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May 05, 2015, 03:00 pm

## Congress should back GAO investigation into small business contracting fraud

By Lloyd Chapman

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California Rep. Janice Hahn (D) has drafted an amendment to H.R. 1481 that would call for a new GAO investigation into fraud and abuses in federal small business contracting programs. In a March 25 hearing, Hahn questioned whether the 23 percent of all federal contracts the SBA claimed were awarded to small businesses actually went to legitimate small businesses based on research done by my staff at the American Small Business League. She referenced firms such as Disney, Apple, Chevron, and Bank of America have been the actual recipients of federal contracts in FY2011 and FY2012 that the SBA claimed had been awarded to small businesses.

The last GAO investigation into the diversion of federal small business contracts to corporate giants began in 2002 and was also based on information I provided.

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It's now been over twelve years since that last GAO investigation that found over 5,300 large businesses were receiving federal small business contracts.

In 2005, the SBA Office of Inspector General released Report 5-15 that stated, "One of the most important challenges facing the Small Business Administration (SBA) and the entire federal government today is that large businesses are receiving small business procurement awards and agencies are receiving credit for these awards."

At the same time they released Report 5-16 that found large businesses had made "false certifications" and "improper small business self-certifications" to illegally receive federal small business contracts.

President Obama even acknowledged the seriousness of the problem in 2008 when he released the statement, "It is time to end the diversion of federal small business contracts to corporate giants."

There are three issues the GAO needs to expose that will end the rampant abuses in federal small business programs. The first is "miscoding, computer glitches, anomalies and simple human errors." Every year since 2003 when the findings of the first GAO investigation were released the SBA has claimed random errors they generally refer to, as "miscoding" is one of the reasons why federal contracts to fortune 500 end up being reported as small business contracts. This supposed "miscoding" dramatically inflates the volume and percentage of federal contracts that are reported as going to small business and makes it look like the federal government has reached or come very close to reaching the 23 percent small business contracting goal. Clearly the "miscoding" is willful and intentional and anything but random. The GAO needs to put an end to this practice by the SBA and all federal agencies once and for all.

The second reason federal small business contracts are diverted to fortune 500 firms is what the SBA refers to as the five-year rule. In a recent House Small Business Committee hearing, SBA Administrator Maria Contreras-Sweet used the five-year rule excuse to explain why Fortune 500 firms like Northrop Grumman, Raytheon and Chevron have been included in the SBA's small business contracting statistics. The SBA's five-year rule is inconsistent and in direct violation with the Small Business Act. The SBA Inspector General has referred to this policy as "flaws in the system." I think another way to describe it would be "illegal" or possibly even fraud. Regardless, it needs to be stopped immediately.

The last policy the SBA uses is their "exclusionary rule." Like their five-year rule, this policy also has no basis in law and is in blatant violation of the Small Business Act. The Small Business Act clearly states small businesses shall receive a minimum of 23 percent of the total value of all federal contract awards and does not allow the SBA to exclude any government contracts in calculating the percentage awards. It's one of the most efficient and effective economic stimulus programs ever passed by Congress.

However, in FY 2013, the SBA used a total eligible dollar figure of just \$355 billion to come up with their 23.39 percent number. Professor Charles Tiefer issued an opinion that stated the real total federal acquisition spending should have been closer to one trillion dollars. The SBA's exclusionary rule is obviously used to misrepresent the true percentage of federal contracts awarded to legitimate small business. The GAO needs to expose this fact and end this policy once and for all.

Virtually every major newspaper in the country has covered the rampant fraud and abuse in small business contracting programs. It has also been the subject of over a dozen investigative reports in the media by ABC, CBS, NBC, CNN, MSNBC, CNBC, Fox News and RTTV.

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Ending fraud and abuse in federal small business contracting programs is one of the most significant steps Congress can take to help stimulate the middle class economy, create jobs and address the growing income inequality that threatens the economic future of millions of middle class American families.

It's time for Congress to back a new GAO investigation into fraud, abuse, loopholes and the blatant mismanagement that has cheated middle class small businesses out of billions and end the charade of miscoding, anomalies and computer glitches and the illegality of the exclusionary rule and the five-year rule once and for all.

Chapman is president and founder of the American Small Business League.



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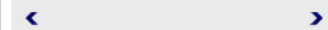
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