

**STATEMENT OF  
JOHN R. WHEELER  
EXECUTIVE VICE PRESIDENT  
VETERAN CORPS OF AMERICA  
BEFORE THE  
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY  
OF THE HOUSE COMMITTEE ON VETERANS' AFFAIRS**

**July 25, 2007**

Chairwoman Sandlin and distinguished members of the Subcommittee, I am pleased to have the opportunity to make this statement regarding contract bundling as it relates to the so called "Rule of Two" and the impact that has on Service Disabled Veteran Owned Small Businesses (SDVOSB).

Under the sole source provisions of FAR 19.14, The Service-Disabled, Veteran-Owned Small Business Procurement Program, a contract can only be awarded to an SDVO company without competition if, "two or more SDVO SBCs are not likely to submit offers," and then only if the requirement is valued at less than \$3M for services and \$5M for products. While some mistakenly believe that this requirement is good for SDVOs because it gives them the ability to compete on any SDVO requirement, in practice its effect is to require in most instances the time and cost of the full competitive process, thereby diminishing the attractiveness of SDVO small business set-asides compared to 8(a) awards in the Government procurement process.

The largest impediment to SDVOs getting contracts are the competitive advantages afforded 8(a)s by way of easily awarded sole source contracts and the ability to enter into a Mentor-Protégé Agreement-based joint venture with a large business and be classified as "small" for the purpose of being awarded Government contracts. Most significantly, the 8(a) provisions allow contracting officers to minimize the time and cost to execute a procurement by eliminating the lengthy competitive process altogether for contracts of less than \$3M for services and \$5M for products. This makes using an 8(a) company very attractive to Government contracting officers as they can avoid the requirements to solicit, receive and evaluate multiple proposals and at the same time remove the additional risk of delayed delivery to their end users due to a prolonged bid protest. In other words, contracting with an 8(a) company procedurally helps contracting officers perform their function faster and more efficiently where contracting with an SDVO company does not. Many SDVO companies report similar anecdotes: a contracting officer telling them they cannot make an award to them, but if they find an 8(a) prime contractor to work with they can make the award in days.

Under Federal Acquisition Regulation (FAR) 19.8 governing the 8(a) program, *all* contracts for less than \$3M for services and \$5M for products are awarded without competition. Only when a requirement exceeds these thresholds is the contracting officer required to compete the contract among eligible 8(a) firms, and then only if there "is a reasonable expectation that at least two eligible and responsible 8(a) firms will submit offers." If an 8(a) firm is owned by a Native American or Alaskan Eskimo tribe, they can be easily awarded sole source contracts of unlimited value under the 8(a) regulations.

Conversely, under the sole source provisions of FAR 19.14, The Service-Disabled, Veteran-Owned Small Business Procurement Program, a contract can only be awarded to an SDVO company without competition if, "two or more SDVO SBCs are not likely to submit offers," and then only if the requirement is valued at less than \$3M for services and \$5M for products. While some mistakenly believe that this requirement is good for SDVOs because it gives them the ability to compete on any SDVO requirement, in practice its effect is to require in most instances the time and cost of the full

competitive process, thereby diminishing the attractiveness of SDVO small business set-asides compared to 8(a) awards in the Government procurement process.

The ability to award sole source contracts has been the cornerstone of the Government's success in developing a supplier base of socially and economically disadvantaged companies and exceeding their contracting goals with 8(a) firms. The program is successful because these businesses are able to more quickly gain the resources necessary to develop and maintain corporate infrastructure and capability. The "small" status of the 8(a) Mentor Protégé-based joint venture gives large businesses incentives to contract with and support 8(a)s over SDVOs. The Simple legislative changes on the following page are all that is required to grant these same advantages to service disabled veteran owned companies. Without them, few will attain the critical mass required to build and sustain the requisite business infrastructure to be viable over the long term and most will fail.

As one of the leading purchasers in the Federal Government, the Army is the largest market for our goods and services. Correspondingly, they have the toughest assignment when it comes to meeting procurement goals for all types of small businesses. In "failure," the Army spends more money with service disabled veteran and veteran owned small businesses than any organization on Earth. While they have not yet reached the minimum 3% standard, their identification of over \$1.7B of upcoming opportunities for service disabled veteran owned small business is unprecedented for any small business contracting program. However, now more than ever, their contracting community needs your assistance to be successful on the scale necessary to achieve and exceed the 3% standard.

On June 20, 2007 Public Law 109-461, the Veterans Benefits, Health Care and Information Technology Act of 2006 became effective. This legislation gave the Department of Veterans Affairs additional procurement tools to enable them to much more easily contract with service disabled veterans. Simply stated, at the VA service disabled and veteran owned companies are now at the top of the contracting ladder. Now, if an SDVO can perform a requirement under \$5M it can easily be sole sourced to them if they are a responsible contractor and propose a fair and reasonable price. Moreover, for requirements over \$5M where one or more SDVO companies are identified as capable, the VA contracting officer now "shall" set-aside that contract for SDVOs and as he or she is no longer encumbered by the more nebulous direction "may."

The point today is simple. Give these same tools to the United States Army. Reauthorize the Army exactly the same way you reauthorized the Department of Veterans Affairs. Do not wait to make these critical changes until consensus can be reached on every topic related to the Small Business Act that will then take another year or more to be implemented. Make these small, simple changes to the Army and DoD's procurement authority and enable the same sweeping culture change you have enabled within the Department of Veterans Affairs.

My Grandfather, General Earle G. Wheeler, started his Army career in 1932 upon graduation from West Point. Thirty-eight years later he retired after serving as Chairman of the Joint Chiefs

of Staff for an unprecedented six years under Presidents Kennedy, Johnson and Nixon. Personally, my brother and I have ridden in the family car to a funeral at Arlington National Cemetery eight times. This heritage of service requires that we accept nothing less than the full commitment of the U.S. Army to support service disabled veterans. We applaud the Army's Office of Small Business Programs for their years of hard work and the measurable success they have achieved over the past two fiscal years. We are convinced the simple changes we encourage you to make will provide the final push – the right tools if you will - to enable the Army to meet and exceed the SDVO contracting mandate. A goal to which I know through experience they are fully committed.

In closing, I paraphrase something I heard at the National Veterans Small Business Conference a few weeks ago by saying that veterans are the faces of America. No other group is more diverse, more accepting of that diversity, nor more able to function effectively together because of it. You and I know it, the American public knows it and the Army knows it and thrives because of it. Helping veterans succeed in business helps all of America and makes all Americans proud. Please assist the Army in their ongoing efforts to support service disabled veteran owned small businesses.

I thank you again for this opportunity to appear before you today. This concludes my testimony and I welcome your questions today or in the future.