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The Good Fight

Belinda Guadarrama won a lengthy legal battle against the Defense Department and chalked up a victory for all small and minority owned firms that do business with the government.

But it may be a case of too little too late.

By **Jeanie M. Barnett**

To an outsider, the piece of paper with the small print and fill-in boxes looks like any other government form. For small and minority owned companies that do business with the Department of Defense (DoD), though, that one-page form contains valuable information that some big defense contractors don't want you to know about.

They certainly didn't want Belinda Guadarrama to know. Guadarrama, who is the owner and president of GC Micro, a computer software dealer and



GC Micro's Belinda Guadarrama: "I don't have a big company or a lot of money to throw around. What I do have is a strong sense of right and wrong."

hardware distribution firm based in northern California, waged a virtual one-woman legal battle against the Defense Logistics

Agency (DLA) that dragged on for four years, drained \$180,000 of her own money in legal fees and cost her, she estimates, at

least \$20 million in lost business over the course of the lawsuit. All of that, over one little piece of paper.

"I don't have a big company or a lot of money to throw around," says Guadarrama. "What I do have is a strong sense of right and wrong."

On a sunny afternoon in Febru-

After filing her lawsuit, Guadarrama began to notice that at more than one company, her phone calls weren't being returned.

ary at her modest office in Novato, a mountainous idyll about a half-hour's drive north of the Golden Gate Bridge, she is seated at a conference table with a three-inch thick stack of documents the DLA has just sent—six months after a federal appellate court ordered the agency to release them to her.

What Guadarrama got is the Standard Form 294, which lists the percentage and total dollar amount of subcontracts DoD prime contractors award to small businesses and to small disadvantaged businesses (SDBs). The 294, she notes, is the only existing documentation of how primes are doing in meeting federally mandated subcontracting goals—five percent for SDBs and 20 percent for small businesses. All defense contractors are required to fill one out for every contract over \$500,000 they perform.

On page after page in the stack, she points out the contractor, the dollar value of the contract and the SDB numbers—0.5 percent on one contract, .37 percent on another, 0.2 percent on yet another, and so on. She shakes her head. "When you look at these numbers you wonder how the Defense Department can possibly claim it's meeting the five percent goal. This information clearly shows that the Defense Department has been

misleading Congress about the actual subcontracting it's done with small and minority owned firms."

It's an issue that's been dogging the 41-year-old entrepreneur since 1989 when, busy marketing her services to the defense and aerospace industry, she ran across several of the

little-known forms and was surprised to discover that prime contractors weren't anywhere near meeting their SDB and small business goals—often on some very big contracts.

"I saw that laws were not being enforced. I had to speak out."

At the time, GC Micro, which Guadarrama started in 1986, was posting sales of close to \$10 million with a variety of large government and corporate clients. The firm had started out selling off-the-shelf software and client-tailored services to a targeted market of government agencies and corporations. After four years in business, GC Micro moved into hardware when it became an authorized dealer for IBM, Apple, Compaq and Hewlett Packard.

Guadarrama had been doing some business with major defense contractors. Taking the advice of a DoD small business specialist, she started using the 294 to identify large government contracts. She figured that those companies that were having trouble meeting their goals might be more inclined to talk to her in their search to find qualified minority suppliers.

Marketing wasn't the only thing she was doing with the forms. Disturbed by the consistently low number of contract awards going to SDBs, Guadarrama began sharing the

294s with minority business organizations and her representatives in Congress.

Technically, the Standard Form 294 is public information. Any U.S. citizen can gain access to it by making a Freedom of Information request to the government, which is how Guadarrama got access to the reports. When she started passing them around, though, her requests were suddenly denied. The DLA, which handles the forms, said it stopped sending them to her because they contained "proprietary" information that might harm contractors' competitiveness if it were made public.

Protesting that the DLA was in violation of the Freedom of Information Act, Guadarrama decided to take the agency to court.

And that was just for starters. In 1992, while her suit was still pending, Guadarrama called Congress' and the media's attention to a newly awarded contract to build the Air Force's F-22 advanced tactical fighter jet. Lockheed, along with Boeing and General Dynamics, had won a \$10.7 billion contract to start work on the plane. The goal for SDBs: \$694,000—or about .007 percent.

Incredulous, Guadarrama got her congressional representatives to make an inquiry. Georgia Senator Sam Nunn, who then chaired the Senate Armed Services Committee, also put the pressure on, and Lockheed drew up a new subcontracting plan that resulted in an additional \$500 million in contracts for small businesses. (The F-22 will be operational in the year 2002. The total cost of the project is estimated at \$100 billion.)

