

110TH CONGRESS
1ST SESSION

S. 2300

To improve the Small Business Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 1, 2007

Mr. KERRY (for himself and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To improve the Small Business Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Small Business Contracting Revitalization Act of 2007”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—CONTRACT BUNDLING

Sec. 101. Leadership and oversight.

Sec. 102. Removal of impediments to contract bundling database implementation.

Sec. 103. Contract consolidation.

Sec. 104. Small business teams.

TITLE II—SUBCONTRACTING INTEGRITY

Sec. 201. GAO recommendations on subcontracting misrepresentations.

Sec. 202. Small business subcontracting improvements.

Sec. 203. Evaluating subcontracting participation.

Sec. 204. Pilot program.

TITLE III—SMALL BUSINESS PROCUREMENT PROGRAMS IMPROVEMENT

Subtitle A—Service-Disabled Veteran-Owned Small Business Program

Sec. 321. Certification.

Sec. 322. Transition period for surviving spouses or permanent care givers.

Sec. 323. Mentor-protege program.

Sec. 324. Improving opportunities for service disabled veterans.

Subtitle B—Women-Owned Small Business Program

Sec. 341. Implementation deadline.

Sec. 342. Certification.

Subtitle C—Small Disadvantaged Business Program

Sec. 361. Certification.

Sec. 362. Net worth threshold.

Sec. 363. Extension of socially and economically disadvantaged business program.

Subtitle D—Historically Underutilized Business Zones Programs

Sec. 381. HUBZone small business concerns.

Sec. 382. Military base closings.

Subtitle E—BusinessLINC Program

Sec. 391. BusinessLINC Program.

TITLE IV—ACQUISITION PROCESS

Sec. 401. Procurement improvements.

Sec. 402. Reservation of prime contract awards for small businesses.

Sec. 403. GAO study of reporting systems.

Sec. 404. Micropurchase guidelines.

Sec. 405. Reporting on overseas contracts.

Sec. 406. Agency accountability.

TITLE V—SMALL BUSINESS SIZE AND STATUS INTEGRITY

Sec. 501. Policy and presumptions.

Sec. 502. Annual certification.

Sec. 503. Meaningful protests of small business size and status.

Sec. 504. Training for contracting and enforcement personnel.

Sec. 505. Updated size standards.

Sec. 506. Small business size and status for purpose of multiple award contracts.

1 **SEC. 2. DEFINITIONS.**

2 In this Act—

3 (1) the terms “Administration” and “Adminis-
4 trator” mean the Small Business Administration
5 and the Administrator thereof, respectively;

6 (2) the terms “service-disabled veteran”, “small
7 business concern”, and “small business concern
8 owned and controlled by service-disabled veterans”
9 have the same meanings as in section 3 of the Small
10 Business Act (15 U.S.C. 632); and

11 (3) the terms “small business concern owned
12 and controlled by socially and economically disadvan-
13 taged individuals” and “small business concern
14 owned and controlled by women” have the same
15 meanings as in section 8(d) of the Small Business
16 Act (15 U.S.C. 637(d)).

17 **TITLE I—CONTRACT BUNDLING**

18 **SEC. 101. LEADERSHIP AND OVERSIGHT.**

19 (a) IN GENERAL.—Section 15 of the Small Business
20 Act (15 U.S.C. 644) is amended by adding at the end the
21 following:

22 “(q) BUNDLING ACCOUNTABILITY MEASURES.—

23 “(1) GOVERNMENTWIDE ACCOUNTABILITY ON
24 BUNDLING.—

25 “(A) REINSTATEMENT OF REPORTING RE-
26 QUIREMENTS.—In addition to submitting such

1 annual reports on all incidents of bundling to
2 the Administrator as may be required under
3 Federal law, the head of each Federal agency
4 shall submit an annual report on all incidents
5 of bundling to the Administrator for Federal
6 Procurement Policy.

7 “(B) REPORT TO CONGRESS.—The Admin-
8 istrator shall promptly review and annually re-
9 port to Congress information on any discrep-
10 ancies between the reports on bundled contracts
11 from Federal agencies to the Administration,
12 the Office of Federal Procurement Policy, and
13 the Federal procurement data system described
14 in subsection (c)(5).

15 “(2) TEAMING REQUIREMENTS.—Each Federal
16 agency shall include in each solicitation for any con-
17 tract award above the substantial bundling threshold
18 of such agency a provision soliciting small business
19 teams and joint ventures.

