STATEMENT OF
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TO THE
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, ORGANIZATION AND PROCUREMENT
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES
ON
OPENING FEDERAL CONTRACTING TO SMALL, MINORITY-OWNED BUSINESS

SEPTEMBER 26, 2007

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to submit The American Legion's view on the Federal Contracting Opportunities for Small Businesses in relation to veterans.

Veteran And Service Disabled Veteran Owned Businesses

The American Legion views small businesses as the backbone of the American economy. It is the driving force behind America's past economic growth and will continue to be the major factor as we move further into the 21st century. Currently, more than nine out of every ten businesses are small firms, which produce almost one-half of the Gross National Product. Veterans' benefits have always included assistance in creating and operating veteran owned small businesses.

The impact of deployment on self-employed Reservists is severe with a reported 40 percent of all veteran owned businesses suffering financial losses and in some cases bankruptcies. Many small businesses have discovered they are unable to operate, and suffer some form of financial loss when key employees are activated. The Congressional
Budget Office, in a report titled, *"The Effects of Reserve Call-Ups on Civilian Employers,"* stated that it "expects that as many as 30,000 small businesses and 55,000 self-employed individuals may be more severely affected if their Reservist employee or owner is activated."

Additionally, the Office of Veterans' Business Development within the Small Business Administration (SBA) remains crippled and ineffective due to a token funding of $750,000 per year. This amount, which is less than the office supply budget for the SBA, is expected to support an entire nation of veteran entrepreneurs. The American Legion feels that this pittance is an insult to American veteran business owners, that it undermines the spirit and intent of Public Law 106-50, and it continues to be a source of embarrassment for this country.

The American Legion strongly supports increased funding of the Small Business Administration's Office of Veterans' Business Development to provide enhanced outreach

and community based assistance to veterans and self employed members of the Reserves and National Guard.

Additionally, The American Legion supports allowing the Office of Veterans' Business Development to enter into contracts, grants, and cooperative agreements to further its outreach goals. The Office of Veterans' Business Development must be authorized to develop a nationwide community-based service delivery system specifically for veterans and members of Reserve components of the United States military.

The American Legion recommends that funding for the SBA Office of Veterans' Business Development be increased to $2 million.

The Veterans Federal Procurement Opportunity

The American Legion seeks and supports legislation to require a 5 percent goal, with set-aside and sole source authority, for federal procurements and contracts for businesses owned and operated by service-disabled veterans and businesses owned and controlled by veterans. This includes those small businesses owned by Reserve component members who have been or may be called to active duty, or may be affected by base closings and reductions in our military forces.

The American Legion has encouraged Congress to require reasonable "set-asides" of Federal procurements and contracts for businesses owned and operated by veterans. The American Legion supported legislation in the past that sought to add service-connected disabled veterans to the list of specified small business categories receiving 3 percent set-asides.

Public Law 106-50, "The Veteran Entrepreneurship and Small Business Development Act of 1999," stated "The Government Wide goal for participation by small business concerns owned and controlled by service-disabled veterans shall be established at not less than 3 percent of the total value of all prime contract/subcontract awards for each fiscal year." This law mandated that each federal agency and subset must meet the 3 percent goal. Finally, this was further supported by the passing of Public Law 108-183 which clearly provided a vehicle to meet the 3 percent goal.

Agency compliance with Public Law 106-50 has been minimal and non-compliant. In 2004, President Bush issued Executive Order 13360 to strengthen opportunities in Federal contracting for service-disabled veteran owned businesses.

The following list contains selected agencies that have failed to meet the 3 percent goal for Fiscal Year (FY) 06 for service disabled veteran owned businesses that have been established since 1999 and enhanced by the executive order in 2004.

1. The Executive Office of the President
2. Defense
3. Agriculture
4. Homeland Security

5. Transportation
6. Justice
7. Labor
8. Nuclear Regulatory Commission
9. Treasury
10. Interior
11. Education
12. Environmental Protection Agency
13. GSA
14. Health and Human Services
15. NASA
16. Energy
17. National Science Foundation
18. OPM
19. Social Security Administration
20. USAID
21. Commerce
22. HUD
23. FEMA

Once again, these are some of the agencies that did NOT meet the 3 percent goal for FY 06. Service Disabled Veteran-Owned Businesses (SDVOBs) had the potential to be awarded approximately $7 - 8 billion for FY 06 and about the same for FY 07, yet they have only been awarded approximately $3 billion. The scorecards can be viewed at:
http://www.sba.gov/aboutsba/sbaprograms/goals/index.html

For easier reference we have attached this report with only the relevant data in relation to veteran and service disabled veteran owned businesses.

The actual dollar amount and percentage of all federal agencies can be viewed at:
http://www.sba.gov/idc/groups/public/documents/sba_homepage/sbgr_fy_2006.html

Certified Veteran and Service Disabled Veteran Owned Businesses

The American Legion applauds the Veterans Information Portal operated by the Department of Veterans' Affairs Office of Small and Disadvantaged Business Utilization. The Vendor Information Pages is a veteran business database that lists businesses that are 51% or more owned by veterans or service-connected disabled veterans. These businesses are certified as veterans and if they are disabled and if they are 51% majority owners of their business.

