

**Small Business Committee Hearing  
On  
“Access to Federal Contracts: How to Level the Playing Field”**

**Monday, October 29, 2007**

TO: Clerk of the Committee U.S. Senate Committee  428 A Russell Senate Office Building Washington, DC 20510
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FROM: Wayne R. Frazier, Sr., President Md. Washington Minority Contractors’ Association 1107 North Point Blvd., Ste 227 Baltimore, MD 21224
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Most Honorable Members of the Committee:

I hereby submit the following testimony based on conversations with third party small and minority business owners, consultants and professionals who earn a living assisting these businesses doing business with the United States Government. The interviews were conducted based upon a request from Maryland’s inclusive Senator Benjamin Cardin, that I bring forth compelling issues and concerns that affect minority and small businesses doing business with Federal Government.

As stated in my biography, submitted herewith, my professional background in banking, finance, small business ownership, contract negotiation, mediation, marketing, and advocacy for minority business qualifies me to discuss issues such as “Access to Federal Contracts and How to Level the Playing Field.” This testimony shall be comprised of three prominent issues that surfaced during the interviews; Bundled Contract Procurement, Financing and Surety. It came as a surprise that all of the responders ranked discrimination in contract procurement as their top concern. The issue centers around on how government procures i.e. General Services Administration Schedule (GSA Schedule), Multiple Award Task Order Contract (MATOC), Indefinite Delivery Indefinite Quantity contracting (IDIQ), Task Order Contracting (TOC), Job Order Contract (JOC), SBA-8A, Small Disadvantage Business (SBDC), Disabled Veteran, and Historically Underused Business (HUB Zone) all in some way and shape over lap, compete against one another, promote bundling and discriminate. The term constantly used is “what is the flavor of the day” can be heard from procurement offices at the various agencies when selecting how to procure upcoming work. The two prominent forms now appear to be GSA Schedule and Service Disabled Veterans.

**Bundled Contract Procurement**

Bundled contracting, according to all of the interviewees, no matter what method selected by the

procurement officers was the preferred way to scope the various task orders. Bundling may be easier for the procurement officers to issue work but it is detrimental to small and minority business to compete against established financially stronger firms. The general rule is that the stronger financially ones business is the more sophisticated and experienced the business has become. Thus, making it impossible for minority and small business to compete. Furthermore, the playing field is tilted in favor of the financially stronger firms and they are able to bid lower because of their overall strength. Yet these same so called “strong” small businesses are allowed to compete equally with the real struggling small businesses. By adding minority business to the equation discriminatory exclusion gets worse. There needs to be a clearer delineation of small business size when characterizing the various procurements.

The unbundling of procurements should commence to open up competition with more work put out to bid. As opposed to adding on task orders to existing contracts. It was reported that procurement officers are allowed to conduct business this way as a “reward to existing relationships for whatever reason and it making their jobs easier.” Furthermore, complaints were heard that the current groups of procurement officers do not experience the commitment or spirit of inclusion as their predecessors. Multiple complaints surfaced about Native Alaskan firms having the ability to procure in the lower forty-eight (48) states with task order after task order add ons and many unrelated to the original task. Minority business owners in particular express feelings of unfair practices being conducted by some of these firms, who enjoy favorable procurement rights over all of the other programs. It was said that our government has reduced delivery quality when bundling occurs because basic fundamentals of procurement are replaced by how much can be saved by striking competition. Yes, line item staff procurement expense may be reduced because less staff is needed but overall cost savings is questioned because little to no competition occurred.

### **Financing**

Overall, the interviewers were pleased with the various long term financing programs offered by the SBA loan guaranty program. The major complaint is with the Capline product for short term financing less than one year. This product offers participating banks the opportunity to underwrite and approve credit facilities under monitored account receivable lines. Capline though needed as a tool to assist growth, should be augmented with other short term products. Both, bankers and borrowers complain of Capline’s cumbersome nature of intensified due diligence. Bankers complained that it cost them more to handle this line of business than what they earn on rate and fees plus the risk is higher in the current economy. Borrowers, especially small businesses complain that it is difficult to stay ahead of the paper game and that one must produce an invoice in order to receive funding.

Perhaps a solution is to allow more industry conventional short term financing under traditional 30, 60, or 90 notes or revolving credit facilities where less daily oversight is required.

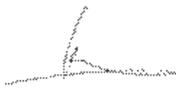
The issue to keep in mind is that government contracting does not provide mobilization funds to get started. One can be fortunate to win a contract but may not proceed because lack of funds and no conventional bank financing with SBA Guaranty's.

### **Surety Bonding**

The dilemma with bonding small and minority businesses starts with a thorough review of financial statements. Corporate sureties which monopolize the surety industry commence review of revenue size, cash flow, current assets, debt, contingent liabilities; retained earnings, net worth, and contract backlog which are key areas to be analyzed. Solvency of these ratios plays significant rolls when surety companies consider whether or not to approve a bond. Very small businesses will not be considered by corporate surety's approval at all and currently they have only one place to go. Midsize to large-small businesses may have existing relationships with regional corporate sureties but due to multiple awards, task orders and contract methods their existing corporate sureties may be too small to write the appropriate coverage or may simply be uncomfortable in taking on the additional risk. Several of the firms interviewed stated that this has happened resulting in them being unable to move forward with the award. Creative attempts to form joint ventures with 8(a) firms and larger general contractors often times become cumbersome or result in the small (8(a) firm giving up control to the larger firm. Therefore, the only hope for some businesses is to consider individual surety bonds as the only solution. However, it's known that many contracting agencies, including the United States Navy will not accept such bonds or try not to. This violates FAR. The discriminatory nature of the contracting officers needs to stop. The FAR needs to be amended to allow irrevocable trust receipts and allow more than one stock exchange. For example, FAR will only allow marketable securities with NYSE. Any stock, for example from NASDAQ is not accepted. Microsoft is traded on NASDAQ so it would not be accepted. FAR needs to be updated to allow more clarity for accepting Individual Surety Bonds, not declining them. Both individual surety and corporate surety can exist in the same market by serving their perspective Clients.

I pray I have briefly shed some light on what ails small and minority business attempting to do business with our United States Government. In the process, I have offered solutions to be considered. Senator Cardin, I appreciate the opportunity to research and provide you with the results. May the necessary eyes of changes view this and guide it to compassionate reform.

Respectfully,



Wayne R. Frazier, Sr.  
President