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United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP
WASHINGTON, DC 20510-6350

June 12, 2008

The Honorable Jovita Carranza
Acting Administrator
U.S. Small Business Administration
409 Third Street, S.W.
Washington, DC 20416

Dear Acting Administrator Carranza:

As Chairman and Ranking Member of the Senate Committee on Small Business and Entrepreneurship, one of our top priorities is to champion our nation's women-owned small businesses and to promote their interests. We fully expect that as Acting Administrator, you will make this one of your top priorities.

We remain deeply concerned that the Small Business Administration's (SBA) proposed rule (72 Fed. Reg. 73,295) to implement the women's procurement program fails to adequately and effectively address the interests of women-owned businesses. The SBA's proposed rule contradicts what Congress initially intended when it enacted the Women's Procurement Program over seven years ago.

Prior to issuing a final rule on this issue the SBA should drastically re-work its proposed rule so that women-owned small businesses can finally have a procurement program that makes a real difference. First, we suggest that the SBA substantially broaden the range of applicable business industries for women across this nation and take down the unnecessary barriers the SBA has recently proposed. Women-owned small businesses deserve more than two percent of available small business industries. The four industries outlined in the SBA's proposed rule will do little to nothing to help Federal agencies reach its statutory government-wide goal. Sadly enough, one of the industries the SBA has selected does not allow for any private business participation, let alone women-owned small business participation. Neither the women's procurement statute, nor the constitution requires such a cramped interpretation of the statistical data. Second, the SBA should not promulgate a final rule that requires individual Federal agencies to admit to past discrimination as a prerequisite for participation in the set-aside program. We find it difficult, if not impossible, to envision a scenario where a Federal agency would make such an admission. Furthermore, such an unworkable admission isn't required anywhere in the current women's procurement statute – Section 8(m) of the Small Business Act nor any other applicable legal principle that we can ascertain.

The aforementioned changes we propose are supported by the following stakeholders: the U.S. Women's Chamber of Commerce; Women Impacting Public Policy; The National Women Business Owners Corporation; The Women Presidents'

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Organization/The Women Presidents' Educational Organization; The Women's Business Development Center; the National Association of Women Business Owners; the Filipina Women's Network; the Women's Leadership Exchange; the Women's Business Enterprise National Council; the National Association for Female Executives; Hispanics Impacting Public Policy; Consumers First; the Moms in Business Network; the Association of Women's Business Centers; and the Women Construction Owners and Executives. We respectfully request that these fundamental changes be made before the proposed rule becomes a final rule.

In the alternative, if it is absolutely not possible for these specific and vital changes to be made in time to issue a final rule this year, we request that, due to the complexities and sensitivities involved as well as the departure of Administrator Preston, the SBA refrain from promulgating a final rule this year and instead request that the SBA defer any future action on this issue. This will ensure that the next Administration, regardless of political affiliation, will have the opportunity to review and evaluate the proposed rule before the rule becomes final.

It is crucial that the SBA publish a meaningful final rule or at the very minimum provide the opportunity for the next Administration to do the same. Clearly, the ultimate goal of the women's procurement program is to assist the Federal government to satisfy – if not exceed – its government-wide women's contracting goal, and to help women-owned small businesses to stimulate our Nation's economy. The SBA must develop a truly functioning, and effective, procurement program that will cultivate women businesses so that they, in turn, can help stimulate our Nation's economy. This is why women businesses need a workable procurement program that does not create impenetrable barriers and provides so few business opportunities. If ever there were a time to secure new avenues to generate revenue and spur the economy that time is now.

Please respond to our request with a specific timeline on how the SBA intends to proceed with the proposed rule, by no later than Friday, June 20, 2008. If you have any questions or need any additional information, please do not hesitate to have your staff contact Gregory Willis of the Majority staff or Erik Necciai of the Minority staff at 202-224-5175.

Sincerely,



John F. Kerry
Chairman



Olympia J. Snowe
Ranking Member