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United States Senate

COMMITTEE ON SMALL BUSINESS
WASHINGTON, DC 20510-6350

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February 10, 2000

The Honorable Bill Richardson
Secretary of Energy
1000 Independence Avenue SW
Washington, DC 20585

Dear Mr. Secretary:

As the Department of Energy (Department) works to set its Fiscal Year 2000 goals for small business participation for both prime contract and subcontract dollars, we urge you to work with the Small Business Administration to set goals that are both challenging and realistic. We appreciate the Department's compliance with a recent decision by the Office of Federal Procurement Policy (OFPP) concerning the reporting of Management and Operating (M&O) subcontracts as subcontracts and not as Department prime contracts.

Because we were aware that M&O contracts (as well as Management and Integration and Environmental Restoration Management Contracts) constitute the vast majority of Department procurement dollars, we expected the Department's small business goal for prime contracts to drop to approximately 3%. Thus, we were not surprised when SBA indicated that the Department's goals had in fact dropped to that level for Fiscal Year 2000.

We continue to maintain that this is the appropriate manner of reporting contracting actions awarded by the M&Os. Subcontracts are subcontracts, not prime contracts. This is particularly true in this case, as we have explained previously, given the change that has occurred over the last decade in limiting the M&Os' role of acting as surrogates for the Department. Consistent reporting of these contracts in a correct manner helps the Congress conduct appropriate oversight by providing valid data on small business participation. It also prevents agencies from using results-oriented methodologies that merely appear to enhance small business participation without generating real results. We also believe this reporting approach is most consistent with existing practices at other Government agencies.

Now that this matter has been decided by OFPP, we would like to offer constructive suggestions in a spirit of cooperation. First, we would urge you to evaluate whether some of the Department's smaller facilities might be effectively managed by a team or teams of small business prime contractors. This could increase the Department's vendor base and enhance competition, while also improving small business participation.

In the past, treatment of M&O small business subcontracts as agency prime contracts made a review of these options unnecessary. However, the recently adopted change provides a

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real opportunity to "reinvent Government" and investigate options that may have been overlooked previously. We realize that this is probably not realistic for larger facilities run by larger M&O contractors, but we would like to see this option reviewed for facilities where it might be appropriate and workable.

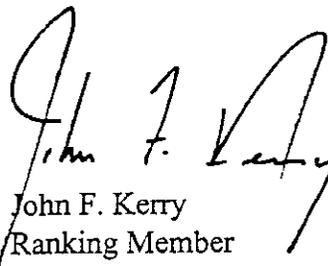
Second, we urge you to contact the Department's M&O contractors and remind them of their obligations to continue subcontracting with small business concerns. Allegedly, some M&Os have heard inaccurate information about the OFPP policy change, and they may inaccurately believe that their subcontracting obligations have somehow been diminished or waived entirely. This is of course not the case. Nothing in the OFPP decision relieves an M&O contractor of its subcontracting obligations. Instead, the OFPP decision simply says that these subcontracts will be reported as subcontracting achievements applicable to the Department's subcontracting goal, not its prime contracting goal. The Department annually negotiates subcontracting goals with the Small Business Administration, and M&O subcontracting is an indispensable tactic for achieving those goals.

We are confident that you share our enthusiasm for small business participation in Government contracting. Small business is innovative, fast-moving, flexible, and competitive, and can help the Department of Energy carry out its mission more effectively and efficiently. Small business participation is a help, not a hindrance. We look forward to reading your response to this letter, and to working with you to enhance the Department's access to the resources that only small business can offer.

If you have questions about this letter, please feel free to contact Cordell Smith of the Small Business Committee majority staff on (202)224- , or Damon Dozier of the Small Business Committee minority staff on (202)224- .

Sincerely,


Christopher S. Bond
Chairman


John F. Kerry
Ranking Member

cc: The Honorable Aida Alvarez
Small Business Administration