Force, to his distinguished legal career and service on the White House staff, Al's been a model of courage and character to his fellow citizens.

"I've witnessed his integrity, his decency, his deep dedication to the cause of justice. Now he will advance that cause as the attorney general and ensure that more Americans have the opportunity to achieve their dreams."

Gonzales was approved by the Senate, 60-36, following contentious hearings during which Democrats accused him of penning memos to Bush that allowed the torture of Iraqi terror suspects to take place.

Gonzales, 49, reaffirmed his commitment to the U.S. Constitution and the Justice Department's protection of civil rights for all Americans.

February 11, 2005

Small Business Set-Aside is Part of GSA Alliant Strategy

Contact: Viki Reath

Washington, D.C. – The U.S. General Services Administration (GSA) today announced its strategy for two government-wide acquisition contracts (GWAC) for information technology (IT) services, which includes awarding one contract, Alliant, that will be open to all bidders – small, medium, and large –and another contract, Alliant Small Business, that will be set aside for small businesses.

Next month, GSA expects to submit its business case to the Office of Management and Budget for the two 10-year contracts, valued at a total \$65 billion. Soon thereafter GSA will issue draft requests for proposals (RFP) for Alliant and Alliant Small Business. Final RFPs are expected to be issued this summer for both contracts, which will provide a full range of world-class IT solutions to federal agencies.

“Consistent with our ‘Get It Right’ initiative to achieve excellence in federal acquisitions, we have worked with stakeholders to develop the best approach,” said GSA

Administrator Stephen A. Perry. “We have taken all the necessary steps up front, so that as many issues as possible will be resolved, even before we issue the draft RFP.”

The proposed Alliant contracts will be awarded to multiple companies for information technology services. Under this approach, agencies will have options to consider for the work they need accomplished. These contracts are the so-called “Multiple Award/Indefinite Delivery/ Indefinite Quantity” (ID/IQ) contracts. GSA provides this type of contract for federal agencies when the government knows it will need a variety of

services, but cannot immediately specify the required services. When agencies identify their requirements, they award specific "task orders," under the contract terms. The agency task orders include final prices.

"This is an important win for small business that will help to advance President Bush's small-business agenda, as it relates to federal procurement," said Small Business Administration (SBA) Administrator Hector V. Barreto. "The SBA is also gratified by GSA's efforts to provide opportunities for this vital sector of the U.S. economy. The dual tracks will give small business prime contractors their own contract vehicle, and will go along way toward helping federal agencies achieve their small business contracting goals."

Donna Bennett, Commissioner of GSA's Federal Supply Service, which developed the Alliant contracts, said, "GSA has listened to our customers, vendors and other interested parties, and we have made changes that will improve Alliant. Our goal is to deliver best value to the American taxpayer, and we will continue to engage stakeholders to ensure we meet their needs with these important new contract vehicles."

Felipe Mendoza, GSA Associate Administrator, Office of Small Business Utilization, said "Engaging stakeholders results in win-win solutions for small businesses, federal agencies and the taxpayer," said Mendoza. The GSA process that led to the Alliant proposals demonstrates that GSA is committed to listening to small businesses, customer agencies and other interested parties.

GSA's Enterprise GWAC Center in San Diego manages the Alliant procurement. The Small Business GWAC Center in Kansas City, Mo., manages the Alliant Small Business procurement. Online information is available at <http://www.gsa.gov/alliant> and <http://www.gsa.gov/sbgwac>

GSA is a centralized federal procurement, property management, and policy agency, created by Congress to improve government efficiency and help federal agencies better serve the public. It acquires, on behalf of federal agencies, office space, equipment, telecommunications, information technology, supplies and services. It also plays a key role in developing and implementing government-wide policies. GSA's 13,000 associates provide services and solutions for the office operations of more than one million federal workers located in more than 8,000 government-owned and leased buildings in 2,000 U.S. communities.

February 7, 2005

Budget includes increases for Defense technologies

By Greta Wodele

President Bush on Monday asked Congress to modernize the armed services over the next five years by increasing the Pentagon's budget in fiscal 2006 for advanced technologies.

The Pentagon would like to develop and field new military capabilities to help shift the military from separate forces -- the Air Force, Army, Marines and Navy -- to interconnected brigades.

"This budget represents the latest installment in the president's strong commitment to transforming this department to face the challenges of the 21st century," Defense Secretary Donald Rumsfeld said. The president called for \$419.3 billion for the Pentagon in fiscal 2006 -- a 4.8 percent increase, or \$19 billion, over fiscal 2005.

