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United States Senate

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

January 25, 2005

The Honorable Harold Damelin
Inspector General
U.S. Small Business Administration
409 3rd Street S.W.
Washington, D.C. 20416

Dear Mr. Damelin:

On December 28, 2004, the Office of Advocacy at the Small Business Administration released an independent report citing that 44 companies listed in the Federal Procurement Data Center database as small were found to be "other than small." The study further estimated that over \$2 billion of Federal contracts reported as being awarded to small firms were actually given to these 44 firms, 39 of which were found to be large.

On May 7, 2003, the House Committee on Small Business held a hearing titled, "Are Big Businesses Being Awarded Contracts Intended for Small Businesses?" During that hearing, a number of questions were raised regarding the accuracy of the data in the SBA's PRO-Net small business database. Fred Armendariz, former Associate Deputy Administrator, admitted that the SBA was aware of over 600 businesses listed on PRO-Net that did not meet the criteria for small business status. Further, testimony from David Cooper, Contracting Issues Director with the General Services Administration (GSA), raised "*serious questions about relying on the FPDS data to measure federal agencies' efforts to meet the government's 23 percent small business goal.*" Even with numerous unanswered questions regarding the validity of the PRO-Net database, the SBA continued their plans to merge that database into the larger Central Contractor Registry (CCR) database.

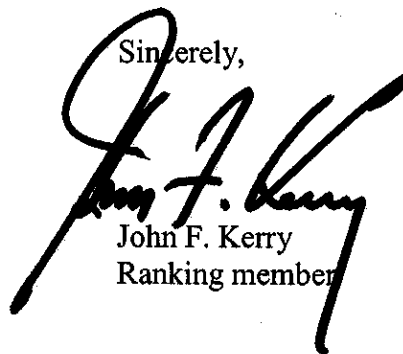
If any of these 44 companies that received Federal contracts during FY2002 as small firms were listed as small on the CCR database, that is clear evidence that the database is vulnerable to fraud and requires immediate review by the SBA and the Office of Federal Procurement Policy. If they were removed from the database and placed themselves back into the system, as small business, these firms should be charged with defrauding the government and should be reported to the Department of Justice for criminal action. Section 16(d) of the Small Business Act provides for penalties that include "*cancellation of contracts, debarment, fines up to \$500,000 and up to 10 years in prison*" for a firm that misrepresents itself as small in order to receive Federal contracting benefits as a small firm. However, I am aware of no evidence that a single firm has ever been penalized for misrepresenting themselves as a small firm over the past four years.

As the Ranking Member of the Senate Committee on Small Business and Entrepreneurship, pursuant to section 10 of the Small Business Act, 15 U.S.C. 639, I request that a response to the following five questions be submitted to the Senate Committee on Small Business and Entrepreneurship by February 9, 2005:

- 1) Were any of the 44 firms included in the report listed on the CCR database as small entities?
- 2) Is there any evidence that these firms were ever removed from the database because they were inaccurately listed as small? If so, is there any evidence that these firms re-registered with either the PRO-Net or CCR databases as a small firm, following this removal?
- 3) In any of the contracts awarded to these firms, were there any instances of a company inaccurately qualifying itself as a small firm prior to the awarding of the contract?
- 4) If these companies were found to have misrepresented themselves as small firms in order to receive Federal contracts, will your office find them in violation of the Small Business Act and utilize the penalties afforded in section 16(d) and recommend criminal action?

By failing to enforce the law and the penalties it affords, the SBA is fostering an atmosphere that encourages widespread fraud and abuse in small business contracting. I look forward to working with you and your office to end abuse of the Federal procurement system and to encourage fair competition for small firms.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. Kerry". The signature is stylized and overlaps with the typed name below it.

John F. Kerry
Ranking member