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United States Senate

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

November 28, 2005

The Honorable Hector V. Barreto
Administrator
U.S. Small Business Administration
409 3rd Street S.W.
Washington, D.C. 20416

Dear Administrator Barreto:

On November 2, 2005, the Small Business Administration (SBA) and the General Services Administration (GSA) announced a new system to collect data and report subcontracting activity on large Federal prime contracts, the Electronic Subcontracting Reporting System (eSRS). I have a number of concerns regarding the implementation and oversight of this new system.

Earlier this month, the Senate Committee on Small Business and Entrepreneurship held a hearing during which the Government Accountability Office (GAO) raised serious doubts about the accuracy of the data collected by the Office of Federal Procurement Policy and reported by the SBA using the Federal Procurement Data System Next Generation (FPDS-NG). In September, the GAO sent a letter to the Office of Management and Budget questioning the accuracy and timeliness of information collected and reported by the FPDS-NG. During the November hearing and in a subsequent letter to the Office of Federal Procurement Policy (OFPP), I have expressed my own concerns about the Administration's inability to accurately track federal procurement activities of Federal agencies and the negative effect this has on the ability of small businesses to receive Federal contracts.

It is my understanding that in order to ensure proper tracking of this data, the SBA plans to amend section 52.219-9 of Federal Acquisition Regulations to require that the prime contractor provide the prime contract number to all large business subcontractors with subcontracting plans under the flow-down requirement. According to the eSRS website, the purpose of this change is to allow subcontractors to enter the prime contract number when they report individual contracts, enabling the Agency to capture information about subcontracts at lower-tiers on a contract-by-contract basis. However, there have been numerous concerns raised about the accuracy and transparency of the contractor (DUNS) numbers currently provided by FPDS-NG. The new Program Instrument Identification Number (PIID) embeds the contract number in a series of codes in order to create a unique database ID. However, this lengthened code is subject to change and prevents the historical tracking of existing contract vehicles. New awards under existing contracts are utilizing this PIIDs system, further obscuring the amount of dollars spent over the life of a contract. Further, there are multiple companies assigned to the same contractor

identification code (DUNS number) and multiple DUNS numbers assigned to the same company. This makes it difficult to identify which companies are being awarded which contract.

The eSRS website also states that the new system will empower the GSA and the SBA to know how much small business receives “in the aggregate by rolling up all the tiers,” which is “helpful to agencies defending a program before Congress and trying to demonstrate the economic benefit to the nation.” It is our hope that GSA is not trying to boost its small business subcontracting numbers as a way of obscuring the fact that the Administration has failed to meet its government-wide prime contracting goals for women-owned businesses, Historically Underutilized Business Zone (HUBZone) firms, and service – disabled veterans. In light of the growing doubts about the accuracy of the Administration’s claim to have achieved the 23 percent small business utilization goal and the concerns over its commitment to small business participation in Federal procurement, developing a tool simply to help agencies defend their current performance to Congress is not a goal in the best interests of the nation. Instead, the Administration should be promoting the maximum practicable utilization of this nation’s small firms as prime contractors, as well as subcontractors, and the SBA should be the taking the lead in this effort.

On November 2, 2005, you stated “[F]or many small firms, [subcontracting] is the first opportunity to demonstrate capability, and to build a track record for pursuing federal prime contract opportunities.” However, this Committee has received numerous reports regarding shortfalls in subcontracting enforcement. Small businesses that rely on subcontracts through large firms often risk receiving lower fees for service, delays in payment, and the use of “bait and switch” tactics by prime contractors. Subcontractors also receive no formal record of past performance with the federal government and are not afforded the same rights to protest because their contract is with the prime contractor, not with the agency. Without these benefits, and as the Federal government continues to move towards “performance-based contracting,” it will become increasingly difficult for small firms to access prime contracting opportunities, and as subcontractors, they will have no recourse to ensure fair treatment such as prompt payment.

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 the following information be submitted to the Senate Committee on Small Business and Entrepreneurship by Thursday, December 8, 2005:

- 1) Will the SBA take any responsibility to ensure that the subcontracting data reported through the eSRS is accurate? What oversight does the SBA plan to perform in order to ensure accuracy in the reporting of small business subcontracting data?
- 2) Given the numerous problems that exist in the FPDS-NG system responsible for tracking the amount of dollars spent over the life of a prime contract because of reliance on the DUNS number, how does the SBA plan to monitor first, second or even third tier subcontracts if it is also relying on the DUNS number?

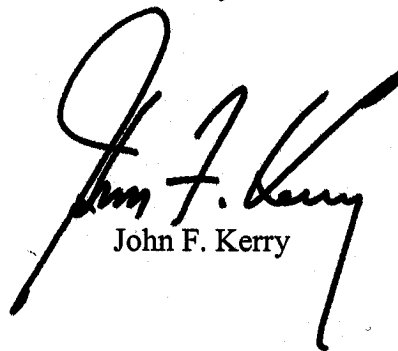
- 3) Currently, there are over 10,000 Indefinite Delivery Indefinite Quantity (IDIQ) contracts missing in the FPDS-NG system, with listings either in the award file with no link to the contract summary or vice versa. In this form, it is impossible to attain the description of what items are part of what awards and the dollar value associated with each. How does the SBA plan to monitor the small business subcontracts awarded under IDIQ prime contracts?
- 4) How does the SBA plan to address the concerns of small businesses subcontractors regarding dishonest practices and unethical treatment by some prime contractors?

I applaud the actions of the SBA and GSA in creating a system to track subcontracts awarded to small businesses. However, there must be a greater emphasis placed on transparency and accuracy of all federal procurement information. Given the current state of FPDS-NG, there are serious doubts regarding the data reported by this Administration and I have concerns about how the many shortfalls detailed above will affect this new subcontracting tracking system. Please provide this Committee information on how SBA intends to perform proper oversight of the GSA's Electronic Subcontracting Reporting System (eSRS).

Finally, small firms need a strong advocate who will ensure they are receiving their share of Federal prime contracts as well as subcontracts. To ensure the sustainable growth of these small businesses and ensure they are available to compete for Federal prime contracts, providing a diverse supplier base and creating cost savings due to competition, the SBA must play a greater, more proactive and more aggressive role with respect to its oversight responsibility.

Thank you for taking the time to address my concerns. I look forward to your prompt response.

Sincerely,



John F. Kerry