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The Minority Business Enterprise (MBE) Subcontracting Program of the Department of Defense (DOD) is an outgrowth of a national commitment and executive orders to increase minority involvement in Federal procurement programs. After a review, GAO concluded that DOD's implementation of the program was inadequate in three respects: (1) the contract clause to be included in selected prime contracts overlooked certain key aspects and requirements necessary to assure the probability of program success; (2) the program was not being adequately monitored and had inadequate standards for judging the prime contractors' effectiveness; and (3) DOD contracting officers were not given guidance on inclusion of the MBE subcontract clause. Minority firms interviewed by GAO reported efforts to solicit business and to seek aid from the Small Business Administration and other organizations, but they experienced difficulty breaking into established markets. Minority businessmen made recommendations for program improvements, some found to be feasible, but some going beyond the intent of the Executive order by implying a quota system. GAO recommended that DOD should revise the current contract clause to provide contractors with more specific direction on increasing minority involvement by: including objectives for prime contractors; defining the role of corporate officials; requiring contractors' records on solicitations and awards; providing guidance for determining contractors required to implement the program; and providing for more effective monitoring. (HTW)

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STATEMENT OF

R. W. GUTMANN, DIRECTOR

PROCUREMENT AND SYSTEMS ACQUISITION DIVISION ON THE
DEPARTMENT OF DEFENSE MINORITY BUSINESS ENTERPRISE PROGRAM

Before the

SUBCOMMITTEE ON MINORITY ENTERPRISE, AND GENERAL
OVERSIGHT, COMMITTEE ON SMALL BUSINESS
UNITED STATES HOUSE OF REPRESENTATIVES

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before your subcommittee today to present a statement on our recent work on the Minority Business Enterprise Subcontracting Program in the Department of Defense. You requested us to undertake this work and we issued our report to you on February 28, 1977.

The Minority Business Enterprise (MBE) Subcontracting Program of the Department of Defense is an outgrowth of a national commitment to increase involvement of MBEs in Federal procurement programs and the private enterprise system. Executive Order 11458, issued March 5, 1969, prescribed national efforts for developing and coordinating an MBE program. This order resulted in the establishment of the Office of Minority Business Enterprise in the Department of Commerce.

On October 13, 1971, Executive Order 11458 was superseded by Executive Order 11625. Executive Order 11625 provides that it is in the national interest to have full participation in our free enterprise system by minority business enterprises. All Federal departments and agencies are required to increase their efforts to foster and promote minority business enterprises.

As part of this effort, the Department of Defense established a Minority Business Enterprise subcontracting program with the objective of providing the maximum practicable opportunity for minority businesses to participate as Defense subcontractors.

The Department's program provides for contracting officers to include a contract clause in prime contract awards over \$500,000 where opportunities are believed to exist for MBE participation.

From our review we concluded that DOD's implementation of the MBE subcontracting program is inadequate in three respects. First, the contract clause to be included in selected prime contracts overlooks certain key aspects and requirements necessary to assure the probability of program success. Second, the program as presently conceived is not being adequately monitored by responsible DOD elements and suffers from inadequate standards for judging the effectiveness of prime contractors' efforts. Finally, DOD contracting officers have not been given guidance on when the MBE subcontract clause is to be included in prime contracts. As a result, the programs developed by the prime

contractors are not as effective as they might be, and one third of the largest DOD contractors are not even required to participate in the program.

ARMED SERVICES PROCUREMENT REGULATION
PROVISIONS IMPLEMENTING THE MBE
SUBCONTRACTING PROGRAM ARE INADEQUATE

The Executive Order does not require Federal agencies to establish specific goals or objectives for implementing a minority business enterprise program. DOD, therefore, has not established such goals and objectives for contractors to meet. Mr. Chairman, by that we mean that if minority firms are to be provided an opportunity to participate in Government contracts, then goals and objectives are needed to ensure that opportunity is provided. This does not mean that quotas for awards should be established to be filled regardless of MBE's capability to perform or competitiveness of price.

The ASPR clause which is included in prime contracts is silent with respect to certain key aspects and requirements which are necessary for assuring the probability of program success.

The contract clause requires contractors to establish source lists of MBEs and to solicit them. Weaknesses we noted in the contractors' programs related directly to the absence of prescribed goals and objectives for identifying and soliciting minority firms.

Only one of the four prime contractors we visited had actually developed goals and objectives of any kind, or provided specific assistance to minority firms. Even the goal of this

contractor was questionable because it was not based on any study or assessment of the potential for soliciting bids or awarding contracts to minority firms.

We found guidelines established by prime contractors to identify and solicit minority businesses were vague, and the duties of company officials responsible for the program were not defined. Also, we found that the required records on the program were inaccurate; in fact, in some cases more subcontracts were awarded to minority firms than the records indicated.

We believe that the following actions are necessary for the program to be successful. A routine system needs to be established to ensure that minority businesses are identified and adequately considered when solicitations are sent to prospective bidders. The duties and responsibilities of company officials responsible for administering the program need to be defined more precisely. Records, not only on awards, but also on solicitations of minority businesses should be maintained to show the extent of contractors' efforts to solicit minority businesses.

