

September 11, 2012

The Honorable Robert P. Casey, Jr.
United States Senate
Washington, DC 20510

Dear Senator Casey:

Administrator Mills asked me to respond to your recent letter to the U.S. Small Business Administration (SBA) concerning the Agency's progress in addressing the practice of "pass through companies" receiving contracts intended for small business.

The Agency shares your concern about preventing the practice of "pass-throughs" as described in your letter. The SBA is committed to ensuring that the benefits of the various small business programs actually flow to small businesses, the intended beneficiaries of these programs. The Agency's regulations require that firms awarded small business contracts must perform a specified percentage of the work of those contracts with their own labor force. For services and supply contracts, SBA's regulations require a small business to perform at least 50% of the contract with its own employees. For general construction, a small business must perform at least 15% of the contract, and for specialty trade construction, a small business must perform at least 25% of the contract. These limitations on subcontracting are intended to prevent small businesses from subcontracting the entire performance of small business contracts to large businesses.

Procuring agencies are responsible for administering the contracts they award. As such, procuring agencies are charged with monitoring and ensuring that the applicable performance of work requirement is met for each contract awarded through a small business contracting vehicle. A firm's failure to meet the applicable performance of work requirement will negatively affect its past performance for future contracts. In addition, SBA has initiated Federal Government-wide suspension and debarment actions against both small and large business concerns where those concerns misrepresented to procuring agencies that the small businesses were going to perform the required percentage of work and knowingly had agreements that would allow large businesses to perform most of the work.

The SBA's report addressing pass-throughs required by the FY2012 Financial Services Appropriation Act discusses the Agency's efforts to promulgate regulations and the measures taken to prevent pass-through actions. The report is currently undergoing SBA internal review prior to being sent to Administrator Mills for signature and transmission to the Hill.

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We appreciate your support of the SBA and the Pennsylvania small business community. If you and your staff have any questions, please contact the SBA Office of Congressional and Legislative Affairs at (202) 205-6700.

Sincerely,

John Shoraka
Associate Administrator
Office of Government Contracting
and Business Development