Shortly after that public disclosure, the federal district judge presiding over Guadarrama's case ruled against her, agreeing with the defense agency's contention that the 294 contained sensitive information that might hamper the competitiveness of defense contractors.

Nonsense, said Guadarrama, and appealed.

If Guadarrama started out us-

ing the 294 to gain a foothold in the defense contracting arena, some DoD primes were now using it against her. After filing her lawsuit, Guadarrama began to notice that at more than one company, her phone calls weren't being returned.

"Others just came right out and said they would never do business with us," she says. "The lawsuit didn't kill all of our business in this arena"—indeed, Rockwell in Houston gave GC Micro a minority supplier award last year—"but there are probably at least 10 companies that won't work with us anymore. Some were customers, others weren't." Some people, she heard through the grapevine, had even started calling her the "Dragon Lady."

Guadarrama, whose slender frame barely tops five feet four inches in heels, smiles wryly at the reference. Admirers, she counters, "call me 'La Tigresa.'"

Why would Guadarrama want to risk her reputation and bottom line for what appeared to be a losing battle against the Goliaths?

She shrugs. "It's part of my Catholic Hispanic upbringing, I guess. Having respect for authority was the culture I grew up in.

"But I was also taught that you should always act upon what you feel strongly about, even if you sometimes have to go against what everyone else is saying you should do."

Guadarrama grew up on military bases in Texas, where her father was a career Army man who served in three wars: World War II, the Korean War and the Vietnam War, by which time he had attained the rank of sergeant. He returned home classified as disabled after being exposed to Agent Orange, the highly toxic defoliant used by U.S. troops to clear the jungles. He died of related complications 12 years ago.

"He was my hero," says Guadarrama fondly. "He was extremely patriotic, because it was the Army that saved him from a life as a day laborer."

Born in the U.S. to undocumented farm workers who came

over the border from Mexico (one of her grandfathers died from pesticide poisoning before reaching his 40th birthday), Guadarrama's father was pulled out of school in the eighth grade to help pick tomatoes in the fields. Neither of Guadarrama's parents went to high school, and their resources were meager. But it was at home that Guadarrama learned the basics in financing. Every payday her father would cash his check and buy a savings bond—"always, without fail, supporting government was important to him"—then stretch what was left to cover family expenses. "We learned early on that if you don't have it, you can't spend it."

Guadarrama's parents were also fervent believers in education as the road to success. She and her older sister were the first members of their family to graduate from high school, and Belinda was the first to get a college degree. She studied economics at Trinity College in Texas, then went on to the University of Texas in Austin for graduate studies.

After spending a summer in Washington, D.C. monitoring a Department of Labor youth employment program, Guadarrama was offered a job with the Texas state controller's office. She left school to take it.

"Politics was everything in Texas," says Guadarrama, who had pitched in on Bobby Kennedy's tragic presidential campaign when she was just 14. "I was idealistic and I wanted to change the world."

As assistant to the personnel director, Guadarrama was paid well and relished the challenges. Even after a promotion to the Attorney General's office, where she headed up personnel training and set up a computer system for the department, Guadarrama realized that the closest she would get to a top executive position was as somebody else's assistant. "I was told that they would never make a Hispanic female a director," she says. "They were surprised that I didn't seem to be aware of that."

Then came an offer that

sounded too good to be true: a former colleague had a sister in northern California who had started a software company and needed someone to manage it. Would she be interested?

In 1985, she sold her house and moved to San Francisco. Six months into her new job, Guadarrama and her co-workers showed up at work one morning to find the door locked and an out-of-business notice posted by their employer, the company a casualty of a messy divorce.

Standing in the parking lot with no job and nowhere to go, Guadarrama decided then and there that she had learned enough about the industry and "how not to run a company" to try it for herself. She was also driven, she says, by pride. "I didn't want to have to go back home and tell everyone I couldn't make it. It didn't seem to me that I had any other choice. I had to make it work."

Guadarrama used the \$20,000 she had from the sale of her house and hired two employees to start GC Micro (the G stands for her surname, the C for Cesario, her mother's family name).

She decided to concentrate her marketing on larger companies. "I knew I didn't want to sell retail because I didn't want to deal with bad checks," she explains. "So I focused on government contractors. I knew that if they were going to get paid, then so was I."

