

GAO

Report to the Chairman, Committee on
Government Operations, House of
Representatives

July 1991

TELECOMMUNICATIONS

GSA Should Improve
Oversight of Small
Business Contracting



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**Information Management and
Technology Division**

B-241154

July 9, 1991

The Honorable John Conyers, Jr.
Chairman, Committee on
Government Operations
House of Representatives

Dear Mr. Chairman:

This report responds to your request for a review of small and small disadvantaged business subcontracting opportunities for four major telecommunications contracts.¹ Specifically, we were asked to determine whether small and small disadvantaged businesses are being afforded "maximum practicable opportunity" for subcontracting under the two Federal Telecommunications System (FTS) 2000, Technical Assistance and Management Services (TAMS), and Washington Interagency Telecommunications System (WITS) contracts as required by the Small Business Act.²

We conducted our review at General Services Administration (GSA) and Small Business Administration (SBA) headquarters in Washington, D.C. We also visited the prime contractors' offices, and reviewed and analyzed records, progress reports, and copies of their subcontracting plans. We did not, however, verify the accuracy of the original data on which these documents are based. Appendix I details the review's objective, scope, and methodology.

Results in Brief

The prime contractors are exceeding their subcontracting goals under the FTS 2000, TAMS, and WITS contracts, using small and small disadvantaged businesses for telecommunications and other services. However, some large subcontractors³ did not provide their plans for further subcontracting; therefore, opportunities for subcontracting to small and

¹The Small Business Act and its implementing regulations define a small business as one that is independently owned and operated; is not dominant in its field of operation; and meets a specified size criterion. A small disadvantaged business is defined as a small business that is owned (at least 51 percent) and controlled by an individual(s) who is (are) socially and economically disadvantaged.

²"Maximum practicable opportunity" involves assuring that small and small disadvantaged businesses are being given an equitable opportunity to compete for subcontract awards.

³Large subcontractors, as defined by the Small Business Act, are those who receive subcontracts expected to exceed \$500,000 (\$1 million for construction) and that offer opportunities for further subcontracting. These subcontractors are required to develop plans for further subcontracting to small and small disadvantaged businesses.

small disadvantaged businesses may have been missed. As a result, it is not clear whether "maximum practicable opportunity" has been afforded to these businesses under these contracts. GSA's and the prime contractors' lack of diligence in overseeing the extent to which large subcontractors comply with the law has contributed to this uncertainty.

Background

GSA has awarded four major contracts that provide telecommunications and related services to federal agencies. GSA is purchasing long-distance voice, data, and video telecommunications services for the federal government under two FTS 2000 contracts awarded to two vendors, American Telephone and Telegraph Company (AT&T) and US Sprint Communications Company, on December 7, 1988. These contracts have a potential value of \$25 billion over 10 years. To assist in the oversight of these contracts, GSA awarded the TAMS contract to Centel Federal Services Corporation on November 30, 1988. This contract has an estimated value of \$29.4 million in total for the initial 10-month contract term and the four option years. Finally, for WITS, GSA contracted with the Chesapeake and Potomac Telephone Company (C&P) on January 12, 1989, to provide local telecommunications to federal agencies in the Washington, D.C., area. This contract is for 10 years, with a potential value of about \$282 million.

Small and small disadvantaged businesses have historically had difficulty obtaining government contracts. To create opportunities for these businesses, the Small Business Act and the Federal Acquisition Regulation (FAR) require virtually all government contracts in excess of \$500,000 (\$1 million for construction) that offer subcontracting opportunities to contain a contractor's plan for subcontracting to small and small disadvantaged businesses.⁴ Subcontractors who receive awards in excess of these dollar thresholds must also adopt a plan similar to the one required from prime contractors.⁵ These plans are made a material part of the contract. The prime contractors and large subcontractors are required to make good-faith efforts to achieve the goals that they have established in their subcontracting plans. They can be held in breach of contract for failing to make a good-faith effort to comply with the subcontracting plans.

⁴The act and the FAR require any contractor receiving a government contract for more than \$10,000 to agree that small and small disadvantaged businesses shall have "maximum practicable opportunity" to participate in contract performance.

⁵Small businesses are exempt from this requirement.

