



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, DC 20416

VIA e-mail

Dear .

This letter is to notify you that a suspension imposed by the U.S. Small Business Administration ("SBA") on \_\_\_\_\_ will be terminated on \_\_\_\_\_ unless the SBA Suspension and Debarment Official receives a request for an extension of the suspension from an authorized official of the Department of Justice ("DOJ").

SBA suspended \_\_\_\_\_ on \_\_\_\_\_ based upon information which indicated that the above named firm did not meet the eligibility requirements of SBA's Historically Underutilized Business Zone (HUBZone) Program. The information also showed that \_\_\_\_\_ submitted offers on and accepted federal government HUBZone contracts when it knew that it did not qualify as a HUBZone firm. A copy of the suspension notices accompanies this request.

The SBA Office of the Inspector General has indicated that this matter is still being actively investigated, and criminal prosecution may ensue. If you believe criminal prosecution appears possible, I respectfully recommend that an Assistant Attorney General request an extension of the suspension. Absent an extension request, I must terminate the suspension on \_\_\_\_\_

If further information or assistance regarding this matter is required, please contact \_\_\_\_\_  
Thank you for your time and attention to this

SBA Suspension and Debarment Official



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, DC 20416

Re: Notice of Suspension

You are hereby notified that the U.S. Small Business Administration ("SBA") has suspended you from federal government contracting and from directly or indirectly receiving the benefits of federal assistance programs. The suspension is initiated pursuant to the authority and the procedures of the Federal Acquisition Regulation (FAR) Subpart 9.4. A copy of FAR 9.4, is enclosed for your information.

Concurrent with this notice, I am notifying that it has been suspended pursuant to subpart 9.4 of the FAR. suspension is based on its misrepresentation of its status as a qualified HUBZone small business concern, and its failure to meet its prime contractor performance requirements as required by SBA regulations. The notification is being sent to at the address above and is hereby incorporated by reference. You are being suspended based on both your own individual actions in connection with misrepresentations, and your affiliation with .

Section 9.407-2 of the FAR lists the causes for suspension. Pursuant to FAR 9.407-2(c), I am suspending you, based on evidence indicating a lack of business integrity or business honesty that seriously or directly affects the present responsibility of a Government contractor. The Small Business Act (The Act) provides that individuals who misrepresent their status in order to obtain a contract shall be subject to certain penalties. Specifically, 15 U.S.C. §§ 645 (d)(1) and (d)(2), provide in pertinent

<sup>1</sup> "Affiliate." Business concerns, organizations, or individuals are affiliates of each other if, directly or indirectly, (1) either one controls or has the power to control the other, or (2) a third party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or a business entity organized following the debarment, suspension, or proposed debarment of a contractor which has the same or similar management, ownership, or principal employees as the contractor that was debarred, suspended, or proposed for debarment. FAR 9.403

part, that:

(1) Whoever misrepresents the status of any concern or person as a "small business concern", a "qualified HUBZone small business concern", a "small business concern owned and controlled by socially and economically disadvantaged individuals", or a "small business concern owned and controlled by women", in order to obtain for oneself or another any... (A) prime contract to be awarded pursuant to section 638, 644, or 657a of this title [or] (B) a subcontract to be awarded pursuant to section 637(a)...(2) shall...(C) be subject to suspension and debarment as specified in subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) on the basis that such misrepresentation indicates a lack of business integrity that seriously and directly affects the present responsibility to perform any contract awarded by the Federal Government or a subcontract under such a contract.

I have found that there is adequate evidence that establishes that misrepresented its status in order to obtain HUBZone contracts. I find that there is adequate evidence that the actions taken by you with regard to obtaining past contracts demonstrate a lack of business integrity or business honesty that seriously or directly affects your present responsibility.

Suspension is a temporary measure imposed pending the completion of any investigation or legal proceedings as may ensue. The suspension is effective as of the date of this letter. This suspension is effective throughout the executive branch of the Federal Government and has the following consequences:

1. Your name, \_\_\_\_\_ will be published in the Excluded Parties List System (EPLS), where it will be noted that \_\_\_\_\_ has been suspended. The EPLS is available at <http://epls.gov>.
2. You are excluded from receiving contracts, and agencies shall not solicit offers from, award contracts to, or consent to subcontracts with the company, unless the agency head determines that there is a compelling reason for such action.
3. You are excluded from conducting business with the Government as agent or representative of other contractors.
4. You are excluded from acting as an individual surety.
5. You are excluded from participating in a Federal agency transaction that is a covered transaction, or act as a principal of a person participating in a covered transaction. The term "covered transaction" is defined in 2 C.F.R. § 180.200.

