

Testimony of Mr. Mauricio P. Vera

**Chair, Interagency Council of Federal Office of Small & Disadvantaged Business
Utilization Directors**

And Director, USAID Office of Small & Disadvantaged Business Utilization (OSDBU)

Before the Senate Committee on Homeland Security and Governmental Affairs

Ad Hoc Subcommittee on Contracting Oversight

**“Small Business Contracts: How Oversight Failures and Regulatory Loopholes Allow
Large Businesses to Get and Keep Small Business Contracts”**

July 26, 2011

Madam Chairwoman and distinguished Members of the Subcommittee, thank you for inviting me to testify this morning. My name is Mauricio Vera and I am the Director of the U.S. Agency for International Development’s (USAID) Office of Small and Disadvantaged Business Utilization (OSDBU). I also currently serve as the Chair of the Federal OSDBU Directors Interagency Council, and it is in that capacity, not as a representative of USAID, that I was invited to speak. The Council is an unofficial long-standing working group of career civil servants who concern themselves with Federal Government procurement as it relates to small business. Although I am elected by the group, I have no authority to speak for any statutory organizations in the Federal Government, nor do I have authority to speak for any members of the group.

Section 15(k) of the Small Business Act requires that all Federal agencies with procurement powers establish an Office of Small and Disadvantaged Business Utilization. Some agencies have subsequently renamed this office, however they perform similar functions. For example, the Department of Defense calls its office the Office of Small Business Programs. OSDBU Directors are the primary small business advocates within each Federal Executive Agency, responsible for promoting the maximum practicable use of all designated small business categories within the agency’s federal acquisition process. OSDBU Directors are tasked with ensuring that their agency and its prime contractors comply with Federal laws, regulations, and policies related to the award of contracts and subcontracts to small and disadvantaged businesses. By law, OSDBU Directors shall report directly to the agency head or the deputy. This is important because it helps to ensure that OSDBU Directors have direct access to their agency’s top decision makers in order to advocate effectively.

The key responsibilities of the OSDBU Directors, as listed in Section 15 (k) of the Small Business Act, are as follows:

- Identifying proposed solicitations that involve significant bundling of contract requirements,
- Working with agency procurement officials to revise such proposed solicitations to increase the probability of participation by a small business,
- Facilitating the participation of small businesses as subcontractors if solicitations for bundled contracts are to be issued,
- Assisting small businesses in obtaining payments from an agency with which it has contracted,
- Helping small businesses acting as subcontractors to obtain payments from prime contractors,
- Making recommendations to contracting officers as to whether particular requirements should be set aside for small businesses,
- Maintaining supervisory authority over OSDBU personnel, and
- Cooperating and consulting with the Small Business Administration (SBA) in carrying out OSDBU functions and duties under the Small Business Act and assigning a small business technical advisor to each office with an SBA-appointed procurement center representative.

The Federal OSDBU Directors Interagency Council (the “Council”) is an informal organization of Federal small business program officials. The Council is led by an Executive Committee which consists of the Chair, the Vice Chair, and a Secretary. These individuals are elected annually for one year terms by the voting membership. At the end of September, I will complete my second year as the elected Chair of the Council.

The Council meets monthly to discuss issues that are important to accomplishing our respective missions and share best practices for the utilization of small businesses.

As I mentioned previously, the OSDBU Council is an informal body and every Director formally advocates for the priorities of his or her agency. However, the Council does share common aims which are to:

- Ensure that information is disseminated to small businesses so that they can be fully informed as to all federal laws, regulations, programs and initiatives that are relevant to their pursuit of federal prime and sub-contracts.
- Highlight processes that will identify procurement opportunities for all designated small business categories, and ensure that such opportunities are presented in such a manner that they can be taken advantage of by small businesses. Such opportunities include those at both the prime contract and the subcontract level.

- Advocate federal government-wide compliance with all federal laws, regulations and policies designed to maximize the participation of all designated small business categories in the federal marketplace.
- Ensure that all OSDBU Directors and their staffs are provided sufficient information to effectively participate in accomplishing the mission, vision, and goals of the Council.
- Advocate training of the federal procurement workforce and community in the principles and methodologies to maximize small business utilization.
- Work with trade associations, federal prime contractors, and other interested groups to develop solutions to issues impacting procurement with the small business community.
- Create an environment that promotes innovation, and empowerment in utilizing small businesses to accomplish the Government's business.
- Identify best practices, share ideas, and experiences among federal agencies and private industry that will help leverage resources and develop solutions to more fully utilize small business in federal procurement.

Agencies are mandated to establish small business procurement goals and negotiate these with the SBA prior to the beginning of the fiscal year. The government-wide goals for prime contracting are 23 percent for small business. Included in this 23 percent are: 5 percent for small disadvantaged business, 5 percent for women-owned small business, 3 percent for service-disabled veteran owned small business, and 3 percent for small businesses in Historically Underutilized Business Zones (HUBZone).

For the past several years, the SBA has issued a Small Business Procurement Scorecard to (1) measure how well Federal agencies are meeting their small business and socio-economic prime contracting and subcontracting goals, (2) provide accurate and transparent contracting data, and (3) report agency-specific progress. Agency goals are negotiated with the SBA, and agency grades are based primarily on whether they have met their prime and subcontract goals. Specifically, an agency's overall grade is comprised of three quantitative measures: prime contract goal accomplishment (80% of the scorecard grade), subcontracting goal accomplishment (10% of the grade) and progress plans for meeting its goals (10% of the grade). Scorecards are widely distributed upon release and are publicly available on SBA's website.

One of the measures in the progress plan section of the scorecard is that agencies should "demonstrate that small business data is accurately reported in the Federal Procurement Data System (FPDS)". Also, the Federal Acquisition Regulation and supplemental guidance from the Office of Management and Budget (OMB) Office of Federal Procurement Policy (OFPP) require agencies to annually verify that agency data captured in FPDS are complete and accurate. The OFPP policy letters require agencies to verify that agency policies, procedures, and internal controls include regular reviews of procurement data and that agencies are appropriately sampling procurement records for accuracy on key data elements.

Every year, SBA provides each of the 24 Agencies covered under the *CFO Act* an individualized anomaly report for the previous year. These anomalies are usually instances where the size of the business is in question for obvious reasons (e.g. an obviously large business may be erroneously listed as small) or there is incomplete data related to the business size or there are other issues that SBA has identified as potential areas for questions. Agencies are then instructed to review and investigate each of these anomalies and either correct those that are in error or provide SBA with an explanation of why the transaction should not be corrected.

A number of Council member agencies are taking concrete steps to mitigate the possibility of large businesses obtaining contracts that are set aside for small businesses and ensuring that their small business data are valid. Some of the best practices at various agencies include the following:

- Adding responsibility and accountability for data accuracy as an element in contracting officers' and other contracting officials' performance plans,
- Mandating that contracting professionals participate in training that emphasizes the importance of accurate reporting,
- Conducting random sampling of procurement actions to determine if businesses are coded correctly and correcting those that have been miscategorized, and
- Encouraging small businesses to update their information in the Central Contractor Registration (CCR) or Online Representations and Certifications Application (ORCA) databases to accurately reflect size and socio-economic business status.

Madam Chairwoman and Members of the Subcommittee, thank you again for the opportunity to testify before your committee. The members of the Federal OSDBU Directors Interagency Council are committed to helping small businesses get a fair shake and that our acquisition systems produce the good results our taxpayers deserve. I welcome the opportunity to seek your advice and counsel on this important matter and am pleased to answer any questions you might have.