20 “(3) IMPLEMENTATION OF COMPTROLLER GEN-
21 ERAL’S RECOMMENDATIONS.—Not later than 270
22 days after the date of enactment of this subsection,
23 the Administrator, with the concurrence of the Ad-
24 ministrator for Federal Procurement Policy, shall
25 ensure that, in response to the recommendations of

1 the Comptroller General of the United States con-
2 tained in Report No. GAO-04-454, titled ‘Contract
3 Management: Impact of Strategy to Mitigate Effects
4 of Contract Bundling Is Uncertain’—

5 “(A) modifications are made to the Fed-
6 eral procurement data system described in sub-
7 section (c)(5) to capture information concerning
8 the impact of bundling on small business con-
9 cerns;

10 “(B) the Administrator receives from each
11 Federal agency an annual report containing in-
12 formation concerning—

13 “(i) the number and dollar value of
14 bundled contract actions and contracts;

15 “(ii) benefit analyses (including the
16 total dollars saved) to justify why contracts
17 are bundled;

18 “(iii) the number of small business
19 concerns losing Federal contracts because
20 of bundling;

21 “(iv) how contractors awarded bun-
22 dled contracts complied with the agencies
23 subcontracting plans; and

24 “(v) how mitigating actions, such as
25 teaming arrangements, provided increased

1 contracting opportunities to small business
2 concerns.

3 “(4) GOVERNMENTWIDE REVIEW OF BUNDLING
4 INTERPRETATIONS.—

5 “(A) IN GENERAL.—The Administrator,
6 with the concurrence of the Chief Counsel for
7 Advocacy and the Inspector General, shall con-
8 duct a governmentwide review of the Federal
9 agencies legal interpretations of antibundling
10 statutory and regulatory requirements.

11 “(B) REPORT.—Not later than 1 year
12 after the date of enactment of this subsection,
13 the Administrator shall submit to Congress a
14 report containing the findings of the review con-
15 ducted under subparagraph (A).

16 “(5) AGENCY POLICIES ON REDUCTION OF CON-
17 TRACT BUNDLING.—Not later than 180 days after
18 the date of enactment of this subsection, the head of
19 each Federal agency shall, with concurrence of the
20 Administrator, issue a policy on the reduction of
21 contract bundling.

22 “(6) BEST PRACTICES ON CONTRACT BUNDLING
23 REDUCTION AND MITIGATION.—Not later than 60
24 days after the date of the enactment of this sub-
25 section, the Administrator shall publish a guide on

1 best practices to reduce contract bundling, as di-
2 rected by the Strategy and Report on Contract Bun-
3 dling issued by the Office of Management and Budg-
4 et on October 29, 2002.

5 “(7) CONTRACT BUNDLING MITIGATION
6 THROUGH SUBCONTRACTING.—

7 “(A) IN GENERAL.—The Administrator
8 shall ensure that each State is assigned a com-
9 mercial market representative to provide serv-
10 ices for that State.

11 “(B) ASSIGNMENT.—A commercial market
12 representative may not be assigned by the Ad-
13 ministrator to provide services for more than 2
14 States.

15 “(8) CONTRACT BUNDLING OVERSIGHT.—

16 “(A) POLICY.—It is the policy of Congress
17 that the Administrator shall take appropriate
18 actions to remedy contract bundling oversight
19 problems identified by the Inspector General of
20 the Administration in Report No. 5–14, titled
21 ‘Audit of the Contract Bundling Program’.

22 “(B) CORRECTIVE ACTION.—

23 “(i) ASSIGNMENT OF PROCUREMENT
24 CENTER REPRESENTATIVES.—

1 “(I) IN GENERAL.—The Admin-
2 istrator shall assign not fewer than 1
3 procurement center representative to
4 each major procurement center, as
5 designated by the Administrator
6 under section 8(l)(6).

7 “(II) REPORTING.—The Admin-
8 istrator shall annually submit to Con-
9 gress a report—

10 “(aa) containing a list of
11 designations of major procure-
12 ment centers in effect during the
13 relevant fiscal year;

14 “(bb) detailing the criteria
15 for designations; and

16 “(cc) including a trend anal-
17 ysis concerning the impact of re-
18 views and placements of procure-
19 ment center representatives and
20 breakout procurement center rep-
21 resentatives.

22 “(ii) TIMELY REVIEW OF BUNDLED
23 CONTRACTS.—Not later than 30 days after
24 receiving a submission from a Federal
25 agency, the Administrator shall review any

1 potential bundled contract submitted to the
2 Administrator for review by any Federal
3 agency.”.

4 (b) TECHNICAL CORRECTION.—Section 15(g) of the
5 Small Business Act (15 U.S.C. 644(g)) is amended by
6 striking “Administrator of the Office of Federal Procure-
7 ment Policy” each place such term appears and inserting
8 “Administrator for Federal Procurement Policy”.

9 (c) PROCUREMENT CENTER REPRESENTATIVES.—
10 Section 15(l) of the Small Business Act (15 U.S.C. 644(l))
11 is amended—

12 (1) by striking paragraph (1) and inserting the
13 following:

14 “(1)(A) A procurement center representative shall
15 carry out the activities described in paragraph (2), and
16 shall be an advocate for the maximum practicable utiliza-
17 tion of small business concerns, whenever appropriate.