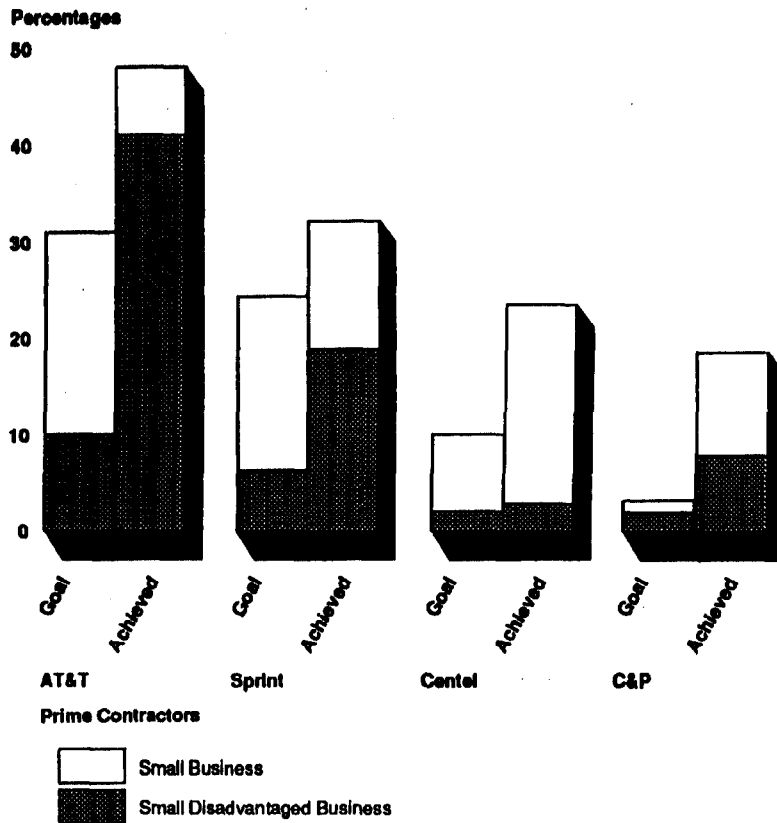
The GSA contracting officer for each contract is primarily responsible for ensuring contractor compliance with the Small Business Act and is assisted by staff in GSA's Office of Small and Disadvantaged Business Utilization. Specifically, the contracting officer is required to review and negotiate prime contractors' subcontracting plans to ensure that "maximum practicable opportunity" is provided to small and small disadvantaged businesses. Among other things, the contracting officer must monitor the extent to which the contractor is (1) meeting its goals, (2) making efforts to ensure the participation of small and small disadvantaged businesses, and (3) requiring its subcontractors to develop subcontracting plans.

SBA, as the principal government agency responsible for enforcing the provisions of the law pertaining to subcontracting, may assist both federal agencies and contractors in carrying out their responsibilities. SBA may also evaluate compliance with subcontracting plans, either on a contract-by-contract basis or, in the case of contractors having multiple contracts, on an aggregate basis. However, SBA has no authority over the administration of individual prime contracts or subcontracts and therefore must refer any problems identified to the individual contracting officer for action.

Prime Contractors Are Exceeding Their Goals

All prime contractors for these four contracts are exceeding the percentage goals set forth in their contracts for combined small and small disadvantaged business subcontracting (see figure below).

Figure 1: Prime Contractors' Goals and Achievements



Note 1: Reported Achievement as of September 30, 1990.

Note 2: The Office of Federal Procurement Policy issued a policy letter, published in the Federal Register on March 20, 1991, allowing contract awards to small disadvantaged businesses, a subset of small businesses, to count both toward the small disadvantaged goal and the small business goal.

Note 3: C&P had limited subcontracting opportunities in the early part of the contract because it is using its existing circuits and equipment to provide the services. Nevertheless, C&P has taken the initiative to identify support areas where small and small disadvantaged businesses can be used in the future.

Large Subcontractors' Performance Is Unclear

Large subcontractors must submit subcontracting plans as well as periodic progress reports, showing the extent to which they have, in fact, subcontracted with small and small disadvantaged businesses. However, some large subcontractors did not develop the required plans and thus did not submit reports. Neither the prime contractors nor GSA pressed the subcontractors for these plans.

We identified five large subcontractors who did not develop required plans for subcontracts valued at a total of about \$109 million. Without plans, we could not determine whether opportunities for subcontracting to small and small disadvantaged businesses might have existed. In three of these cases, the large subcontractors have already completed work. The remaining two subcontracts are still open, and further subcontracting opportunities may be available.

The lack of oversight provided by GSA and the prime contractors is clearly contributing to this problem with the large subcontractors. GSA has a contractual relationship only with the prime contractors, not the subcontractors. According to the project manager in GSA's Office of Small and Disadvantaged Business Utilization, the prime contractors—not GSA—must therefore ensure that large subcontractors submit plans. The FAR, however, requires the contracting officer to monitor whether prime contractors are requiring their large subcontractors to adopt subcontracting plans. Further, SBA's joint review with GSA of Sprint's small business subcontracting program, conducted in May 1990, had revealed that (1) Sprint did not have procedures in place requiring large subcontractors to submit plans and (2) two large subcontractors did not submit subcontracting plans. Both GSA and Sprint were notified of these deficiencies in June 1990.