6. You may not act as an agent or representative of other participants in federal assistance programs.

Within 30 days of receipt of this notice, you or a representative on your behalf may submit, either in person or in writing, or both, information and argument in opposition to the suspension. If you designate a representative to respond on your behalf, please notify me in writing of the identity of the representative. The designation should specifically state the names and addresses of all individuals or companies the designee has the authority to represent in this matter.

Your submission, if any, may include specific information that raises a genuine dispute over facts material to the suspension. If it is found that the information or argument submitted raises a genuine dispute over material facts, fact-finding may be conducted to determine the disputed facts.

This suspension has been initiated on the basis of the administrative record. A copy of the record, except for those materials protected from disclosure, will be furnished upon request. Any written information you submit will become a part of the administrative record. Information or argument presented orally will be considered part of the administrative record only to the extent such information and argument is submitted in written form.

Any communication regarding this matter should be directed to  
Any written submission should be forwarded to  
him at U.S. Small Business Administration, 409 Third Street SW, Fifth Floor,  
Washington, DC 20416, with a copy by fax to

SBA Suspension and Debarment Official

Enclosures



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, DC 20416

Re: Notice of Suspension

You are hereby notified that the U.S. Small Business Administration ("SBA") has suspended [redacted] from federal government contracting and from directly or indirectly receiving the benefits of federal assistance programs. The suspension is initiated pursuant to the authority and the procedures of the Federal Acquisition Regulation (FAR) Subpart 9.4. A Copy of FAR 9.4, is enclosed for your information.

I am suspending [redacted] based on information in the administrative record which shows that [redacted] does not and has not met the eligibility requirements of SBA's Historically Underutilized Business Zone (HUBZone) Program. The information also shows that [redacted] submitted offers on and accepted federal government HUBZone contracts when it knew that it did not qualify as a HUBZone firm. HUBZone regulations require that a qualified HUBZone Small Business Concern (SBC) must maintain a principal office in a HUBZone. See 15 U.S.C. § 632(p)(5)(A)(i)(I)(aa); 13 C.F.R. § 126.200(b)(3)<sup>1</sup>. HUBZone regulations also require that at least 35% of a concern's employees reside in a HUBZone. See 15 U.S.C. § 632(p)(5)(A)(i)(I)(aa); 13 C.F.R. § 126.200(b)(4). The SBA requires that all HUBZone concerns notify the SBA in writing of any material change that may affect its eligibility. 13 C.F.R. § 126.501. (One of the stated penalties for failure to make any necessary disclosures is suspension. 13 C.F.R. § 126.900(a).)

I have also found that there is adequate evidence to show that [redacted] has not been

<sup>1</sup> Principal office means the location where the greatest number of the concern's employees at any one location perform their work. However, for those concerns whose "primary industry" (See 13 C.F.R. § 121.107) is service or construction (See 13 CFR § 121.201), the determination of principal office excludes the concern's employees who perform the majority of their work at job-site. 13 C.F.R. § 126.103.

meeting its prime contractor performance requirements as required by SBA regulations. See 13 C.F.R. § 125.6, 13 C.F.R. § 126.700. There is evidence that [redacted] has engaged in employee sharing with other firms, including its subcontractors in order to appear to meet these requirements:

Section 9.407-2 of the FAR lists the causes for suspension. Pursuant to FAR 9.407-2(c), I am suspending [redacted] based on evidence indicating a lack of business integrity or business honesty that seriously or directly affects the present responsibility of a Government contractor. The Small Business Act (The Act) provides that individuals who misrepresent their status in order to obtain a contract shall be subject to certain penalties. Specifically, 15 U.S.C. §§ 645 (d)(1) and (d)(2), provide in pertinent part, that:

(1) Whoever misrepresents the status of any concern or person as a "small business concern", a "qualified HUBZone small business concern", a "small business concern owned and controlled by socially and economically disadvantaged individuals", or a "small business concern owned and controlled by women", in order to obtain for oneself or another any... (A) prime contract to be awarded pursuant to section 638, 644, or 657a of this title [or] (B) a subcontract to be awarded pursuant to section 637(a)...(2) shall... (C) be subject to suspension and debarment as specified in subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) on the basis that such misrepresentation indicates a lack of business integrity that seriously and directly affects the present responsibility to perform any contract awarded by the Federal Government or a subcontract under such a contract.