The Bush administration's budget said the president supports "substantial investments in advanced technology, particularly in remote sensing and high-performance computing, to give our military additional advantages over our enemies."

Under Bush's proposal, research and development of new defense technologies would increase by \$600 million to \$69.4 billion next year and would increase steadily through fiscal 2009. The funding would drop in fiscal 2010 and fiscal 2011 -- leveling off at \$59.7 billion. Overall, military procurement would drop \$100 million in fiscal 2006 to \$78 billion, but it would increase significantly to \$118.6 billion from fiscal 2007 through fiscal 2011.

Bush requested \$3.1 billion for R&D at the Defense Advanced Research Projects Agency (DARPA). DARPA would spend \$163 million on classified projects. The president also requested \$310 million for R&D activities at the Defense Information Systems Agency. For specific R&D activities, the administration requested: \$242 million for electronic devices; \$201 million for cognitive computing systems; \$199 million for information and communications technology; \$190 million for advanced supercomputing programs; \$189 million for sensor technology; \$137 million for technologies that would integrate the armed services; and \$55 million to devise counter-terrorism measures.

Key to joint military capabilities are intelligence and communication systems, according to the Pentagon. The administration requested \$1.2 billion for an advanced, high-frequency satellite system. The first launch is scheduled for fiscal 2008.

Bush also requested \$836 million to continue developing a satellite based on laser communications and enhanced radio-frequency, which would "free users from current restrictions on bandwidth," the department said in a statement. The first launch will be in 2013.

Other programs include space-based radar, space-based infrared systems, a joint tactical-radio system and shared sensor aircraft.

For unmanned vehicles, the administration requested \$1.7 billion to develop and purchase different types, including \$350 million for unmanned aerial vehicles such as the Global Hawk and Predator.

To modernize the Army, Bush proposed \$3.4 billion for the Future Combat Systems program, which will develop advanced, networked air and ground systems.

Bush also requested \$9.5 billion for the Pentagon's homeland defense activities, such as protecting the country against weapons of mass destruction, and protecting key assets and critical infrastructure.

February 3, 2005

Subcontracting rule delayed

BY Michael Hardy

Small Business Administration officials have delayed implementing a rule designed to make companies more accountable for fulfilling their subcontracting plans.

The regulation that would allow agency officials to consider companies' track records when making source selections has been pushed back because it needs congressional approval, SBA officials said.

The final rule was published Dec. 20 and erroneously stated it would take effect on that date. Officials corrected that date to Feb. 18 to allow the required period for public comment.

A notice published today in the Federal Register pushes the effective date to March 14, which is 60 days after Congress officially received the text of the rule. Once Congress reviews the rule, SBA officials will publish a new effective date in the Federal Register or terminate the rule, according to the notice.

The rule in question includes a list of factors for federal agencies to consider in evaluating a prime contractor's performance and good faith efforts to achieve the requirements in its subcontracting plan. It authorizes agencies to consider a company's subcontracting goals and past performance in meeting those goals as a factor in source selection when placing orders through Federal Supply Schedules, governmentwide acquisition contracts and multiagency contracts.

February 2, 2005

GSA gets acquisition exec from SBA

BY Michael Hardy

Emily Murphy, former acting associate administrator for government contracting at the Small Business Administration, has been named chief acquisition officer at the General Services Administration.

Murphy's appointment is effective Feb. 20. She replaces Karl Reichelt, who was also chief of staff, who left the agency late last year. Edwin Fielder Jr., regional administrator for the agency's Southeast Sunbelt Region, stepped in as acting chief acquisition officer upon Reichelt's departure.

"Emily's experience and success in the private and public sectors are strong indicators of her abilities in procurement and government contracting," GSA Administrator Stephen

Perry said in a statement. "I'm confident that she will contribute significantly to GSA's commitment to provide excellent acquisition services to federal agencies."

The GSA Office of the Chief Acquisition Officer is responsible for managing acquisition activities including legal and policy compliance, ensuring full competition for contract awards and developing an acquisition workforce. Murphy, who also served as a senior adviser for government contracting and business development at SBA, will manage GSA's Get It Right program to improve compliance with contracting rules.

"This office opens the way for a more focused and successful operation of GSA's acquisition efforts and consequently, a better return to the American taxpayer," Murphy said in a statement. "I'm pleased to be part of these important initiatives."

