

**STATEMENT OF PAUL A. DENETT
ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY
BEFORE THE
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT, ORGANIZATION,
AND PROCUREMENT
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES**

April 19, 2007

Chairman Towns, Representative Bilbray, and Members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss how the federal acquisition system can be used to improve tax compliance by federal contractors. The administration agrees with the subcommittee's goal to reduce contractor tax delinquency and improve tax compliance. This is a shared value and responsibility that requires government-wide attention, and as the Administrator for Federal Procurement Policy, I will discuss ways the community is increasing compliance and address the practical issues associated with implementing the proposed Contractor Tax Enforcement Act.

Increasing Tax Compliance

Following the February 2004 report by the Government Accountability Office regarding defense contractors that abuse the federal tax system, the Office of Management and Budget participated on the Federal Contractor Tax Compliance Task Force to improve the sharing of information between the Internal Revenue Service and other federal agencies, specifically the Department of Defense (DoD), for the purposes of collecting unpaid taxes. The Task Force, which has become a semi-permanent entity dedicated to improving contractor tax compliance, made significant and permanent

improvements to policies and processes that directly result in increased debt collection.

For example:

- IRS and other federal agencies now share information electronically to identify contractors that should be subject to the Treasury Department's Federal Payment Levy Program (FPLP). Delinquent contractors are identified and their government payments levied.
- All Taxpayer Identification Numbers (TINs) that are entered in the Central Contractor Registration (CCR) database, the government's principal repository for contractor banking information, are validated to ensure that contractors subject to the FPLP are correctly identified. Ensuring that the name and TIN of the contractor match increases the number of payments available for levy.
- The IRS is now using data from the Federal Procurement Data System to identify contractors with outstanding tax debts, which will assist the IRS in prioritizing future offset actions and increasing tax debt recovery.

Implementation of the Proposed Contractor Tax Enforcement Act

As I understand it, the proposed Contractor Tax Enforcement Act would prohibit delinquent federal debtors – generally those who have not paid the tax, penalty, or interest within 180 days of assessment – from being eligible for federal contracts. While I fully support the objective of the bill to increase tax compliance, I am concerned that implementation of this, as written, would result in de facto debarments executed without regard to the suspension and debarment due process requirements provided in the FAR.

Suspension or debarment is a serious remedy designed to protect the government from conducting business with non-responsible contractors when this is in the government's best interest. The FAR establishes due process requirements to preserve transparency and fairness and afford both the government and the contractor discrete rights throughout the process. These rights are necessary to ensure that the government's interests are protected and that the nature and seriousness of the contractor's actions warrant suspension or debarment. These decisions are made on a case-by-case basis by an informed official and a decision against a contractor is not a punishment for non-responsibility, but a means to protect the government.

The proposed legislation appears to be inconsistent with the established process for suspension or debarment. However, a recently proposed change to the FAR provides much needed support for ensuring that tax delinquencies are properly considered prior to contract award.

Proposed Regulatory Solutions

On March 30, 2007, a proposed change to the FAR was published in the *Federal Register*. The proposed rule requires prospective contractors to certify whether or not they have been convicted of or had a civil judgment rendered against them for violating any tax law, failing to pay any tax, or been notified of any delinquent taxes for which the liability remains unsatisfied within a three-year period preceding the offer.

Additionally, the proposed FAR change adds the following to the list of causes for debarment or suspension:

- delinquent taxes (not restricted to Federal taxes) about which the offeror has been notified and that remain unpaid;
- unresolved tax liens; and
- conviction or civil judgment for violating tax laws or failing to pay taxes.

Once this rule is finalized, the appropriate federal officials may use tax delinquency as sufficient grounds for debarment or suspension in accordance with the established process in the FAR for protecting the government's interests.

Conclusion

Mr. Chairman and Members of the Subcommittee, OFPP is committed to ensuring that government contracts are awarded to responsible, law-abiding contractors who take their tax obligations seriously. The acquisition community has taken affirmative steps to raise the visibility of contractor tax delinquency, improve the ability of the government to recover that debt, ensure that contractors seeking federal business disclose their tax liabilities, and are accountable for their tax delinquencies. I feel the progress we have made as a community and the proposed change to the FAR preclude the need for additional legislation.

This concludes my prepared remarks. I am happy to answer any questions you might have.