18 “(B) A procurement center representative is author-
19 ized to assist contracting officers in the performance of
20 market research in order to locate small business con-
21 cerns, small business concerns owned and controlled by so-
22 cially and economically disadvantaged individuals, small
23 business concerns owned and controlled by women, small
24 business concerns owned and controlled by service-disabled
25 veterans, small business concerns owned and controlled by

1 veterans, and HUBZone small business concerns capable
2 of satisfying agency needs.

3 “(C) Any procurement center representative assigned
4 under this paragraph shall be in addition to the represent-
5 ative referred to in subsection (k).”;

6 (2) in paragraph (2)—

7 (A) by striking “breakout” each place that
8 term appears;

9 (B) in subparagraph (F), by striking
10 “and” at the end;

11 (C) in subparagraph (G), by striking the
12 period at the end and inserting a semicolon;
13 and

14 (D) by adding at the end the following:

15 “(H)(i) identify and review solicitations that in-
16 volve contract consolidations for potential bundling
17 of contract requirements; and

18 “(ii) recommend small business concern partici-
19 pation as contractors, including small business con-
20 cern teams, whenever appropriate, prior to the
21 issuance of a solicitation described in clause (i);

22 “(I) manage the activities of the breakout pro-
23 curement center representative, commercial mar-
24 keting representative, and technical assistant; and

1 “(J) submit an annual report to the Adminis-
2 trator containing—

3 “(i) the number of proposed solicitations
4 reviewed;

5 “(ii) the contract recommendations made
6 on behalf of small business concerns;

7 “(iii) the number and total amount of con-
8 tracts broken out from bundled or consolidated
9 contracts for full and open competition or small
10 business concern set-aside; and

11 “(iv) the number and total amount of con-
12 tract dollars awarded to small business con-
13 cerns as a result of actions taken by the pro-
14 curement center office.”;

15 (3) by redesignating paragraphs (4) through
16 (7) as paragraphs (5) through (8), respectively;

17 (4) by striking paragraph (3) and inserting the
18 following:

19 “(3)(A) The Administrator may assign a breakout
20 procurement center representative, which shall be in addi-
21 tion to any representative assigned under paragraph (1).

22 “(B) A breakout procurement center representa-
23 tive—

24 “(i) shall be an advocate for the breakout of
25 items for procurement through full and open com-

1 petition or small business concern set-aside, when-
2 ever appropriate, from new, existing, bundled, or
3 consolidated contracts; and

4 “(ii) is authorized—

5 “(I) to recommend small business concern
6 participation in existing contracts that were
7 previously not reviewed for small business con-
8 cern participation;

9 “(II) to perform the duties described in
10 paragraph (2), as necessary to perform the due
11 diligence required for a breakout recommenda-
12 tion; and

13 “(III) to appeal the failure to act favorably
14 on any recommendation made under subclause
15 (I).

16 “(C) Any appeal under subparagraph
17 (B)(ii)(III) shall be filed and processed in the same
18 manner and subject to the same conditions and limi-
19 tations as an appeal filed by the Administrator
20 under subsection (a).

21 “(4)(A) The Administrator may assign a commercial
22 marketing representative to identify and market small
23 business concerns to large prime contractors and assist
24 small business concerns in identifying and obtaining sub-
25 contracts.

1 “(B) A commercial marketing representative as-
2 signed under this paragraph shall—

3 “(i) conduct compliance reviews of prime con-
4 tractors;

5 “(ii) counsel small business concerns on how to
6 obtain subcontracts;

7 “(iii) conduct matchmaking activities to facili-
8 tate subcontracting to small business concerns;

9 “(iv) work in coordination with local small busi-
10 ness development centers, technical assistance cen-
11 ters, and other regional economic development enti-
12 ties to identify small business concerns capable of
13 competing for Federal contracts; and

14 “(v) provide orientation and training on the
15 subcontracting assistance program under section
16 8(d)(4)(E) for both large and small business con-
17 cerns.

18 “(C) Any commercial marketing representative as-
19 signed under this paragraph shall be in addition to any
20 procurement center representative assigned under para-
21 graph (1) or (3).”;

22 (5) in paragraph (5), as so designated by this
23 section—

1 (A) in the second sentence, by inserting
2 “the procurement center representative and”
3 before “the breakout procurement”; and

4 (B) in the third sentence, by striking
5 “(6)”;

6 (6) in paragraph (6), as so designated by this
7 section—

8 (A) in subparagraph (A), by striking “The
9 breakout procurement center representative”
10 and inserting the following: “The procurement
11 center representative, breakout procurement
12 center representative, commercial marketing
13 representative,”;

14 (B) by striking subparagraph (B); and

15 (C) by redesignating subparagraph (C) as
16 subparagraph (B);