I have found that there is adequate evidence that establishes that [redacted] misrepresented its status in order to obtain HUBZone contracts. I find that there is adequate evidence that the actions taken by [redacted] in obtaining past contracts demonstrate a lack of business integrity or business honesty that seriously or directly affects its present responsibility.

Suspension is a temporary measure imposed pending the completion of any investigation or legal proceedings as may ensue. The suspension is effective as of the date of this letter. This suspension is effective throughout the executive branch of the Federal Government and has the following consequences:

1. The company name, [redacted] will be published in the Excluded Parties List System (EPLS), where it will be noted that the company has been suspended. The EPLS is available at <http://epls.gov>.
2. The company is excluded from receiving contracts, and agencies shall not solicit offers from, award contracts to, or consent to subcontracts with the company, unless the agency head determines that there is a compelling reason for such action.

3. The company is excluded from conducting business with the Government as agent or representative of other contractors.
4. The company is excluded from acting as an individual surety.
5. The company is excluded from participating in a Federal agency transaction that is a covered transaction, or act as a principal of a person participating in a covered transaction. The term "covered transaction" is defined in 2 C.F.R. § 180.200.

Within 30 days of receipt of this notice, you or a representative on your behalf may submit, either in person or in writing, or both, information and argument in opposition to the suspension. If you designate a representative to respond on your behalf, please notify me in writing of the identity of the representative. The designation should specifically state the names and addresses of all individuals or companies the designee has the authority to represent in this matter.

Your submission, if any, may include specific information that raises a genuine dispute over facts material to the suspension. If it is found that the information or argument submitted raises a genuine dispute over material facts, fact-finding may be conducted to determine the disputed facts.

This suspension has been initiated on the basis of the administrative record. A copy of the record, except for those materials protected from disclosure, will be furnished upon request. Any written information you submit will become a part of the administrative record. Information or argument presented orally will be considered part of the administrative record only to the extent such information and argument is submitted in written form.

Any communications regarding this matter should be directed to  
Any written submission should be forwarded to  
him at U.S. Small Business Administration, 409 Third Street SW, Fifth Floor,  
Washington, DC 20416, with a copy by

SBA Suspension and Debarment Official

Enclosures

# Memorandum

United States Attorney  
District of Idaho



Subject Extension of Suspension of	Date
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To

From

Assistant Attorney General  
United States Department of Justice  
Criminal Division  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530-0001

Assistant United States Attorney  
U.S. Attorney's Office, District of Idaho  
800 Park Blvd., Suite 600  
Boise, ID 83712

I am the Assistant United States Attorney in the District of Idaho assigned a criminal investigation against \_\_\_\_\_ and others for procurement fraud on government contracts. The lead investigative agency is the U.S. Small Business Administration (SBA), Office of Inspector General. There are eight other federal investigative agencies assisting in the investigation, including the Internal Revenue Service -- Criminal Investigation Division.

It is my understanding the suspension of \_\_\_\_\_ will lapse on \_\_\_\_\_ unless the Assistant Attorney General requests an extension of up to six (6) months. The purpose of this memorandum is to request the suspension of \_\_\_\_\_ be extended for a period of six months.

\_\_\_\_\_ owns and operates \_\_\_\_\_, which is located in Boise, Idaho. \_\_\_\_\_ was certified by the SBA on \_\_\_\_\_, to operate as a HUBZone contractor based on representations that its principal office was located in a HUBZone and that 35% of its employees reside in a HUBZone. \_\_\_\_\_ was also approved to operate under the SBA's 8(a) Program on \_\_\_\_\_. \_\_\_\_\_ was also certified on \_\_\_\_\_ to operate as a HUBZone contractor and was awarded over \$1.3 million in government contracts on the basis that it was properly qualified as a HUBZone contractor.

The criminal investigation, which was opened in \_\_\_\_\_ has focused on evidence that \_\_\_\_\_ submitted false documents to the government in violation of Title 18, United States Code, Section 1001. The documents falsely represented that \_\_\_\_\_ was eligible to receive 8(a) and HUBZone contracts. In addition, there is evidence

executed a wire fraud scheme in violation of Title 18, United States Code, Section 1343, by submitting false and fraudulent claims for payment on said improperly awarded contracts. This is just one component of the investigation, since the investigation includes other targets and subjects. The investigation is focusing on twenty contracts with a total value of \$23.6 million.

