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## THE BLOG

# Obama Administration Faces Court Battle Over Contracting Data

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 Like 0**Lloyd Chapman**   
Small business advocate

On Tuesday, March 30, the American Small Business League (ASBL) filed a motion for a preliminary injunction in United States District Court, Northern District of California against the General Services Administration (GSA). The purpose of the injunction is to force the GSA to restore more than a decade's worth of federal contracting data. ([http://www.asbl.com/documents/ASBL\\_Prelim\\_Injunction.pdf](http://www.asbl.com/documents/ASBL_Prelim_Injunction.pdf))

On March 12, 2010, the Obama Administration implemented changes to the Federal Procurement Data System-Next Generation (FPDS-NG), which eliminated the socioeconomic field, "isSmallBusiness." In past years, Congress, federal agencies, watchdog groups, and the general public used the field to identify large firms who had fraudulently misrepresented themselves as small businesses to illegally receive billions of dollars in small business contracts.

Since 2003, more than a dozen federal investigations have uncovered billions of dollars in fraud and abuse in federal small business contracting programs.

In Report 5-16, the Small Business Administration Office of Inspector General (SBA IG) found large businesses had received federal small business contracts by making "false certifications" and "improper certifications."  
(<http://www.asbl.com/documents/05-16.pdf>)

In Report 5-15, the SBA IG stated, "One of the most important challenges facing the Small Business Administration and the entire Federal government today is that large businesses are receiving small business procurement awards and agencies are receiving credit for these awards." Another investigation from the SBA Office of Advocacy found large businesses had received federal small business contracts fraudulently through what they referred to as "vendor deception."  
(<http://www.asbl.com/documents/05-15.pdf>,

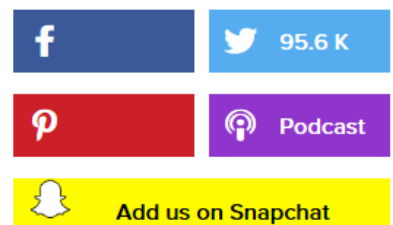
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The ASBL has estimated that over the last decade nearly \$1 trillion in contracts intended for small businesses have actually ended up in the hands of Fortune 500 corporations and other clearly large businesses.

Current federal law prescribes stiff penalties for fraudulent misrepresentation of a business as a small business in order to compete for federal contracting opportunities. Violators are subject to penalties of up to 10 years in prison, a fine of \$500,000 per occurrence and debarment from federal contracting programs, according to the Small Business Act.

The ASBL is concerned that the destruction of ten-years worth of historical contracting data could prevent further investigations into fraudulent contracting activity, and prevent large firms from being prosecuted under section 16(D) of the Small Business Act.

The ASBL's motion for a preliminary injunction will be heard on a 35-calendar day track, according to court documents.

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