17 (7) in paragraph (7), as so designated by this
18 section, by striking “other than commercial items”
19 and all that follows through the end of the para-
20 graph and inserting the following: “commercial
21 items for authorized resale, or other than commer-
22 cial items, and which has the potential to incur sig-
23 nificant savings or create significant procurement
24 opportunities for small business concerns as the re-

1 sult of the placement of a breakout procurement
2 center representative.”; and

3 (8) in paragraph (8), as so designated by this
4 section—

5 (A) by striking “breakout” each place the
6 term appears; and

7 (B) by adding at the end the following:

8 “(C) The procurement center representative shall
9 conduct training sessions to inform procurement staff at
10 Federal agencies about the reporting requirements for
11 bundled contracts and potentially bundled contracts, and
12 how to work effectively with the procurement center rep-
13 resentative assigned to such agencies to locate capable
14 small business concerns to meet the needs of the agen-
15 cies.”.

16 **SEC. 102. REMOVAL OF IMPEDIMENTS TO CONTRACT BUN-**
17 **DLING DATABASE IMPLEMENTATION.**

18 Section 15(p)(5)(B) of the Small Business Act (15
19 U.S.C. 644(p)(5)(B) is amended by striking “procurement
20 information” and all that follows through the end of the
21 subparagraph and inserting the following: “any relevant
22 procurement information as may be required to implement
23 this section, and shall perform, at the request of the Ad-
24 ministratoor, any other action necessary to enable comple-
25 tion of the contract bundling database authorized by this

1 section by not later than 270 days after the date of enact-
2 ment of the Small Business Contracting Revitalization Act
3 of 2007.”.

4 **SEC. 103. CONTRACT CONSOLIDATION.**

5 The Small Business Act (15 U.S.C. 631 et seq.) is
6 amended—

7 (1) by redesignating section 37 as section 39;

8 and

9 (2) by inserting after section 36 the following:

10 **“SEC. 37. CONTRACT CONSOLIDATION.**

11 “(a) POLICY.—Except for the Department of Defense
12 and any agency of that department, the head of each Fed-
13 eral department or agency shall ensure that the decisions
14 made by that department or agency regarding consolida-
15 tion of contract requirements of that department or agen-
16 cy are made with a view to providing small business con-
17 cerns with appropriate opportunities to participate in the
18 procurements of that department or agency as prime con-
19 tractors and appropriate opportunities to participate in
20 such procurements as subcontractors.

21 “(b) LIMITATION ON USE OF ACQUISITION STRATE-
22 GIES INVOLVING CONSOLIDATION.—

23 “(1) IN GENERAL.—Except for the Department
24 of Defense and any agency of that department, the
25 head of a Federal department or agency may not

1 execute an acquisition strategy that includes a con-
2 solidation of contract requirements of that depart-
3 ment or agency with a total value in excess of
4 \$2,000,000, unless the senior procurement executive
5 concerned first—

6 “(A) conducts market research;

7 “(B) identifies any alternative contracting
8 approaches that would involve a lesser degree of
9 consolidation of contract requirements; and

10 “(C) determines that the consolidation is
11 necessary and justified.

12 “(2) DETERMINATION THAT CONSOLIDATION IS
13 NECESSARY AND JUSTIFIED.—A senior procurement
14 executive may determine that an acquisition strategy
15 involving a consolidation of contract requirements is
16 necessary and justified for the purposes of para-
17 graph (1) if the benefits of the acquisition strategy
18 substantially exceed the benefits of each of the pos-
19 sible alternative contracting approaches identified
20 under subparagraph (B) of that paragraph. How-
21 ever, savings in administrative or personnel costs
22 alone do not constitute, for such purposes, a suffi-
23 cient justification for a consolidation of contract re-
24 quirements in a procurement unless the total
25 amount of the cost savings is expected to be sub-

1 substantial in relation to the total cost of the procure-
2 ment.

3 “(3) BENEFITS TO BE CONSIDERED.—Benefits
4 considered for the purposes of paragraphs (1) and
5 (2) may include cost and, regardless of whether
6 quantifiable in dollar amounts—

7 “(A) quality;

8 “(B) acquisition cycle;

9 “(C) terms and conditions; and

10 “(D) any other benefit.