February 2, 2005

Listening To Small Business Saves \$ 17 Billion

Contact: John McDowell

In 2004 Agencies Met Regulatory Goals, Reduced Impact On Job Creators

WASHINGTON, D.C. – Federal agencies that listened to the voice of small business early in the regulatory process saved America's job creators over \$17 billion in 2004, according to a report issued today by the Office of Advocacy of the U.S. Small Business Administration. Report on the Regulatory Flexibility Act, FY 2004 (<http://www.sba.gov/advo/laws/flex/04regflx.pdf>) details federal agency compliance with the Regulatory Flexibility Act (RFA). The RFA requires agencies to consider the impact of their rules on small entities and examine significant alternatives that reduce it.

"By working with federal agencies, the Office of Advocacy helped America's entrepreneurs save over \$17 billion in potential regulatory costs during 2004," said Thomas M. Sullivan, Chief Counsel for Advocacy. "Agencies that listened to small business were able to devise regulations that met their goals while avoiding one-size-fits-all rules that disproportionately burden small business. That is a win for everyone," he said.

One example of the win/win approach to reducing small business burden was the Department of Transportation's (DOT) proposal to de-regulate its Computer Reservations System (CRS) regulations. Advocacy worked with small businesses to present their views on how some of the proposed changes would harm small travel agencies. After listening to Advocacy and other small business representatives, DOT issued final regulations that gave small businesses more time to adjust to the changes and allowed travel agencies to negotiate their own contracts with CRSs. DOT revisions to the rule saved small businesses \$438 million annually.

The Office of Advocacy, the “small business watchdog” of the government, examines the role and status of small business in the economy and independently represents the views of small business to federal agencies, Congress, and the President. It is the source for small business statistics presented in user-friendly formats and it funds research into small business issues. For more information and the complete report, visit www.sba.gov/advo.

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Created by Congress in 1976, the Office of Advocacy of the U.S. Small Business Administration (SBA) is an independent voice for small business within the federal government. Appointed by the President and confirmed by the U.S. Senate, the Chief Counsel for Advocacy directs the office. The Chief Counsel advances the views, concerns, and interests of small business before Congress, the White House, federal agencies, federal courts, and state policy makers. Economic research, policy analyses, and small business outreach help identify issues of concern. Regional Advocates and an office in Washington, DC, support the Chief Counsel's efforts. For more information on the Office of Advocacy, visit www.sba.gov/advo, or call (202) 205-6533.

** Visit Advocacy's Regulatory Alerts page to learn about and comment on proposed federal rules that may affect small business:
http://www.sba.gov/advo/laws/law_regalerts.html. **

February 2, 2005

Federal Agencies Skip Small Businesses

BY Michael Hardy

Small-business advocates have suspected for awhile that some contracting dollars intended for small firms go to large companies. Now, they have the evidence to prove it. Small Business Administration officials have released a 2004 report showing that \$2 billion of the \$50.8 billion earmarked for small businesses in fiscal 2002 did not get to them. The study, conducted by Eagle Eye Publishers, found that of the top 1,000 small businesses receiving federal contracts in 2002, 44 were actually not small businesses. Thirty-nine were large businesses, while five were nonprofit organizations, government entities or other organizations.

The SBA study comes on the heels of an earlier report from the Center for Public Integrity that showed about 30 percent of the contracting money that supposedly went to small firms through Defense Department contracts during a six-year period ended up in the coffers of large companies. The SBA study has caught the attention of agency officials and members of Congress. "We now have hard data and not just anecdotes from across federal agencies," said Thomas Sullivan, chief counsel at SBAs Office of

Advocacy. "What's needed is more transparency in the contracting system and timely public access to user-friendly procurement data so that mistakes and other problems can quickly be corrected."

The report's authors refrain from suggesting that large companies are intentionally defrauding the government by taking small-business contracts. However, they discuss loopholes in the small-business rules - some of which have since been closed or tightened - that allowed companies to continue operating as small firms for some time after larger companies acquired them or they outgrew their small status. "We were very careful not to point any fingers," said Chad Moutray, chief economist at the Office of Advocacy.

"That's not the job of this office. As far as we're concerned, no one did anything wrong." Rep. Nydia Velazquez (D-N.Y.), ranking Democrat on the Small Business Committee, said the SBA report shows that small businesses are not getting the full benefit of programs designed to aid them. "The [Office of] Advocacy report only confirms what Democrats on the Small Business Committee have been saying," she said. "Federal agencies are taking credit for awarding small businesses with contracts when, in fact, they were going to large businesses. Opportunities [for small businesses] are dropping, and the federal government has no credible ability to monitor the level of federal contracting dollars going to small businesses."

