



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

March 15, 2005

OFFICE OF THE ADMINISTRATOR

Hand Delivered

The Honorable Jerry Lewis
Chairman
Committee on Appropriations
House of Representatives
2112 Rayburn House Office Building
Washington, DC 20515

RE: Small business opposes renewal of Section 8014 in the FY 2006 Defense Appropriations Act

Dear Mr. Chairman:

The purpose of this letter is to seek your assistance in addressing a provision from the FY 2005 Defense Appropriations Act, Public Law 108-287, that is harming small businesses.

Section 8014(a) (3) of the FY 2005 Defense Appropriations Act precludes the Department of Defense(DOD)from moving work from the public sector to the private sector following competition pursuant to OMB Circular A-76 if the contractor's ability to lower the cost of its bid is connected to: (1) its failure to make an employer-sponsored health insurance plan available to workers employed in performance of the contract, or (2) lesser contributions toward the premium or subscription share of an employee's health-insurance plan than the amount paid by DOD for health benefits for its civilian employees.

An important mission of the United States Small Business Administration (SBA) and SBA's Office of Advocacy is to identify and seek to remove artificial barriers that prevent small business from competing on a level playing field for federal procurement dollars. While the intent of Section 8014 (a)(3) may have been to encourage federal defense contractors to provide health care coverage for their employees, unfortunately, the practical effect of this provision is to bar small businesses from competing for these DOD contracts. This is a significant consequence, given that a substantial portion of the awards made by DOD would otherwise go to small and disadvantaged enterprises.

Small businesses have historically been a significant private sector contributor to the success of the government's competitive sourcing program. A mid-1980s research study performed for the SBA's Office of Advocacy showed that small businesses from 1985 to 1987 received 553, or 70%, of the 793 A-76 activities awarded by the U.S. Department of Defense and Federal civilian agencies. More recently, according to a DOD report

provided to SBA, during the period of 1995 to 2004, of the 678 contracts awarded as a result of A-76 competitions, 460, or 68%, were awarded to small businesses. This data supports the position that small businesses have been successful in winning A-76 contracts.

Circular A-76 competitions represent a significant part of DOD's acquisition strategy for opening contracts to small business. Preliminary indications show DOD's increase in contract awards for small businesses. However, if section 8014(a)(3) is retained, its implementation will have the unintended consequence of limiting small businesses' ability to compete for DOD contracts which make up the largest percentage of federal contracting opportunities.

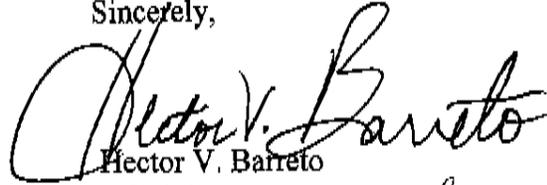
In our view, Section 8014(a)(3) of Public Law 108-287 creates barriers for small businesses in bringing their research, development and innovation to the federal marketplace. These barriers, in turn, stifle entrepreneurship and hamper job creation. An additional concern is the precedent Section 8014(a)(3) sets with regard to health care costs. As noted by the Council for Affordable Health Insurance in correspondence dated November 10, 2004 to Senator Ted Stevens:

This language discourages employers from providing their employees with health coverage that is more cost effective than federal coverage or encourages consumer control and responsibility, such as Health Savings Accounts (HSAs). Additionally, it discourages competition in the health market place. Finally, it robs the American taxpayer from reaping the benefits of lower governmental cost through innovative health care products and competition.

Given these concerns, we urge you to oppose renewal of this provision in the FY 2006 Defense Appropriations. Thank you for your consideration of this matter. Should you have any questions, please feel free to contact any of us.

The Office of Management and Budget advises that there is no objection to the submission of this letter to Congress, and that its contents are in accordance with the President's agenda.

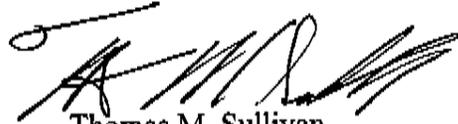
Sincerely,



Hector V. Barreto
Administrator



Melanie R. Sabelhaus
Deputy Administrator, Member
Service Acquisition Reform Panel



Thomas M. Sullivan
Chief Counsel for Advocacy

cc: The Honorable David Obey, Ranking Member
Appropriations Committee, U.S. House of Representatives