Congress of the United States
Washington, DC 20515

December 18, 1998

The Honorable Aida Alvarez
Administrator, Small Business Administration
409 Third Street SW
Washington, DC 20416

Dear Administrator Alvarez:

On January 1, 1999, new amendments to the Federal Acquisition Regulation (FAR) are scheduled to take effect. Although these changes are intended to preserve opportunities for small disadvantaged businesses (SDBs) to continue participating in Government contracting, while bringing the program into conformity with the Supreme Court's decision in *Adarand Constructors v. Peña* (1995), we are gravely concerned that the January 1 deadline has arrived more quickly than has SBA's ability to implement the changes. As a result, many SDBs may be inadvertently excluded from the program.

Since many SDBs depend on Government contracting opportunities as part of their strategies for long-term growth and job creation, this could prove harmful or even devastating to these small businesses. We, therefore, urge you to delay the rules' effective date until June 1, 1999. We also request your assurance that SBA will be able to implement the changes effectively and avoid harm to these businesses, their owners, and their employees once this delay is implemented.

We are most particularly concerned about the FAR changes published in the July 1, 1998 *Federal Register* (63 Federal Register 36120 *et seq.*) This rule requires that SDBs be formally certified as such before participating in subcontracting opportunities and before prime contractors will be able to count those firms toward their small business subcontracting goals. We understand that the vast majority of SDBs have not yet applied for certification. Moreover, we have been told that many are unaware of this requirement. Indeed, of the 13 seminars on this subject scheduled by SBA and the Minority Business Enterprise Legal and Defense Fund (MBELDF), only 3 will have taken place before the rules' current effective date of January 1. Further, SBA's own plans to process certification applications, through its own staff as well as third-party certifiers, are not ready to be implemented.

We believe these concerns are sufficient to justify extending the implementation date to June 1, 1999, after the entire sequence of SBA/MBELDF briefings has been completed and more SDBs have been informed of the certification requirements. We urge you to take action immediately to implement such an extension and to inform the relevant Federal agencies of the

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change. We also urge that you reach out as widely as possible to communicate this deadline to prospective SDBs, prime contractors, and others of the broader public who may be affected by the new rules.

We also believe in the interim that a review of these certification requirements is in order to avoid excessive costs and undue bureaucracy. Small businesses usually have the fewest resources available to help them comply with complex regulations, and we are concerned that compliance with these rules will unduly burden small disadvantaged businesses that want to participate in Government procurement. Government regulations must always be kept to an absolute minimum to allow small businesses to do what they do best: producing products, delivering services, hiring and training workers, and providing economic opportunity.

We look forward to hearing from you on our request for an extension of the rules' effective date to June 1, 1999, and for exploring ways to streamline the certification process.

Sincerely,

Chairman, Committee on Small Business
United States Senate

Chairman, Committee on Small Business
U.S. House of Representatives