Guadarrama sent out marketing brochures to hundreds of companies. About 10 percent responded, and from that she found her first customers. "At first we were dealing strictly with off-the-shelf software products," she says. "The main thing going for me was that we gave our clients lots of individualized, personalized attention."

Guadarrama had been in business about 18 months before she became aware of minority business development programs. At the time, she had a contract with the University of California at Davis, whose small business officer suggested she get certified so they could count the dollars

they were spending with GC Micro toward their minority supplier goals.

Since then, GC Micro has been certified by at least a half-dozen

Guadarrama kept sales up by pursuing other markets—state agencies, utilities, health care. Some big clients GC Micro currently works with include the

her eyes flashing with anger. "Once you eliminate the 294, you eliminate any basis for liquidated damages" should the primes not meet their goals. "The 294 is the only teeth for enforcing the goal," she says, adding that there were plans to add women owned firms as another category on the 294 after Congress mandated federal agencies to meet a five percent goal with women. "Without it, you might as well get rid of the whole program."

Early on, Guadarrama got the National Association of Small Disadvantaged Businesses and the U.S. Hispanic Chamber of Commerce to publicly support her. More recently, the NAACP, National Association of Women Business Owners and the Rainbow Coalition have all agreed to write to the Office of Procurement Policy objecting to the proposed elimination of the 294s.

With the current onslaught of anti-affirmative action sentiment sweeping the country, Guadarrama says minority business owners cannot afford to remain silent.

"We should have 500 companies protesting on the steps of Congress and in front of the SBA to let Washington know we support these programs," she insists. "We have to make people understand we're serious. It's progressed too far for just letter-writing campaigns. If these programs go away, thousands of firms will go out of business. Do minority business owners have time to save their businesses? I know I have time to save mine."

Guadarrama is now seeking reimbursement for the legal costs she incurred in her fight against the DLA. Under the Freedom of Information Act, those who win their suits are entitled to full recovery of all expenses. Guadarrama doesn't expect to see that money any time soon, though.

In the meantime another bill is pending: the DLA has charged GC Micro \$1,300 for "copying and overhead costs" associated with that three-inch stack of 294s they finally sent to her.

La Tigresa intends to pay it. ♦

"We should have 500 companies protesting on the steps of Congress and in front of the SBA to let Washington know we support these programs."

entities, and in 1993 entered the Small Business Administration's 8(a) program. GC Micro is currently performing its first 8(a) job: a three-year, \$1.5 million contract with the Department of Energy.

"A lot of the business I do is not based on my being a minority company," says Guadarrama, who now has 17 employees and posted \$13 million in sales last year. "We're nine years old now, we've established ourselves, our pricing is competitive. But I don't overlook the fact that had there not been companies willing to work with me early on because of these programs, I wouldn't be here today."

She pursued the 8(a) program "because I needed help in growing into a large company." Recently, the Minority Business Development Agency has been helping GC Micro set up a new cost accounting system. "We outgrew the one we were using. The new system allows us to perform bigger contracts and increases our capacity."

But Guadarrama is cautious about becoming too reliant on the program. "Solely doing 8(a) contracts won't allow you to learn how to compete in the general marketplace.

"I'd like to have more 8(a) business, sure," she adds. "But when I graduate from the program, I'm going to be stronger, not more dependent. What if Congress eliminates the program next year? Companies have to be prepared to survive without it."

After losing some customers as a result of her lawsuit,

state of California, Pacific Bell and AT&T. Several pharmaceutical companies are also customers.

"Lots of commercial companies, whether or not they have to do Standard Form 294s, are working with minority businesses because they feel it's the right thing to do," she observes.

Last August, after nearly two years in limbo, the federal appellate court in San Francisco overturned the lower court's decision and ruled in Guadarrama's favor. The judge said that the information contained in the 294s "would provide little if any help to competitors attempting to estimate and undercut the contractors' bids" and upheld Guadarrama's right under the Freedom of Information Act to obtain the reports.

"Now that I'm able to spend more time on my business, our sales are on the rise and it looks like 1995 will be GC Micro's best year ever."

But "the lawsuit has taken a tremendous toll on our emotions and our marketing," she adds. "We could easily be a \$20 million company now had we not pursued our case."

Nor is the battle over. In January, the Clinton Administration issued proposed regulations that, in the name of paperwork reduction, would completely do away with the Standard Form 294. Primes would only be required to report on a company-wide basis how much business they do with small and minority owned businesses.

Guadarrama shakes her head,