11 “(c) DEFINITIONS.—In this section—

12 “(1) the terms ‘consolidation of contract re-
13 quirements’ and ‘consolidation’, with respect to con-
14 tract requirements of a Federal department or agen-
15 cy, mean a use of a solicitation to obtain offers for
16 a single contract or a multiple award contract to sat-
17 isfy 2 or more requirements of that department or
18 agency for goods or services that have previously
19 been provided to, or performed for, that department
20 or agency under 2 or more separate contracts small-
21 er in cost than the total cost of the contract for
22 which the offers are solicited;

23 “(2) the term ‘multiple award contract’
24 means—

1 “(A) a multiple award task order contract
2 or delivery order contract that is entered into
3 under the authority of sections 303H through
4 303K of the Federal Property and Administra-
5 tive Services Act of 1949 (41 U.S.C. 253h
6 through 253k); and

7 “(B) any other indeterminate delivery, in-
8 determinate quantity contract that is entered
9 into by the head of a Federal department or
10 agency with 2 or more sources pursuant to the
11 same solicitation; and

12 “(3) the term ‘senior procurement executive
13 concerned’ means, with respect to a Federal depart-
14 ment or agency, the official designated under section
15 16(c) of the Office of Federal Procurement Policy
16 Act (41 U.S.C. 414(c)) as the senior procurement
17 executive for that department or agency.”.

18 **SEC. 104. SMALL BUSINESS TEAMS.**

19 If more than 1 business concern that is a small busi-
20 ness concern based on the size standards established
21 under section 3(a) of the Small Business Act (15 U.S.C.
22 632(a)) is participating in a contract that is subject to
23 section 125.6 of title 13, Code of Federal Regulations (or
24 any successor thereto), the portion of that contract per-
25 formed by each such small business concern may be aggre-

1 gated in determining whether the performance of that con-
 2 tract is in compliance with that section if—

3 (1) the head of the Federal department or
 4 agency concerned makes a determination in the so-
 5 licitation that such aggregation will improve con-
 6 tracting opportunities for such small business con-
 7 cerns; and

8 (2) the Administrator does not object to such
 9 aggregation.

10 **TITLE II—SUBCONTRACTING**
 11 **INTEGRITY**

12 **SEC. 201. GAO RECOMMENDATIONS ON SUBCONTRACTING**
 13 **MISREPRESENTATIONS.**

14 Section 8 of the Small Business Act (15 U.S.C. 637)
 15 is amended by adding at the end the following:

16 “(o) PREVENTION OF MISREPRESENTATIONS IN
 17 SUBCONTRACTING; IMPLEMENTATION OF COMPTROLLER
 18 GENERAL’S RECOMMENDATIONS.—

19 “(1) STATEMENT OF POLICY.—It is the policy
 20 of Congress that the recommendations of the Comp-
 21 troller General of the United States in Report No.
 22 05–459, concerning oversight improvements nec-
 23 essary to ensure maximum practicable participation
 24 by small business concerns in subcontracting, shall

1 be implemented governmentwide, to the maximum
2 extent possible.

3 “(2) CONTRACTOR COMPLIANCE.—Compliance
4 of Federal prime contractors with small business
5 subcontracting plans shall be evaluated as a percent-
6 age of obligated prime contract dollars, as well as a
7 percentage of subcontracts awarded.

8 “(3) ISSUANCE OF AGENCY POLICIES.—Not
9 later than 180 days after the date of enactment of
10 this subsection, the head of each Federal agency
11 shall issue a policy on small business subcontracting
12 compliance, including assignment of compliance re-
13 sponsibilities between contracting, small business,
14 and program offices and periodic oversight and re-
15 view activities.”.

16 **SEC. 202. SMALL BUSINESS SUBCONTRACTING IMPROVE-**
17 **MENTS.**

18 (a) CERTIFICATIONS REQUIRED.—Section 8(d)(6) of
19 the Small Business Act (15 U.S.C. 637(d)(6)) is amend-
20 ed—

21 (1) in subparagraph (E), by striking “and” at
22 the end;

23 (2) in subparagraph (F), by striking the period
24 at the end and inserting “; and”; and

25 (3) by adding at the end, the following:

1 “(G) certification that the offeror or bidder
2 will acquire articles, equipment, supplies, serv-
3 ices, or materials, or obtain the performance of
4 construction work from small business concerns
5 in the amount and quality used in preparing
6 and submitting to the contracting agency the
7 bid or proposal, unless such small business con-
8 cerns are no longer in business or can no longer
9 meet the quality, quantity, or delivery date.”.

10 (b) PENALTIES FOR FALSE CERTIFICATIONS.—Sec-
11 tion 16(f) of the Small Business Act (15 U.S.C. 645(f))
12 is amended by striking “of this Act” and inserting “or
13 the reporting requirements of section 8(d)(11)”.

14 **SEC. 203. EVALUATING SUBCONTRACTING PARTICIPATION.**

15 (a) SIGNIFICANT FACTORS.—Section 8(d)(4)(G) of
16 the Small Business Act (15 U.S.C. 637(d)(4)(G)) is
17 amended by striking “a bundled” and inserting “any”.

