

August 7, 2002

**Via Facsimile and Hand Delivery**

The Honorable John F. Kerry  
Chairman, Committee on Small Business and Entrepreneurship  
United States Senate  
429A Russell Senate Office Building  
Washington, DC 20510-6136

**Re: S. 2753, the Small and Disadvantaged Business Ombudsman Act**

Dear Chairman Kerry:

I am writing to advise you and Senator Bond of the Office of Advocacy's assessment of S. 2753, legislation introduced by you, and cosponsored by Senator Bond and recently marked-up by the Senate Committee on Small Business and Entrepreneurship (the "Committee").

Before addressing the legislation, I want to commend you and Senator Bond for the Committee's tireless efforts to increase small business participation in the Federal procurement marketplace. I had the privilege to attend the recent Homeland Security Expo sponsored by the Committee, and know that I speak for small businesses across the country in saying thank you for this tremendous opportunity to showcase their security innovations.

I. Ombudsman Responsibilities

The Office of Advocacy would be happy to accept the new responsibilities and challenges presented by S. 2753 establishing a "Small Business Procurement Ombudsman" within our office. We do have concerns, however, regarding the

sufficiency of the resources available to fulfill the Ombudsman requirements of S. 2753. Sufficient resources should be provided from the outset for the Procurement Ombudsman to accomplish the duties set forth in S. 2753. The Office of Advocacy does not currently have the resources to meet the increased duties of S. 2753 and meet our existing statutory obligations.

One alternative for the Committee's consideration would be to place the Small Business Procurement Ombudsman in the Office of Federal Procurement Policy (OFPP). Creating a Small Business Procurement Ombudsman in OFPP would also institutionalize the interests and perspective of small businesses at the core of the Federal Acquisition system.

## II. Raising the Procurement Goals to 30 Percent

We feel obligated to caution Congress against increasing the small business procurement goals at this time. Current procurement data shows that unless the problems that prevent small businesses from getting their fair share of procurement dollars are fixed, a goal increase may actually result in a lower percentage of contract dollars being awarded annually to small businesses. *See* February 2001 General Accounting Office (GAO) report, GAO-01-346, "Trends and Challenges in Contracting With Women-Owned Small Businesses." This report documented seven obstacles to achieving women-owned small business goals. Two of these obstacles are the numerous and complex Federal contracting programs for small businesses and the practice of contract consolidation (including bundling). These problems are further supported by data compiled by the Committee's staff. According to a chart entitled, "Government-wide Small Business Procurement Goals," prepared by Committee staff, the statutory goal increase from 20 percent to 23 percent in 1997 had a negative affect, with the percentages decreasing from a high of 24.80 percent in Fiscal Year (FY) 1997 to a current level of 22.81 percent in FY 2001.

The problems discussed above are part of a larger problem in the acquisition community. The General Accounting Office and the Inspector General of the Department of Defense (DOD IG) have documented the need for training the existing procurement workforce. In a February 2000 report, the DOD IG found that “people have not received adequate training on new procurement regulations. This adds up to contracts that do not meet the needs of the agency....” A more detailed discussion of these and other problems facing the Federal government was presented in February, 2001 by GAO to the Senate Committee on Governmental Affairs in testimony entitled “High Risk: Human Capital in the Federal Government.” Based on these findings an increase in the annual small business procurement goal to 30 percent could simply bury the contracting officers, and not yield the positive result we are all trying to achieve.

To ensure that S. 2753 is an effective tool to help develop a stronger and more viable small business community, the Office of Advocacy respectfully recommends that careful consideration be given to the above-referenced concerns. We are committed to working with you and Senator Bond to determine the best manner to proceed to achieve our mutual goal of increased small business participation in the Federal procurement marketplace.

Sincerely,

Thomas M. Sullivan  
Chief Counsel for Advocacy

cc: Senator Christopher S, Bond  
Ranking Member, Committee on Small Business & Entrepreneurship