

Fraud continues in small business preference programs By Charles S. Clark
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Contractor fraud in small business set-aside programs is difficult to detect and prove, but its annual costs to government are significant in dollars and damage to legitimate business that deserve the work, two federal watchdogs told a House panel Thursday.

In fulfilling the Obama administration's goal of giving 23 percent of prime federal contracts to small business, agencies need to do better at making a public example of "bad actors" and at vetting contractors that misrepresent their qualifications for minority advantages through self-certification, according to Peggy Gustafson, inspector general for the Small Business Administration, and Brian Miller, IG for the General Services Administration.

They spoke at a hearing of the House Small Business Subcommittee on Investigations, Oversight and Regulations called by Chairman Mike Coffman, R-Colo., who sought to learn why much contractor fraud goes unpunished and unprosecuted.

"Just as we all benefit from small business prime contracting, we all suffer when fraud rears its ugly head," Coffman said. "Legitimate small businesses lose the ability to perform when contracts go to firms that do not qualify for, or who are not following the rules associated with, the small business contracting program. The government suffers from this fraud because bad actors give all small businesses a bad name, so contacting officers are more reluctant to use the small business programs, which in turn results in less competition and a less vibrant industrial base."

The set-aside programs consist chiefly of preferences for section 8(a) business development, Historically Underutilized Business Zones, women-owned businesses and the service-disabled veteran-owned program. Both inspectors general testified that their own agencies had fallen victim to fraud. SBA and the HUBZone certification program played a role in the sensational case exposed with the arrests earlier this month involving \$20 million in fraud allegedly committed by contractors and two employees of the Army Corps of Engineers, Gustafson noted.

Miller described a recent \$6 million contract awarded to a company that claimed to be run by a disabled veteran whose documents said he served three tours of duty during the Vietnam War and received medals and citations. It turned out, Miller said, he was a mechanical engineer serving stateside in the National Guard.

"It's difficult to prove a monetary loss to the government because it did receive the goods and services," Miller said. "But the real loss is to program integrity, to the legitimate small businesses that didn't get the contract." He added that fraudulent self-certification is difficult to detect and agencies rely on such

information in the majority of the preference contract awards because their resources are limited.

"Strong penalties are needed to deter" the fraud, he said. "The tougher it is to detect, the tougher penalties must be," though the rules should avoid punishing innocent companies simply because of a clerical error, he said.

Gustafson said each type of set-aside has its own level of vetting and the Section 8 program is the hardest for contractors to qualify for. She agreed that agencies could deter more fraud by publicizing their reviews of such programs, which in one instance prompted "contractors to drop out in droves." It is acknowledged by all IGs, she added, "that the federal government doesn't use suspension and debarment enough -- that hits contractors in the pocketbook."

Miller noted that GSA has an interactive map on its website providing other agencies with links to state databases reporting contractors that have been suspended or debarred.

Coffman asked whether agencies should take more responsibility for policing fraud. "It's hard to draw simple rules," Gustafson said. "Overburdened" agencies focused on awarding contracts are "not expected to know all the ins and outs" of the set-aside programs. Also, "the more difficult the rules are to administer, the harder it is to present the case to a jury," she said.

But the issue "needs more discussion in the executive branch and guidance from Congress since it's not always clear who's minding the store," she said. "If the programs don't have integrity, we might as well throw them open to open competition."