

Statement of  
The Associated General Contractors of America  
to the  
Committee on Small Business  
U.S. House of Representatives  
For a hearing on  
Small Business Administration Contracting Programs  
September 19, 2007



*Building Your Quality of Life*

The Associated General Contractors of America (AGC) is the largest and oldest national construction trade association in the United States. AGC represents more than 32,000 firms, including 7,000 of America's leading general contractors, and over 12,000 specialty-contracting firms. Over 13,000 service providers and suppliers are associated with AGC through a nationwide network of chapters. AGC contractors are engaged in the construction of the nation's commercial buildings, shopping centers, factories, warehouses, highways, bridges, tunnels, airports, waterworks facilities, waste treatment facilities, dams, water conservation projects, defense facilities, multi-family housing projects, site preparation/utilities installation for housing development, and more.

**THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA**

2300 Wilson Boulevard, Suite 400 • Arlington, VA 22201 • Phone: (703) 548-3118 • FAX: (703) 548-3119

**STATEMENT  
OF  
P.J. GOEL  
COMMITTEE ON SMALL BUSINESS  
TO THE  
U.S. HOUSE OF REPRESENTATIVES  
SEPTEMBER 19, 2007**

---

AGC is pleased to share our thoughts for this year's upcoming reauthorization of the Small Business Act. My name is P.J. Goel and I am President of Goel Services, Inc. We specialize in construction, renovation, design/build construction, demolition, environmental remediation, mechanical insulation, wastewater studies and information technology and sales. We are certified as a small disadvantaged business enterprise by the SBA 8(a) program, Maryland Department of Transportation and Metropolitan Washington Airports Authority. We are also certified as a SBA HUBZone Certified Business Concern.

Today I am going to focus on the changes AGC recommends for the HUBZone program and the growing concern over large construction contract awards to Alaska Native Corporations. I would like to thank Chairwoman Velazquez and the Members of the Committee for allowing me the opportunity to provide a realistic assessment of the effects of these important programs for construction contractors today.

### **HUBZone Program**

AGC has significant concerns about the effectiveness and fairness of the HUBZone program as it is applied to the construction industry. The program does not realize its goal of increasing employment and reinvesting in economically disadvantaged areas. It does not address the issue of contractors who simply act as project brokers. It does not require the SBA to measure the successes and failures of the program. Finally, it does not fairly reward firms in a manner consistent with the Federal construction market. I should add that with the exception of the Office of Advocacy, our industry has had no success in getting SBA's attention or interest in examining our concerns, much less the effectiveness of the program. I would now like to offer several suggestions for improving the program Congress intended.

Limit the Program to Construction Projects in or Near a HUBZone. The HUBZone program should apply only to contracts for the construction of federal projects within a 150-mile radius of the HUBZone contractor's principal place of business. Only those projects can offer employment to a significant number of HUBZone residents, and only those projects can promise to make a lasting change in their economic circumstance.

Unlike contracts for commercial items and manufactured goods, application of the HUBZone program to include construction projects only encourages brokering - merely acting as an "agent" to get someone else to perform the work. While the HUBZone

concept has merit in its intent to encourage economic development within a historically underutilized and economically disadvantaged community, the concept does not necessarily work the same for services such as those offered in the construction industry.

Change the HUBZone Self-Certification Process. Currently, HUBZone businesses are required to self-certify to the SBA that they meet the criteria for a HUBZone business. It is a simple matter of registering the business through the Central Contractor Registry (CCR), filling out a self-disclosure form to the SBA and checking a box stating that you are a HUBZone business - all with no additional oversight by the SBA.

Congress should require the SBA to revise the self-certification process by requiring HUBZone companies to file annual reports certifying their annual sales and affiliations, including partnerships with large firms performing subcontract work for the HUBZone business. The burden of challenging a contractor's HUBZone status is left to competitors who wish to file a protest with the SBA or GAO after a bid. The protest process is costly for the firm making the challenge because legal fees can be significant. It is also costly for the contracting agency because the protests create delays in the final contract award, which in turn creates delays in contract completion. The SBA must take measures to ensure the integrity of the program.

Require the SBA to Routinely Investigate Alleged Abuses of the Program. Some construction contractors have found the SBA to be indifferent to their complaints when individual firms are violating the terms or conditions of the HUBZone program. The SBA should require their regional offices to investigate such complaints and publicly report their findings and decisions in the Federal Register within a reasonable period of time.

Congress should authorize and require a smaller price preference apply to the construction industry. While Congress may want to give HUBZone contractors an advantage, it should be an advantage that reflects the realities of the market. At most, Congress should give the construction contractors in the HUBZone program no more than a five percent bid preference. Industry profit margins on Federal projects tend to run to a maximum of two or three percent on average largely due to a very competitive market place, so a bid preference of five percent would still exceed the profit margin on the vast majority of federal construction contracts. While some believe the current price preference gives HUBZone contractors a fair advantage, a ten percent preference for the construction industry is a windfall, not an advantage.

### **Alaska Native Contracting**

Over the last few years the volume of complaints we receive from our members about the growing reliance on the use of Alaskan Native Corporations (ANCs) by Federal agencies as a contracting vehicle to easily attain small business contracting goals continues to increase. The fact of the matter is that in today's Federal contracting market, ANCs have extraordinary special preferences that significantly reduce federal contracting opportunities for traditional small businesses.

Some ANCs have taken excessive advantage of their special benefits to obtain multi-million dollar sole-source government contracts. In April 2006, the General Accounting Office issued a report demonstrating how ANCs have been using the SBA program, reporting that:

- Awards to ANCs went from \$265 million in FY 2000 to \$1.1 billion in FY2004
- By 2005, ANC contracting dollars had more than doubled to \$2.4 billion, and;
- Between FY 2000 to FY 2004, 77 percent of ANC contracts were sole source awards.

The SBA must better track the growth of ANCs. While the GAO report states that this program is fulfilling its purpose, it is clear that the SBA must improve its management and oversight of the program. Congress should encourage SBA to examine the impact these preferences have had on other disadvantaged groups, not to mention the inefficiencies in government contracting and the cost to taxpayers. The GAO proposed better compliance through monitoring performance, tightening controls on subcontracting, and ensuring that an ANC owns only one subsidiary that generates revenue within a primary industry. SBA must quickly work to implement these suggestions.

Given the accelerated increase of contract awards and the special preferences awarded to ANCs, we recommend that Congress apply the rules of the 8(a) program to ANCs.

## **Conclusion**

I would also like to thank Chairwoman Velazquez for her strong leadership on these very important issues and for the opportunity to testify on our recommendations for improving these critical contracting programs. AGC looks forward to working with the committee on balancing the needs of the federal government's procurement system and creating an environment in which construction contractors can compete on a level playing field and continue to work to improve the quality of federal construction delivered to the owner – the Federal government and ultimately the American taxpayer.