OLYMPIA J. SNOWE, MAINE, CHAIR
JOHN F. KERRY, MASSACHUSETTS, RANKING MEMBER

CHRISTOPHER S. BOND, MISSOURI
CONRAD BURNS, MONTANA
GEORGE ALLEN, VIRGINIA
NORM COLEMAN, MINNESOTA
JOHN THUNE, SOUTH DAKOTA
JOHNNY ISAKSON, GEORGIA
DAVID VITTER, LOUISIANA
MICHAEL ENZI, WYOMING
JOHN CORNYN, TEXAS

CARL LEVIN, MICHIGAN
TOM HARKIN, IOWA
JOSEPH I. LIEBERMAN, CONNECTICUT
MARY LANDRIEU, LOUISIANA
MARIA CANTWELL, WASHINGTON
EVAN BAYH, INDIANA
MARK PRYOR, ARKANSAS

WESTON J. COULAM, REPUBLICAN STAFF DIRECTOR
NAOMI BAUM, DEMOCRATIC STAFF DIRECTOR

United States Senate

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

September 30, 2005

VIA FACSIMILE
ORIGINAL BY U.S. MAIL

The Honorable Hector V. Barreto
Administrator
U.S. Small Business Administration
409 Third Street, S.W.
Washington, DC 20416

Dear Hector:

As Chair of the Senate Committee on Small Business and Entrepreneurship, I would like to express my concerns about the scheduled fee increase in the Small Business Administration's Surety Bond Guarantee (SBG) Program. The SBA recently announced this increase on August stating that an internal evaluation of the SBG program concluded that current funding levels could not cover all of the SGB's unfunded program liabilities. To cover these liabilities, on October 1, 2005, surety bond companies' premium fees will be raised from 20 to 32 percent: a 60 percent increase.

Congress has enacted a mandate for the SBA's small business investment programs that directs the programs to "stimulate and supplement the flow of private equity capital ... which small-business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, and which are not available in adequate supply...." The purpose of this mandate is clearly to drive national economic growth by insuring that small businesses have the affordable financing that creates opportunities for them to grow, expand, and modernize. The mandate also directs the SBA to adopt policies that "insure the maximum participation of private financing sources" in the SBA programs.

Congress does not currently require that the SBG program be entirely self-funding or self-sufficient. Indeed, this program exists because markets will not offer affordable underwriting to small, new contractors, thus restraining these small businesses' ability to contribute to economic growth and job creation.

SBA surety bonds are thus critical to small contracting companies' survival. Without bonding, small contractors cannot obtain most federal contracts. In Fiscal Year 2004, because of the SBG program, a total of 7,803 small contracting surety bonds were issued, helping small companies secure an estimated $634,000 worth of contracts and provide 5,462 jobs. Although initially many small contractors can only obtain surety bonds through the SBG program, as they grow and their companies' credit histories stabilize, many obtain regular bonding in the private market place.

The SBA's desire to increase surety bond fees is particularly puzzling in light of your testimony during the Committee's hearing on September 22, 2005, regarding the impact of Hurricane Katrina and Hurricane Rita on small businesses, in which you advocated increasing the maximum size of a surety bond guarantee from $2 million to $5 million. I wholeheartedly support that suggestion, which would allow small businesses to seek larger contracts, and in fact your testimony was similar to a provision that I had included in legislation I introduced on September 19, 2005, the Small Business, Homeowners, and Renters Disaster Relief Act of 2005, which would increasing the maximum size of surety bonds to $10 million

Now, however, because of the pending fee increase, many small contractors fear they will be unable to obtain needed surety bonds, of any size. Small businesses will ultimately bear the brunt of this fee, whether surety companies pass along the additional costs or decide to stop underwriting small contractors entirely. Additionally, this enormous increase may create an additional disincentive for underwriting small business surety bonds, further decreasing the declining number of SBG-participating surety firms. If a large number of surety companies exit the market place only predatory lenders will remain. Once this happens, many new small contracting companies will be unable to receive surety bonding, severely restricting the number of contracting opportunities available to them.

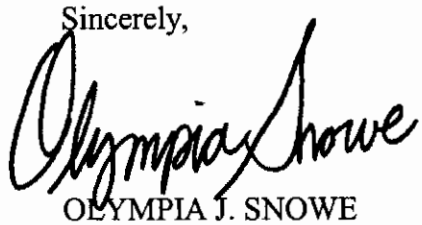
Because of these concerns, I would ask you to temporarily suspend the implementation of this fee increase until further study can be conducted into the actual effects of the fee increase on small contracting companies' ability to obtain surety bonds. I would also ask you to work closely with the SBG program's surety bonding partners and other stakeholders to conduct this study, and to work with all those stakeholders to craft a better solution than such a drastic fee increase.

Additionally, I would like information detailing how SBA's internal analysis calculated this percentage increase, including whether the SBA discussed this fee increase, in advance of its public announcement, with the SBG programs' surety lending partners. Please also explain whether the SBA investigated the possible consequences of this increase on small contractors before the fee increase was announced.

I appreciate your immediate attention to this important issue. Please reply to this letter by October 15, 2005 detailing your responses to these questions, and describing the steps the SBA will take regarding this issue.

If you have any questions or need any additional information, please do not hesitate to call me or have your staff contact Wes Coulam, Staff Director of the Small Business Committee, at (202) 224-5175.

Sincerely,



OLYMPIA J. SNOWE
Chair