In May 2010, the SBA-OIG issued administrative subpoenas to \_\_\_\_\_ and others. Based on a review of the documents, it was determined that records were withheld and also altered. As a result of this development, search warrants were executed in November 2010, producing seventy-two (72) boxes of records and approximately twenty-one (21) computers. The investigative agents have diligently reviewed the seized evidence and pursued other investigative leads. In addition, bank records were subpoenaed from various institutions and are currently being analyzed. Given the volume of evidence and the complex nature of the ongoing grand jury investigation, an extension of the suspensions is necessary to protect the interests of the Government as we continue our investigation.

It is anticipated that this matter will be presented for indictment within the next six months. Accordingly, I respectfully request that the suspension of \_\_\_\_\_ be extended for another six months.

The United States Attorney for the District of Idaho concurs in this request.



U.S. Department of Justice

Criminal Division

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Washington, D.C. 20530

**MEMORANDUM**

**TO:** Assistant Attorney General

**THROUGH:** Principal Assistant Attorney General

**FROM:** Chief, Fraud Section

**SUBJECT:** Extension of Suspension of

are being investigated by the United States Attorney's Office for the District of Idaho for fraudulently claiming eligibility for more than \$1.3 million in Small Business Administration (SBA) Historically Underutilized Business Zone (HUBZone) contracts they would otherwise not have been entitled to receive. The investigation has focused on evidence that submitted false documents to the government in violation of Title 18, United States Code, Section 1001, to order to induce awards of 8(a) and HUBZone set-aside contracts to company and submitted false and fraudulent claims for payment on said improperly awarded contracts in violation of Title 18, United States Code, Section 1343. Assistant U.S. Attorney Boise, Idaho has been directing the grand jury investigation of this matter which is expected to result in an indictment.

The SBA suspended from contracting with any agency of the government on This action was based upon the SBA's determination that there was adequate evidence to show that had misrepresented its status in order to obtain HUBZone contracts and on evidence indicating a lack of business integrity or honesty that seriously affected its "present responsibility." Although no statute of limitations exists for suspension or debarment proceedings, the SBA chose to impose the suspension in this case - without waiting for indictment, conviction or judgment - because the agency has an obligation to protect the entire government from individuals and entities that show a likelihood of abusing federal contracting programs.

Date Typed: Section Chron

Pursuant to subpart 9.407- 4(b) of the Federal Acquisition Regulation (FAR), both suspensions are scheduled to terminate on \_\_\_\_\_, unless a six-month extension of each suspension is requested by the Assistant Attorney General. Notification of the status of these suspensions was made by the SBA to Assistant U.S. Attorney \_\_\_\_\_ by email and more recently by letter dated \_\_\_\_\_. In response to a request for assistance and guidance to the Fraud Section, Fraud Section Associate Deputy Chief \_\_\_\_\_ has had extensive discussions about the investigation with the SBA OIG's Office and with Assistant U.S. Attorney \_\_\_\_\_. As part of these discussions, Assistant U.S. Attorney \_\_\_\_\_ has requested six-month extensions as to both parties, and has confirmed that he expects to initiate legal proceedings against the individual and company in the near future. In our judgment, based upon the representations made by Assistant U.S. Attorney \_\_\_\_\_ memo, this extension request should be forwarded to the SBA Suspension and Debarment Official.

We recommend your approval and signature on the attached letter.

Attachments



**U.S. Department of Justice**

**Criminal Division**

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*Assistant Attorney General*

*Washington, D.C. 20530*

Suspension and Debarment Official  
U.S. Small Business Administration  
409 3<sup>rd</sup> Street, S.W.  
Washington D.C. 20416

Re: Extension Request for  
Suspensions

Dear :

This is in response to your recent letter regarding the suspensions of  
which are scheduled to terminate on

As you are aware, are the subjects of a criminal investigation in the  
District of Idaho. In view of the fact that the Department of Justice expects to initiate legal  
proceedings against them in the near future, we are requesting a six-month extension of the  
suspensions in accordance with Federal Acquisition Regulation 9.407- 4(b).

Thank you for your assistance in this matter.

Assistant Attorney General

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~~cc: Assistant U.S. Attorney~~