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November 7, 2011

**VIA ELECTRONIC MAIL**

Mr. Dean Koppel  
U.S. Small Business Administration,  
Office of Government Contracting  
409 Third Street, SW., 8th Floor  
Washington, DC 20416

Re: **Comments on the Small Business Administration's Proposed Rule, RIN:  
3245-AG23**

Dear Mr. Koppel:

**I. INTRODUCTION**

Our firm represents applicants and participants in various stages of the Small Business Administration's ("SBA") 8(a) Business Development Program ("8(a) Program"), as well as participants in other programs administered by the SBA for small businesses. On behalf of these companies, we are writing to submit comments on the SBA's October 7, 2011 proposed rule, entitled "Small Business Size and Status Integrity." See Small Business Size and Status Integrity, 76 Fed. Reg. 62313 (October 7, 2011). Specifically, the below discussion addresses our concerns regarding the SBA's implementation of the "presumption of loss" provision under 15 U.S.C. § 632(w).

**II. COMMENTS ON PROPOSED REGULATIONS**

**A. Limitations of Liability: Presumption of Loss**

As a threshold matter, we are concerned that the regulations implementing 15 U.S.C. § 632(w)(4), which impose a strict liability-type penalty for businesses that "willfully" misrepresent their size or other socioeconomic status, are overly restrictive and will result in unintended inequities for small businesses who *unintentionally* or *unknowingly* fall out of compliance with the SBA's regulations. See 13 C.F. R. §§ 121.108(d), 124.521(d), 125.29(d), 126.900(d), 127.700(d).