18 (b) EVALUATION REPORTS.—Section 8(d)(10) of the
19 Small Business Act (15 U.S.C. 637(d)(10)) is amended—

20 (1) by striking “is authorized to” and inserting
21 “shall”;

22 (2) in subparagraph (B), by striking “and” at
23 the end;

24 (3) in subparagraph (C), by striking the period
25 at the end and inserting “; and”; and

1 (4) by adding at the end the following:

2 “(D) report the results of each evaluation
3 under subparagraph (C) to the appropriate con-
4 tracting officers.”.

5 (c) CENTRALIZED DATABASE; PAYMENTS PENDING
6 REPORTS.—Section 8(d) of the Small Business Act (15
7 U.S.C. 637(d)) is amended—

8 (1) by redesignating paragraph (11) as para-
9 graph (14); and

10 (2) by inserting after paragraph (10) the fol-
11 lowing:

12 “(11) CERTIFICATION.—A report submitted by
13 the prime contractor under paragraph (6)(E) to de-
14 termine the attainment of a subcontract utilization
15 goal under any subcontracting plan entered into
16 with a Federal agency under this subsection shall
17 contain the name and signature of the president or
18 chief executive officer of the contractor, certifying
19 that the subcontracting data provided in the report
20 are accurate and complete.

21 “(12) CENTRALIZED DATABASE.—The results
22 of an evaluation under paragraph (10)(C) shall be
23 included in a national centralized governmentwide
24 database.

1 “(13) PAYMENTS PENDING REPORTS.—Each
2 Federal agency having contracting authority shall
3 ensure that the terms of each contract for goods and
4 services includes a provision allowing the contracting
5 officer of an agency to withhold an appropriate
6 amount of payment with respect to a contract (de-
7 pending on the size of the contract) until the date
8 of receipt of complete, accurate, and timely subcon-
9 tracting reports in accordance with paragraph
10 (11).”.

11 **SEC. 204. PILOT PROGRAM.**

12 Section 8 of the Small Business Act (15 U.S.C. 637),
13 as amended by this Act, is amended by adding at the end
14 the following:

15 “(p) SUBCONTRACTING INCENTIVES AND REMEDIAL
16 ASSISTANCE.—

17 “(1) PILOT PROGRAM ON INCENTIVES AND
18 MENTOR-PROTÉGÉ REMEDIAL ASSISTANCE.—

19 “(A) IN GENERAL.—Each Federal agency
20 is authorized to operate a pilot program to pro-
21 vide contractual incentives to prime contractors
22 that exceed their small business subcontracting
23 goals and to direct prime contractors that fail
24 to comply with their small business subcon-
25 tracting plans to fund mentor-protégé assist-

1 ance for small business concerns (in this sub-
2 section referred to as the ‘program’).

3 “(B) TERMINATION.—The authority under
4 this paragraph shall terminate on September
5 30, 2010.

6 “(2) ASSESSMENT OF MENTOR-PROTÉGÉ AS-
7 SISTANCE FUNDING.—The mentor-protégé assistance
8 funding assessed by an agency under the terms of
9 the program shall be determined in relation to the
10 dollar amount by which the prime contractor failed
11 its small business subcontracting goals.

12 “(3) EXPENDITURE OF MENTOR-PROTÉGÉ AS-
13 SISTANCE FUNDING.—The prime contractor shall ex-
14 pend the mentor-protégé assistance funding assessed
15 by the agency under the terms of the program on
16 mentor-protégé assistance to small business con-
17 cerns, as provided by a mentor-protégé agreement
18 approved by the relevant Federal agency.

19 “(4) ANNUAL REPORT REQUIRED.—Each Fed-
20 eral agency described in paragraph (1) shall submit
21 an annual report to the Committee on Small Busi-
22 ness and Entrepreneurship of the Senate and the
23 Committee on Small Business of the House of Rep-
24 resentatives containing a detailed description of the
25 pilot program, as carried out by that agency, includ-

1 ing the number of participating companies, any in-
 2 centives provided to prime contractors, as appro-
 3 priate, and the amounts and types of mentor-protégé
 4 assistance provided to small business concerns.”.

5 **TITLE III—SMALL BUSINESS**
 6 **PROCUREMENT PROGRAMS**
 7 **IMPROVEMENT**

8 **Subtitle A—Service-Disabled Vet-**
 9 **eran-Owned Small Business**
 10 **Program**

11 **SEC. 321. CERTIFICATION.**

12 (a) CONGRESSIONAL INTENT.—It is the intent of
 13 Congress that the Administrator should accept certifi-
 14 cations by the Department of Veterans Affairs, under such
 15 criteria as the Administrator may prescribe, by regulation
 16 or order, in certifying small business concerns owned and
 17 controlled by service-disabled veterans

18 (b) REGULATIONS.—Before implementing subsection
 19 (a), the Administrator shall promulgate regulations or or-
 20 ders ensuring appropriate certification safeguards to be
 21 implemented by the Administration and the Department
 22 of Veterans Affairs.

