

## MEMORANDUM

TO: ABA Public Contract Law Section Council

FROM: Cathy Garman, Co-Chair, Legislative Coordinating Committee

DATE: February 26, 2005

RE: Oral Report to the Council at the Mid Year Council Meeting

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### I. Report on Congressional Committee Changes

#### Restructuring the House Appropriations Committee

The new Chairman of the House Appropriations Committee has restructured the committee, reducing the number of subcommittees from 13-10. The restructuring by Chairman Jerry Lewis (R-CA) eliminates the VA, HUD subcommittee as well as the Legislative Branch and District of Columbia subcommittees. Now, jurisdiction for VA related matters moves to the Military Construction Subcommittee (renamed Military Quality of Life and Veterans Affairs). HUD issues are now combined with Transportation, Treasury, along with the Judiciary and the District of Columbia. NASA has been placed under the Science Subcommittee. And issues related to the Legislative Branch falls under full committee. Three cardinals, including Representative Ernest Istook, lost their subcommittee chairmanships as a result of this restructuring.

The new House Appropriations Subcommittees are:

- ◆ Agriculture, Rural Development, Food and Drug Administration and Related Agencies, chaired by Rep. Henry Bonilla
- ◆ Defense, chaired by Rep. Bill Young
- ◆ Energy and Water Development and Related Agencies, chaired by Rep. David Hobson
- ◆ Foreign Operations, Export Financing and Related Programs, chaired by Rep. Jim Kolbe
- ◆ Homeland Security, chaired by Rep. Harold Rogers
- ◆ Interior, Environment and Related Agencies, chaired by Charles Taylor
- ◆ Labor, Health and Human Services, Education and Related Agencies, chaired by Rep. Ralph Regula
- ◆ Military Quality of Life and Veterans Affairs and Related Agencies, chaired by James Walsh
- ◆ Science, State, Justice, Commerce and Related Agencies, chaired by Rep. Frank Wolf

To date, the Senate Appropriations Committee, now chaired by Thad Cochran (R-MS), had not agreed to the proposed House changes. This could lead to confusion in handling appropriations bills between the two Houses.

#### Subcommittee Changes on House Government Reform Committee

Chairman Tom Davis (R-VA) of the House Government Reform Committee announced a reorganization of his panel's subcommittees – eliminating one subcommittee and creating two new ones.

The Civil Service and Agency Reorganization Subcommittee, renamed the Subcommittee on the Federal Workforce and Agency Organization, will be chaired by Representative Jon Porter (R-NV). Congressman Porter replaces Jo Ann Davis (R-VA) who resigned the committee to take a seat on the House Intelligence Committee. Chairman Davis eliminated a technology specific subcommittee, chaired in the last Congress by Representative Adam Putnam (R-Fla.), who has since left the committee for a position on Rules. Technology issues now will be handled at the full committee level.

The subcommittees are:

- ◆ National Security, Emerging Threats and International Relations, chaired by Rep. Christopher Shays
- ◆ Criminal Justice, Drug Policy and Human Resources, chaired by Rep. Mark Souder
- ◆ Government Management, Finance and Accountability, chaired by Rep. Todd Platts
- ◆ (new) Regulatory Affairs, chaired by Rep. Candice Miller
- ◆ (new) Federalism and the Census, chaired by Rep. Michael Turner
- ◆ Energy and Resources, chaired by Rep. Darrell Issa
- ◆ Federal Workforce and Agency Reorganization, chaired by Rep. Jon Porter

For more information on all House Committee changes, go to [www.house.gov](http://www.house.gov).

### Committee Staff Changes

On the House Armed Services Committee, Mary Ellen Fraser no longer will handle acquisition policy issues (title VIII of the defense authorization bill). She will focus on operations and maintenance issues (title III) and competitive sourcing. Jeff Green joined the committee last year and now will be responsible for acquisition policy; he is an Air Force Reservist and was congressional affairs director for the Coalition Provisional Authority.

Former Representative Ed Schrock is expected to return to the Hill as a staff director for a House Government Reform Subcommittee.

## **II. Expected Legislative Initiatives for 2005**

There were several initiatives proposed last year that were aimed at undoing many of the acquisition reform initiatives of recent years, hindering contract flexibility for contingency operations and enacting barriers to competitive sourcing. Many of these proposals were either significantly modified or dropped (see the committee's written report to the Council for the Mid Year meeting). In other words, things could have been a lot worse.

It is expected, however, that many of these proposals (perhaps in the same form as last year) are expected to be offered again. This is especially true for competitive sourcing, with further barriers being considered in the annual appropriations acts, or as permanent legislation on the defense authorization bill.

Rep. Tom Davis, chairman of the **House Government Reform Committee**, expects to consider the following legislative initiatives:

- NETWORKX – hearing will be held on March 3
- Reintroduction of ASIA (or SARA III). This measure will include: Share-in-Savings; Consolidation of Board of Contract Appeals; workforce exchange; agency level protests
- GSA Reorganization. According to staff director Melissa Wojciak, the committee has had a “fatiguing year” with GSA and intends to offer a “very ambitious” reorganization proposal. For example, the committee believes that too much power resides in the regional offices.

Ranking Member Rep. Henry Waxman has his own ideas. These include: addressing the sole source contracts awarded to Alaskan Native Companies; and the alleged contract abuses in Iraq (and general contracting abuses).

Among the issues potentially to be considered by the **House Armed Services Committee**:

- Acquisition Workforce. While Chairman Hunter continues to be concerned that there are too many “shoppers,” Jeff Green will attempt to refocus the debate toward training and education to improve the quality of the contracting officers (as a means to reduce the potential for scandal).
- Ethics. The committee is not expected to propose any new legislative to further tighten procurement integrity rules in the wake of the Darlene Druyan scandal,
- Contracting issues related to contingency operations, including contractors on the battlefield.

### **III. Other Relevant Initiatives related to Contract Law**

#### 1423 Panel Established

The Office of Management and Budget (OMB) recently announced the formation of the long anticipated Section 1423 Panel. Known for the section of the 2003 Services Acquisition Reform (SARA) Act which authorized its creation, the 1423 panel will review the use of commercial practices, performance based contracting, and Government-wide contracts, and submit its findings to both Houses of Congress within one year of its establishment. The 14 members of the panel are all experts in Government acquisition law, and come from academia, the private sector, and Federal agencies – including Council member Marshall Doke. Additional information can be obtained from OMB Communications at 202-295-7254.

#### Service Contracting Review

The Contract Services Association (CSA) is leading a taskforce to review laws and regulations related to government service contracting. CSA is joined in this initiative by the Professional Services Council, the National Defense Industrial Association and the Information Technology Association of America. There is a perception that the FAR is more focused on products and hardware, with little attention paid to services; with funding for services becoming a larger portion of each agency’s budget, proper attention should be given to ensure that proper procedures are followed for service contracting. A report is expected to be completed in Mid-March; while time constraints (this was a 9-month project) limit the breadth/depth of the report, it will make some preliminary legislative and regulatory recommendations and highlight areas for further review. The report will be submitted to Congress, relevant Federal agencies and the 1423 panel.

#### ARWG 2005 Proposals

The multi-association Acquisition Reform Working Group intends to submit its “wish list” for legislation for 2005 to Congress and the relevant Federal agencies in early March. A copy of those proposals is available by contacting Cathy Garman ([cathy@csa-dc.org](mailto:cathy@csa-dc.org)) who is the main point of contact for ARWG.