The need for accurate small-business data goes beyond simply ensuring that the small firms get a fair deal, said procurement lawyer David Nadler, a partner at Dickstein Shapiro Morin & Oshinsky. "It also misleads Congress," he said. "Congress makes appropriations based on that information."

Although the \$2 billion figure that Eagle Eye analysts reported may not seem like much when compared to the total of \$50 billion, it could mean a lot to small companies, said some small-business owners. "In real dollars, that's a lot of jobs and a lot of opportunity that's being missed," said John Moliere, president of a small business called Standard Communications. Simple miscoding is not the worst problem that small businesses face, he added. Too often, agency officials choosing prime contractors or primes looking for subcontractors see the government's small-business goals as a nuisance. "They use our capability, they check off the box, and they go forward and ignore small business in general," Moliere said. Although situations such as that do not qualify as miscoded expenditures, they still limit chances for small businesses to succeed, he said.

Lloyd Chapman, president of the American Small Business League, said he believes many large companies are guilty of fraud, and the report SBA officials released ignores the issue. Chapman's group has filed a lawsuit demanding that SBA officials release more information. The results shown in the report were not surprising, he said. "I've always known this," he said. "I've been telling people this for a decade. Now, there's irrefutable proof that we've been right. It's going to help convince Congress and the media." SBA officials are wrong to assume that cases of sidetracked small-business contracting funds are honest mistakes, Chapman said. "It's ridiculous for the SBA to stick their head in the sand and try to pretend," he said. "I think that's irresponsible and not policing the situation. In fact, I would say they're encouraging it." He said no new laws are needed, but officials must enforce existing laws, including the elements of the Small Business Act that set penalties for companies misrepresenting themselves as small businesses. "The law is dependent on the integrity of the administration," he said. "Small business should not have to look at legal remedies, but we're having to do that."

Paul Murphy, president of Eagle Eye, said his analysts were not always able to determine how a particular transaction was coded incorrectly. In many cases, former small businesses acquired by larger firms carry the name of the larger firm. In such cases, "we couldn't tell if it was a company they bought and renamed, or if it got miscoded from the start," he said. "The data doesn't reveal that level of insight." He also emphasized that the report did not try to be exhaustive. Because the analysis reviewed only the top 1,000 small firms, "there are so many companies below the threshold that were not examined that I've got to think the problem we documented is just the tip of the iceberg."

February 2, 2005

OMB picks acquisition advisors

BY Michael Hardy

Office of Management and Budget officials created a services acquisition advisory panel to help provide guidance regarding various aspects of government contracting. The creation of the 14-member panel was authorized by the Services Acquisition Reform Act, which passed in 2003.

David Safavian, administrator of OMB's Office of Federal Procurement Policy, said the panel will provide general policy guidance.

"This nonpartisan panel consists of very capable and respected individuals from a wide variety of backgrounds, both within and outside the government," he said. "We look forward to receiving the panel's recommendations on effective ways to improve government contracting."

Some observers, however, said that the panel is too industry-friendly. The Project On Government Oversight, for one, is not pleased.

"The distinction between public and private in the defense contracting community is meaningless," said Danielle Brian, POGO's executive director. "There have been a growing number of critics of trends in government contracting, including Inspectors General and the Government Accountability Office, but none of them are represented [on the panel]. The panel is dominated by contractor advocates – both inside and outside government – who have embraced Rep. Tom Davis' agenda of gutting taxpayer protections."

The panel's members include:

Louis Addeo, president of AT&T Government Solutions

Frank Anderson Jr., president of the Defense Acquisition University

Carl DeMaio, president and founder of the Performance Institute

Marshall Doke Jr., partner at Gardere Wynne Sewell

David Drabkin, deputy associate administrator for acquisition policy, General Services Administration

Jonathan Etherton, vice president of legislative affairs, Aerospace Industries Association of America

James Hughes Jr., deputy general counsel for acquisition, Air Force

Deidre Lee, director for defense and acquisition policy, Defense Department

Tom Luedtke, assistant administrator for procurement, NASA

Marcia Madsen, partner at Mayer, Brown, Rowe and Maw

Melanie Sabelhaus, deputy administrator, Small Business Administration

Joshua Schwartz, law professor and co-director of Government Procurement Law program at George Washington University Law School

Roger Waldron, director of the Acquisition Management Center, GSA

Madsen is the group's chairwoman. The panel is expected to submit a report to OFPP and to Congress within a year, with its findings and recommendations regarding issues such as the use of commercial practices, performance-based contracting and the use of government-wide contracts.