DOD'S MONITORING OF PRIME CONTRACTORS' PROGRAM LACKS SUBSTANCE

We found monitoring visits by DOD representatives to prime contractors generally involved brief discussions rather than verification of actions taken by prime contractors.

The contract administration offices rated all four contractors' programs that we reviewed as satisfactory. When we asked on what basis they arrived at this conclusion, the answer was based on their best judgment. These officials said existing guidelines, where available, are vague. Other officials

expressed the desire for more specific guidelines to make these determinations.

We believe that guidelines, such as performance standards, need to be developed by the Department of Defense to be used in evaluating prime contractors' efforts to identify and solicit minority firms.

We contacted selected minority firms, some of which were listed in MBE directories, to obtain information from minority businessmen about their experience with the MBE subcontracting program and any recommendations they might have for improving it. About half of those contacted were dissatisfied with the program. Most of the remaining were satisfied, though many believed that improvements were needed.

CONTRACTING OFFICERS NOT ADEQUATELY
IDENTIFYING CONTRACTORS WHICH SHOULD
PARTICIPATE IN PROGRAM

The Armed Services Procurement Regulation allows procurement contracting officers to exclude the mandatory minority business enterprise clause. Such exclusion can be made for contracts exceeding \$500,000, if, in the contracting officer's opinion, substantial subcontracting opportunities do not exist for minority businesses. However, ASPR neither defines what constitutes substantial subcontracting opportunities nor provides specific criteria for making this decision.

We compared a listing of DOD contractors participating in the program to a separate listing of the names of DOD's 100 top contractors. Over one-third of the major contractors for

fiscal year 1975 were not in DOD's report on companies participating in the MBE subcontracting program. For example, of 39 excluded companies, 14 were oil companies, 3 were major automobile manufacturers, 3 were nonprofit institutions, and the remainder were food or conglomerate industries.

In some cases, we were told no significant opportunities for subcontract awards to minority businesses existed. In other cases, officials, including one contracting officer, stated adequate criteria for determining when the clause should be included in contracts has not been prepared. We believe that contracting officers and other agency personnel lack knowledge as to the availability of capable and qualified minority businesses and the related opportunities of prime contractors to award subcontracts to MBEs.

EFFORTS BY MINORITY FIRMS TO SOLICIT CONTRACTS FROM PRIME CONTRACTORS

Thirteen of the 24 minority firms we spoke to told us they had contacted at least 1 DOD contractor to explain their capabilities and to solicit business. Eight had received bid solicitations, of which five resulted in contract awards. Fourteen of the firms had contacted the SBA and other organizations, such as the Office of Minority Business Enterprise for assistance; a few had attended trade fairs; and 17 of the 24 firms contacted were also included in one or more of the many directories developed on minority firms.

Direct efforts by minority firms to increase their visibility and acceptance by contractors have not always been successful. Six of the seven minority businessmen who

had attended trade fairs indicated that the trade fairs had been largely unproductive as far as new DOD contractor business was concerned. For example, one minority business attended six trade fairs in 1976 and contacted at least four DOD prime contractors with no results.

We found evidence that minority firms have experienced difficulty in breaking into established markets. Based on our discussions with prime contractors and with minority businessmen, it appears that contractors solicit bids largely from vendors with whom they have dealt with for years. The contractors told us that they routinely do business with established sources of proven quality and reliability, regardless of whether or not the business is a minority business.

One concern of the prime contractors was whether suppliers could provide adequate quality control systems. Minority businessmen told us that even when such systems were established, their chances for obtaining business from prime contractors were not significantly increased. As a result, some minority businessmen believed that their investment in a quality control system was not worth the cost.

Minority businessmen made a number of recommendations for program improvement, such as:

- Giving greater consideration to the potential for minority business subcontracting in selecting prime contractors for future DOD contracts.
- Providing assistance to minority businesses in obtaining needed raw materials.

- Establishing program goals.
- Increasing Government efforts to insure that contractors provide MBEs an equitable share of the available business.
- Establishing a program administered by SBA which would result in subcontracts sufficient to warrant minority business investment in quality control systems.
- Providing more Government publicity on MBE contact points in various Federal agencies.
- Increasing the number of contractor surveys on the capabilities of minority businesses.
- Allowing MBEs more time to respond to solicitations.
- Reducing paperwork and simplifying it.

While many of the suggestions offered by minority firms sound feasible, some seem to go beyond the intent of the Executive Order by implying a quota system for awards which we do not endorse.

GAO RECOMMENDATIONS

We recommended that the Secretary of Defense revise the current contract clause to provide contractors with more specific direction on increasing the involvement of minority firms in subcontracting. To accomplish this we said DOD should:

- Include goals and objectives for prime contractors to achieve in identifying and soliciting minority

firms capable of providing the required products and services.

--Define the role of responsible corporate officials, including their duties in program coordination and program implementation.

--Require contractors to record in summary form the number and value of solicitations made to minority businesses as well as awards to such businesses.

We also recommended that the Department:

--Provide specific guidance to procurement contracting officers to guide them in determining those contractors that should be required to implement an MBE subcontracting program.

--Provide for more effective monitoring of the MBE subcontracting program through the development of performance standards to be used in evaluating prime contractors' compliance with the MBE subcontracting program contractual requirements.

This completes our formal statement, Mr. Chairman. I will be glad to respond to any questions regarding our comments.