23 (c) REGISTRATION PORTAL.—The Administrator and
 24 the Secretary of Veterans Affairs shall ensure that small
 25 business concerns owned and controlled by service-disabled

1 veterans may apply to participate in all programs for such
 2 small business concerns of the Administrator or the Sec-
 3 retary through a single process.

4 **SEC. 322. TRANSITION PERIOD FOR SURVIVING SPOUSES**
 5 **OR PERMANENT CARE GIVERS.**

6 Section 3(q)(2) of the Small Business Act (15 U.S.C.
 7 632(q)(2)) is amended by striking subparagraph (B) and
 8 inserting the following:

9 “(B) the management and daily business
 10 operations of which are controlled—

11 “(i) by 1 or more service-disabled vet-
 12 erans or, in the case of a veteran with per-
 13 manent and severe disability, the spouse or
 14 permanent care giver of such veteran; or

15 “(ii) for a period of not longer than
 16 10 years after the death of a service-dis-
 17 abled veteran, by a surviving spouse or
 18 permanent caregiver thereof.”.

19 **SEC. 323. MENTOR-PROTEGE PROGRAM.**

20 The Administrator may establish a mentor-protege
 21 for small business concerns owned and controlled by serv-
 22 ice-disabled veterans, modeled on the mentor-protege pro-
 23 gram of the Administration for small businesses partici-
 24 pating in programs under section 8(a) of the Small Busi-
 25 ness Act (15 U.S.C. 637(a)).

1 **SEC. 324. IMPROVING OPPORTUNITIES FOR SERVICE DIS-**
2 **ABLED VETERANS.**

3 Section 36(a) of the Small Business Act (15 U.S.C.
4 657f(a)) is amended—

5 (1) in the matter preceding paragraph (1), by
6 striking “may” and inserting “shall”; and

7 (2) in paragraph (1), by striking “and the con-
8 tracting officer” and all that follows through “con-
9 tracting opportunity”.

10 **Subtitle B—Women-Owned Small**
11 **Business Program**

12 **SEC. 341. IMPLEMENTATION DEADLINE.**

13 Not later than 90 days after the date of enactment
14 of this Act, the Administrator shall implement the pro-
15 curement program for small business concerns owned and
16 controlled by women under section 8(m) of the Small
17 Business Act (15 U.S.C. 637(m)).

18 **SEC. 342. CERTIFICATION.**

19 (a) CONGRESSIONAL INTENT.—It is the intent of
20 Congress that the Administrator should accept certifi-
21 cations by other Federal agencies and State and local gov-
22 ernments and certifications from responsible national cer-
23 tifying entities, under such criteria as the Administrator
24 may prescribe, by regulation or order, in certifying small
25 business concerns owned and controlled by women for pur-

1 poses of the program under section 8(m) of the Small
2 Business Act (15 U.S.C. 637(m)).

3 (b) REGULATIONS.—Prior to implementing sub-
4 section (a), the Administrator shall promulgate regula-
5 tions ensuring appropriate certification safeguards to be
6 implemented by the Administration and the agencies and
7 entities described in subsection (a).

8 **Subtitle C—Small Disadvantaged**
9 **Business Program**

10 **SEC. 361. CERTIFICATION.**

11 (a) CONGRESSIONAL INTENT.—It is the intent of
12 Congress that the Administrator should accept certifi-
13 cations by other Federal agencies and State and local gov-
14 ernments and certifications from responsible national cer-
15 tifying entities, under such criteria as the Administrator
16 may prescribe, by regulation or order, in certifying small
17 business concerns owned and controlled by socially and
18 economically disadvantaged individuals.

19 (b) REGULATIONS.—Prior to implementing sub-
20 section (a), the Administrator shall promulgate regula-
21 tions or orders ensuring appropriate certification safe-
22 guards to be implemented by the Administration and the
23 agencies and entities described in subsection (a).

1 **SEC. 362. NET WORTH THRESHOLD.**

2 Section 8(a)(6)(A) of the Small Business Act (15
3 U.S.C. 637(a)(6)(A)) is amended—

4 (1) by inserting “(i)” after “(6)(A)”;

5 (2) by striking “In determining the degree of
6 diminished credit” and inserting the following:

7 “(ii)(I) In determining the degree of diminished cred-
8 it”;

9 (3) by striking “In determining the economic
10 disadvantage” and inserting the following:

11 “(iii) In determining the economic disadvantage”;

12 and

13 (4) by inserting after clause (ii)(I), as so des-
14 ignated by this section, the following:

15 “(II) In determining the assets and net worth of a
16 socially disadvantaged individual under this subparagraph,
17 the Administrator shall not consider any assets of such
18 individual in a qualified retirement plan, as that term is
19 defined in section 4974(c) of the Internal Revenue Code
20 of 1986.

