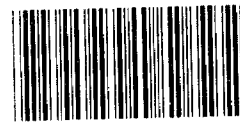


GAO

December 1985

JUSTICE
DEPARTMENT

Disadvantaged
Business Advocate Not
Reporting to Proper
Management Level



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General Government Division
B-207916

December 13, 1985

The Honorable Edwin Meese III
The Attorney General

Dear Mr. Attorney General:

In studying the procurement systems used by the Department of Justice, we noted that the Director, Office of Small and Disadvantaged Business Utilization (OSDBU), was not reporting to the proper level of Justice management. The Director, OSDBU, develops goals for and manages Justice's program to assist small businesses in competing for Justice contracts. As stated in the Small Business Act, as amended in 1978 by Public Law 95-507, Title II, section 221(k), the Director is required to account only to and report directly to the Attorney General or Deputy Attorney General. However, he currently reports to a Deputy Assistant Attorney General in the Justice Management Division, several levels below the Deputy Attorney General's office.

To determine the required supervision and reporting level for the Director, OSDBU, we reviewed Public Law 95-507 and its legislative history. We also reviewed Justice regulations and memorandums concerning what the Director's responsibilities are and who the Director should report to and compared the current situation to the requirements of Public Law 95-507. Our work was performed at the Department of Justice in Washington, D.C., and was done in accordance with generally accepted government auditing standards.

The Director, OSDBU, Must Report to the Agency Head or Deputy

Section 221(k) of Public Law 95-507 amended the Small Business Act to establish an Office of Small and Disadvantaged Business Utilization in federal agencies having procurement authority. The primary purpose of the OSDBU is to increase small business participation on federal contracts. The Small Business Administration approves agency goals for this area and the OSDBU directors then promulgate and monitor them. Section 221(k)(3) of Public Law 95-507 requires that the Director, OSDBU, report directly to the agency head or deputy and intends no further delegation of this reporting relationship.

In 1979, responding to the requirements of Public Law 95-507, Justice established its OSDBU in the Office of the Deputy Attorney General. The order creating this office is codified in 28 C.F.R., section 0.18a, which provides that the Director, OSDBU, is accountable to and reports directly to the Deputy Attorney General. However, in 1981, in order to relieve

the Deputy of the operational responsibility for providing the administrative support needed by the OSDBU, this office was transferred to the Office of Personnel and Administration in the Justice Management Division. This transfer also placed the OSDBU several levels below the Deputy Attorney General.

Justice memorandums issued in April 1981 explained that after the transfer, the Director, OSDBU, would generally report to, and receive supervision from, the Deputy Assistant Attorney General, Office of Personnel and Administration, and receive administrative support from this office. The Director, OSDBU, would also continue to report to the Deputy Attorney General, through a member of the Deputy's immediate staff, on those matters concerning the establishment of small and disadvantaged business contracting goals and the Department's progress in achieving those goals. The Deputy Assistant Attorney General, Office of Personnel and Administration, would initially evaluate the Director's performance and then transmit the evaluation for review by the Deputy Attorney General or his designee.

While Justice intended a continuing relationship with the Deputy Attorney General, we found that the Director, OSDBU, has not been reporting to the Deputy Attorney General or the Deputy's staff. Instead, the Director has been reporting to the Deputy Assistant Attorney General for Personnel and Administration, who also prepared the Director's annual performance evaluation. Although Public Law 95-507 requires a direct link between the Director and the Deputy Attorney General, we were advised by the Director that there had been no direct communication between them since 1981.

Congressional Intent Is Clear on Why the Director, OSDBU, Must Report to Agency Top Management

The legislative history of section 221(k) of Public Law 95-507 shows that the Congress intended to mandate a direct working relationship between the Director, OSDBU, and the agency head or deputy. This intent was based on the need to maximize the Director's effectiveness as a small and disadvantaged business advocate, and to ensure that the programs the Director represents receive support from the highest management level in the agency. The Congress noted that, in the past, officials who were responsible for small business participation in federal agencies' contracts often did not hold high enough positions in the agency to be effective advocates. The amendments in section 221(k) were intended to remedy this situation.

Recommendations

To ensure that the Department of Justice complies with Public Law 95-507, section 221(k), and the Congress' intent in establishing this statutory requirement, we recommend that the Attorney General require that

- the Director, OSDBU, report directly to the Deputy Attorney General and
- the Deputy Attorney General, rather than a lower management official, evaluate the Director, OSDBU's, performance.

Agency Comments

On September 3, 1985, we requested that Justice provide official comments on a draft of this report, within the 30-day time limits set by 31 U.S.C. 718(b). Although a 30-day extension was approved, Justice was unable to provide us comments within these time limits. Therefore, we are issuing this report without comments from Justice.

As you know, 31 U.S.C. 720 requires the head of a federal agency to submit a written statement on actions taken on our recommendations. This statement must be submitted to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report. A similar statement must be submitted to the Senate and House Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this report to the Director, Office of Management and Budget; the Director, Office of Personnel Management; the Administrator, Small Business Administration; various congressional committees; and other interested parties upon request.

Sincerely yours,



William J. Anderson
Director



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