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United States Senate

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

March 5, 2002

The Honorable Eddie Bernice Johnson
Congresswoman
U.S. House of Representatives
1511 Longworth HOB
Washington, D.C. 20515

Dear Congresswoman Johnson:

I am writing to and your colleagues in the Congressional Black Caucus to request your assistance in my efforts to improve the minority contracting programs administered by the Small Business Administration (SBA). Given your position as Chair of the Congressional Black Caucus, as well as the Caucus' strong commitment to these programs, I view your assistance as essential to any effort in this regard.

As a long-time supporter of programs to assist firms owned by socially and economically disadvantaged individuals, I have grown increasingly concerned over the negative impact procurement streamlining has had on our small business programs designed to assist them. Passage of the Federal Acquisition Streamlining Act and the Federal Acquisition Reform Act, coupled with the regulatory changes to procurement programs in response to the *Adarand Inc. v. Peña* decision, has made it increasingly difficult for small businesses to compete in the Federal marketplace. Because negative trends hit minority-owned firms first and hardest, these small businesses have borne a disproportionate share of the percentage decline in Federal contract dollars being awarded to small businesses.

As Chairman of the U.S. Senate Committee on Small Business and Entrepreneurship, I want to do all I can to increase Federal contracts and contract dollar values awarded to all small businesses, especially those owned by socially and economically disadvantaged individuals. To that end, I have put together a comprehensive legislative plan to reverse this decline.

In the coming weeks, I will be introducing a series of bills designed to shore up many of the SBA's procurement programs designed to assist socially and economically disadvantaged small business concerns. For example, I will be introducing legislation to help increase the share of contracting dollars going to 8(a) Business Development (BD) firms, ensure compliance with the provisions of the Small Business Act designed to protect small and disadvantaged business Federal contractors and provide more opportunities for all small businesses.

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Specifically, my legislation will increase the sole-source threshold for 8(a)BD firms by \$1 million for both goods and service contracts and manufacturing contracts. By increasing the sole-source threshold, the Federal government will immediately put more contract dollars into the hands of 8(a)BD firms. In addition, my legislation will create a Small and Disadvantaged Business Ombudsman for Procurement at the SBA. This Office, modeled on the SBA's successful Regulatory Ombudsman, will serve as a focal point to receive and act on complaints made by small business contractors against Federal agencies that have treated them unfairly, serve to root out discrimination against minority firms, and monitor Federal agency activities regarding fulfillment of Federal small business goals, including any agency-negotiated 8(a)BD goals, even though there is no statutorily required percentage. The legislation will also raise the statutory governmentwide small business procurement goal to 30 percent, from its current level of 23 percent.

In addition to these legislative initiatives, I am hopeful that you will join my effort to push the SBA to update the application and certification process for the 8(a)BD and Small Disadvantaged Business (SDB) programs. As too many minority-owned firms discover, the process for applying for these programs is unduly burdensome, complex and duplicative. In addition, unlike the HUBZone program, there is no online application process. I recently wrote to the SBA Administrator, Hector Barreto, requesting specific information on his plans to remedy this situation. I also questioned him about this issue at the Small Business and Entrepreneurship Committee Hearing on the SBA's Fiscal Year 2003 budget request, which took place on February 27, 2002. At the hearing, Administrator Barreto committed to working with me to improve the application and certification processes for the 8(a)BD and SDB programs.

In addition to supporting these efforts, I would encourage you, if you have not done so already, to submit comments to the SBA on the proposed rule regarding the relationship between the SBA's 8(a)BD and HUBZone programs. As a supporter of both the 8(a)BD and HUBZone programs, I am saddened that the SBA's proposed rule goes too far in attempting to establish parity between these programs. I feel strongly that contracts currently awarded to 8(a)BD firms should continue to be awarded to 8(a)BD firms and not moved to the HUBZone program. In addition, I believe that the super-preference for small businesses that are both 8(a)BD and HUBZone certified must remain in effect. The proposed rule does away with both of these important aspects, and I plan to fight to keep them in place. I am also concerned about the proposed rule's new definition of an "employee" working for a HUBZone. The SBA's proposed definition so weakens the standard that it will likely open the program to fraud. My comment letter to the SBA will include all of these points and more.

As the Ranking Member of the Senate Small Business Committee in 1997, the year the HUBZone legislation became law, I worked very hard to protect the 8(a)BD program by negotiating with Chairman Kit Bond to establish parity between these programs, as opposed to the HUBZone priority mandated by the legislation when it was initially introduced. In addition, the negotiated changes included a 3 percent increase in

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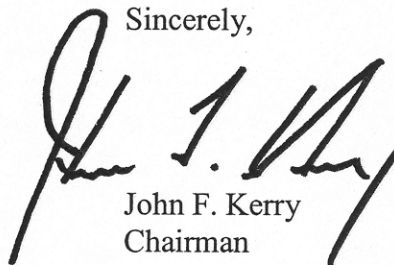
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the governmentwide small business procurement goal to accommodate the HUBZone program goal, which will be 3 percent when fully phased in for Fiscal Year 2003. While I continue to support the parity agreement reached between Senator Bond and myself, I believe the SBA's proposed rule goes beyond Congressional intent. I informed Administrator Barreto of this in my letter requesting an extension of the public comment period for this proposed rule. Thankfully, my letter served to convince Administrator Barreto of the need for more time so that the public may thoughtfully and comprehensibly submit comments on this critical issue.

I want you to know I view the process of assisting socially and economically disadvantaged businesses as an open one. Working together, and with the support of our like-minded colleagues, I believe we can expand contracting opportunities for minority-owned firms.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. Kerry". The signature is stylized and written over the printed name and title.

John F. Kerry
Chairman