The prime contractors could not explain why the required subcontracting plans were not prepared by three of these subcontractors. In two cases, the prime contractor told us that the subcontracts were issued during the early stages of the prime contract when they were defining which subcontracts required subcontracting documentation. As a result, no subcontracting plans were submitted.

During the course of our review, the prime contractors took some action to remedy this problem. On May 3, 1991, Sprint submitted to GSA revised policies and procedures, requiring large subcontractors to prepare subcontracting plans. In addition, Sprint, C&P, and Centel asked the large subcontractors cited above to submit subcontracting plans.

Conclusions

The subcontracting requirements of the Small Business Act, when effectively enforced, can provide subcontracting opportunities to small and small disadvantaged businesses. Certainly, these four telecommunications contracts, with their combined potential value of over \$25 billion, contain significant opportunities for such disadvantaged businesses. While the prime contractors have developed subcontracting plans and

indeed have exceeded their overall goals, they have been remiss in their oversight of their large subcontractors. It appears that "maximum practicable opportunity" may not have been afforded small and small disadvantaged businesses under these contracts because of the failure of some large subcontractors to develop subcontracting plans. GSA is not exerting sufficient influence over the prime contractors to ensure that they, in turn, make sure that their large subcontractors comply with the law.

Recommendation

To help ensure that small and small disadvantaged businesses are provided "maximum practicable opportunity," we recommend that the Administrator, General Services Administration, strengthen oversight of contractor activities under the FTS 2000, WITS, and TAMS contracts, especially as related to development of subcontracting plans by large subcontractors, to ensure compliance with the Small Business Act.

As requested, we did not obtain agency comments on a draft of this report. As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution of it until 30 days from the date of this letter. We will then send copies to interested congressional committees; the Administrator, General Services Administration; the Administrator, Small Business Administration; and other interested parties. Copies will also be made available to others upon request.

Please contact me at (202) 275-3195 if you have any questions concerning this report. Major contributors to this report are listed in appendix II.

Sincerely yours,



Jack L. Brock, Jr.
Director, Government Information
and Financial Management

Contents

Letter	1
Appendix I Objective, Scope, and Methodology	10
Appendix II Major Contributors to This Report	11
Figure	4

Figure 1: Prime Contractors' Goals and Achievements

Abbreviations

AT&T	American Telephone and Telegraph Company
C&P	Chesapeake and Potomac Telephone Company
FAR	Federal Acquisition Regulation
FTS 2000	Federal Telecommunications System 2000
GAO	General Accounting Office
GSA	General Services Administration
IMTEC	Information Management and Technology Division
SBA	Small Business Administration
TAMS	Technical Assistance and Management Services
WITS	Washington Interagency Telecommunications System

Objective, Scope, and Methodology

The objective of our review was to determine whether small and small disadvantaged businesses are being afforded "maximum practicable opportunity" on the FTS 2000, WITS, and TAMS contracts, as prescribed by section 211 of the Small Business Act.

In conducting our review we analyzed the Small Business Act, as amended, the FAR, contracts, and subcontracts. We conducted our review primarily at GSA's headquarters office in Washington, D.C., and at the service oversight centers for the FTS 2000 prime contractors located in Vienna and Herndon, Virginia. We interviewed GSA contracting officers, specialists, and officials responsible for monitoring contract performance. In addition, we attended and collected information at the FTS 2000 monthly meetings in which GSA, SBA, and the prime contractors participated. We also met with SBA officials responsible for monitoring contractor compliance.

To assess contractors' compliance with section 211 of the act and the FAR, we visited the prime contractors' offices and reviewed records, progress reports, and copies of their subcontracting plans. When meeting with these prime contractors, we reviewed records and interviewed officials to determine if they had (1) marketed subcontracting opportunities to small and small disadvantaged business, (2) developed and implemented their subcontracting plans, and (3) achieved their goals. We further analyzed these contractors' subcontracting plans and progress reports. However, we did not verify the accuracy of the source data input for these documents. We also met with selected subcontractors who were certified as being small and small disadvantaged businesses in the Washington, D.C., metropolitan area; Chicago, Illinois; and Atlanta, Georgia; to obtain documentation and their views on whether "maximum practicable opportunity" was being afforded.

Our review was performed between July 1990 and June 1991. We conducted our review in accordance with generally accepted government auditing standards.

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