

TESTIMONY OF MARY L. KENDALL  
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BEFORE THE HOUSE COMMITTEE ON SMALL BUSINESS,  
SUBCOMMITTEE ON CONTRACTING AND WORKFORCE  
OCTOBER 6, 2011

Mr. Chairman and members of the subcommittee, thank you for the opportunity to testify today about challenges in the administration of contracts between the Federal Government and small businesses. The Office of Inspector General does not purport to know or understand all of the intricacies or challenges that attend to contracts between the Federal Government and small business, but we can comment on our findings relative to the Department of the Interior's handling of small business contracts, which are, we believe, representative of some of the challenges that influence the management of Federal contracts with small businesses.

During a recent review, we discovered a service contract with an 8(a) small business, United Services and Solutions, LLC (US2) that was not in compliance with the statutory subcontracting limitations which require the prime contractor to satisfy at least 50 percent of the personnel-based contract costs with its own employees. The Small Business Administration (SBA) participation agreement requires the Contracting Officer to monitor and enforce that provision. US2, an Alaskan native corporation, had been noncompliant with the 8(a) subcontracting limitations for more than 2-1/2 years.

The Contracting Officer told us that she believed the contractor on an indefinite-quantity, indefinite-delivery (IDIQ) contract, as was the case with US2, has the life of the contract to comply with the subcontracting limit. To the contrary, the Code of Federal Regulations (CFR) state that "in order to ensure that the required percentage of costs on an indefinite quantity 8(a) award is performed by the Participant, the Participant must demonstrate semiannually that it has performed the required percentage to that date." The CFR goes on to say that "the Participant must perform 50 percent of the applicable costs for the combined total of all task orders issued to date at six month intervals." In other words, US2 was required to perform 50 percent of the work every six months that the contract was in force.

Our Recovery Oversight Office also addressed compliance with 8(a) Limitations on Subcontracting in certain construction contracts funded by American Recovery and Reinvestment Act (ARRA) monies. We found inconsistency in how, or whether, compliance with Limitations on Subcontracting was assessed by DOI Contracting Officers. This inconsistency was found in compliance monitoring, lack of Department-wide guidance, and lack of training for Contracting Officers in the assessment of compliance with the Limitations on Subcontracting requirements.

Confusion on the roles and responsibilities of SBA and DOI Contracting Officers contributed to our findings in both of these reviews. In the US2 case, in particular, the Contracting Officer had identified potential problems with the Limitations on

Subcontracting quite early in the life of the contract. SBA, however, indicated that it found US2's plan to address these problems sufficient to continue with the contract. The Contracting Officer took this as a signal to continue with the contract. We found this confusion to affect the ARRA funded contracts, as well. For its part, the Department of the Interior has issued Department-wide guidance on the Limitations on Subcontracting, provided a worksheet with instructions to all contracting officers to assess a contractor's compliance, and has agreed to provide annual training to the acquisition workforce regarding their responsibilities under the 8(a) partnership agreement between SBA and DOI.

Even with a clear understanding of the roles and responsibilities, Contracting Officers are hampered with their monitoring efforts, receiving incomplete and inaccurate data from their 8(a) contractors. For example, US2 broke down labor costs by those incurred by US2 and those incurred by subcontractors, but did not break down "Other Direct Costs" in the same way. Based on the data we reviewed in "Other Direct Costs", we believe that additional subcontractor costs were contained in this category, exacerbating the extent to which US2 was out of compliance with the Limitation on Subcontracting requirement. In fairness to US2, we do not believe that such manipulation of reporting data is limited to this company, but may be happening with other 8(a) contractors, as well. Contracting Officers are placed at a significant disadvantage to identify such data problems and correct them.

Mr. Chairman and members of the committee this concludes my prepared testimony. I would be happy to answer any questions that you may have.