It is used to promote and market Veteran-Owned Small Businesses (VOBs) and SDVOBs. This database is the number one source for Federal agencies looking for SDVOBs to comply with Executive Order 13360. The Vendor Information Pages (VIP) database averages over 4500 visits per month accounting for over 4100 vendor searches by Federal agencies, prime contractors and private citizens. This database is also the sole source for all inquiries for market

research requested through The Center for Veterans Enterprise (CVE) and the Department of Veterans Affairs (VA)

The VIP is a tremendous tool that contracting officers can refer to in order to guarantee that they are negotiating with certified VOBs and SDVOBs.
http://www.vip.vetbiz.gov/

The National Veterans Business Development Corporation

Congress enacted the Veterans Entrepreneurship (TVC) and Small Business Development Act of 1999 (Public Law 106-50) to assist veteran and service-connected disabled veteran owned businesses by creating the National Veterans Business Development Corporation. Presently, the objectives of Public Law 106-50, as originally envisioned, are not being met at the present time due to the scope of the mission, staffing and funding requirements.

The American Legion believes that with limited funding and staffing, TVC should not try to replicate preexisting services such as those provided by the Small Business Development Centers (SBDC).

The American Legion recommends that the resource-training centers TVC is currently providing funding for be given to the jurisdiction of the SBA Veteran's Development Office.

The SBA's Veterans' Development Office is presently funding five such centers around the country and should be given the additional three. In addition, the SBA office should take on the responsibility of partnering with military and VA hospitals, TAP, State Department of Veterans Affairs Offices, Procurement Technical Assistance Centers, Military Family Support Centers, and veterans' service organizations to provide employment and entrepreneurship programs along with the addition of funding and necessary senior staff to oversee the implementation and development of such a program. TVC would operate more effectively acting as a liaison with existing associations of small business owners and, by working with SBA programs, ensure the involvement of private and successful military alumni from the business community to help support SBA's successful integration, and reintegration of veteran and Reserve component entrepreneurs into the private and public American marketplace.

The American Legion supports restructuring the National Veterans Business Development Corporation by changing the current chief executive officer position to a congressionally appointed director from the Senior Executive Service. This change would allow Congress greater oversight of expenditures and an enhanced ability to monitor performance. Finally, it will restrict the role of the Board of Directors to fund raising, marketing and branding, and will serve to increase small business opportunities to veterans.

The American Legion reiterates that the Small Business Administration's Office of Veterans' Business Development should be the lead agency to ensure that veterans returning from Iraq and Afghanistan are provided with Entrepreneurial Development Assistance. Comprehensive

training should be handled by the SBA and augmented by TVC's on-line training. Resource Training Centers should include DOD and VA faculties.

Currently, many military families are suffering financial hardship while their loved ones are recuperating in military hospitals around the country. Many spouses leave their jobs to be with that disabled servicemember which results in financial ruin. Business development training is one key to a seamless transition for servicemembers. If business development training was offered to military members while still at a treatment facility, a small home-based business is feasible.

Recommendations

1. **Incorporate Executive Order 13360 into SBA Regulations and Standard Operating Procedures**

   The American Legion agrees with the recommendations given from the "SBA Advisory Committee on Veterans Business Affairs" FY 2006 SBA report;

   • "The SBA needs to reemphasize implementation of Executive Order 13360 and establish it as a Federal procurement priority across the entire Federal sector. Federal agencies need to be held accountable, by the SBA, for their implementing Executive Order 13360 and their progress toward the 3 percent goal. The SBA needs to establish a means to monitor agencies progress and where appropriate, establish a vehicle to report or otherwise identify those that are not in compliance, and pursue ongoing follow-up."

   • "To achieve the SDVOB procurement goal contained in Executive Order 13360, the SBA must identify all agencies affected by the Executive Order under the directive of Congress. Then the SBA should assist these agencies to develop a demonstrable, measured strategic plan and establish realistic reporting criteria. Once the information is received, SBA should disseminate this data to all agencies, Veterans Service Organizations and post its findings on the SBA website as a bellwether of program progress."

2. **Change to Sole Source Contracting Methods**

   To provide parity among special emphasis procurement programs, the SBA should take immediate, appropriate steps to promulgate regulations to revise 13 CFR 125.20. The proposed revision would eliminate existing restrictions on the award of sole source contracts to SDVOB such as the "Rule of Two". The change should mirror 13 CFR 124.508 part c which applies to 8(a) Program participants and states, "In order to be eligible to receive a sole source 8(a) contract, a firm must be a current participant on the date of the award…" Accordingly, adopting this language would eliminate all restrictions on sole source awards to SDVOBs.

3. **Develop a User Friendly Veteran Procurement Database**

   The American Legion also supports that the Federal government and DOD utilize its available technology to create, fund and support a veteran procurement-spending database within DOD. This action will finally put veteran-owned and service-disabled veteran-owned businesses on equal footing with all other small business special interest groups as regards Federal procurement opportunities.

4. **Educate Contracting Officers on recent Comptroller Decision for Small Business Set Asides**

   The GAO sustained a bid protest challenging a U.S. Air Force solicitation for portable chemical toilet services because the agency failed to make reasonable efforts to determine whether the acquisition was suitable to be set aside for service-disabled veteran-owned small business concerns. This precedential decision reinforces that a procuring agency has the discretion to make a sole-source award to an SDVOB if the agency does not have a reasonable expectation that two or more SDVOBs would submit offers for the work.

   The entire language of this decision can be found at the following website.
   http://www.gao.gov/decisions/bidpro/299291.pdf

CONCLUSION

The mission of The American Legion's National Economics Commission is to take actions that affect the economic well being of veterans, including issues relating to veterans' employment, home loans, vocational rehabilitation, homelessness and small business. The American Legion reiterates that the Small Business Administration's office of Veterans' Business Development should be the lead agency to ensure that veterans returning from Iraq and Afghanistan are provided with Entrepreneurial Development Assistance and that existing laws and regulations already emplaced must be enforced to assist our nation's veteran entrepreneurs.

The American Legion looks forward to continue working with the Committee to enhance veteran entrepreneurship. Mr. Chairman and Members of the Committee, this concludes my testimony.