21 “(III) The Administrator shall establish procedures
22 that—

23 “(aa) account for inflationary adjustments to,
24 and include a reasonable assumption of, the average
25 income and net worth of market dominant competi-
26 tors; and

1 “(bb) require an annual inflationary adjustment
2 to the average income and net worth requirements
3 under this subsection.”.

4 **SEC. 363. EXTENSION OF SOCIALLY AND ECONOMICALLY**
5 **DISADVANTAGED BUSINESS PROGRAM.**

6 (a) IN GENERAL.—Section 7102(c) of the Federal
7 Acquisition Streamlining Act of 1994 (15 U.S.C. 644
8 note) is amended by striking “September 30, 2003” and
9 inserting “September 30, 2012”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall take effect 30 days after the date of en-
12 actment of this Act.

13 **Subtitle D—Historically Underuti-**
14 **lized Business Zones Programs**

15 **SEC. 381. HUBZONE SMALL BUSINESS CONCERNS.**

16 Section 3(p)(3) of the Small Business Act (15 U.S.C.
17 632(p)(3) is amended—

18 (1) in subparagraph (D), by striking “or” at
19 the end;

20 (2) in subparagraph (E), by striking the period
21 at the end and inserting “; or”; and

22 (3) by adding at the end the following:

23 “(F) a small business concern owned and
24 controlled by an organization described in sec-
25 tion 8(a)(15).”.

1 **SEC. 382. MILITARY BASE CLOSINGS.**

2 (a) HUBZONE STATUS.—

3 (1) IN GENERAL.—Section 3(p)(4)(D) of the
4 Small Business Act (15 U.S.C. 632(p)(4)(D)) is
5 amended—

6 (A) by redesignating clauses (i), (ii), (iii),
7 and (iv) as subclauses (I), (II), (III), and (IV),
8 respectively, and adjusting the margin accord-
9 ingly;

10 (B) by striking “means lands” and insert-
11 ing the following “means—

12 “(i) lands”; and

13 (C) by striking the period at the end and
14 inserting the following: “; and

15 “(ii) during the 5-year period begin-
16 ning on the date that a military installa-
17 tion is closed or leased space is vacated
18 under an authority described in clause (i),
19 areas adjacent to or within a reasonable
20 commuting distance of lands described in
21 clause (i) (which shall not include any area
22 that is more than 15 miles from the exte-
23 rior boundary of that military installation)
24 that are detrimentally, substantially, and
25 directly economically affected by the clos-
26 ing of that military installation, as deter-

1 mined by the Secretary of Housing and
2 Urban Development.”.

3 (2) FEASIBILITY STUDY.—Not later than 6
4 months after the date of enactment of this Act, the
5 Secretary of Housing and Urban Development shall
6 conduct a study of the feasibility of, and submit to
7 the Committee on Small Business and Entrepre-
8 neurship of the Senate and the Committee on Small
9 Business of the House of Representatives a report
10 regarding, designating as a HUBZone (as that term
11 is defined in section 3 of the Small Business Act (15
12 U.S.C. 632), as amended by this Act) any area that
13 does not qualify as a HUBZone solely because that
14 area is located within a county located within a met-
15 ropolitan statistical area (as defined by the Office of
16 Management and Budget). The report submitted
17 under this paragraph shall include any legislative
18 recommendations relating to the findings of the fea-
19 sibility study conducted under this paragraph.

20 (b) SUBCONTRACTING GOAL.—Section 15(g)(1) of
21 the Small Business Act (15 U.S.C. 644(g)(1)) is amended
22 by inserting “and subcontract” after “not less than 3 per-
23 cent of the total value of all prime contract”.

24 (c) MENTOR-PROTEGE PROGRAM.—The Adminis-
25 trator may establish a mentor-protege program for

1 HUBZone small business concerns (as that term is de-
2 fined in section 3 of the Small Business Act (15 U.S.C.
3 632)) and small business concerns owned and controlled
4 by women, modeled on the mentor-protege program of the
5 Administration for small business concerns participating
6 in programs under section 8(a) of the Small Business Act
7 (15 U.S.C. 637(a)).

8 **Subtitle E—BusinessLINC Program**

9 **SEC. 391. BUSINESSLINC PROGRAM.**

10 Section 8(n) of the Small Business Act (15 U.S.C.
11 637(n)) is amended to read as follows:

12 “(n) BUSINESS GRANTS AND COOPERATIVE AGREE-
13 MENTS.—

14 “(1) IN GENERAL.—In accordance with this
15 subsection, the Administrator shall make grants
16 available to enter into cooperative agreements with
17 any coalition of private entities, not-for-profit enti-
18 ties, public entities, or any combination of private,
19 not-for-profit, and public entities—

20 “(A) to expand business-to-business rela-
21 tionships between large and small business con-
22 cerns; and

23 “(B) to provide, directly or indirectly, with
24 online information and a database of companies
25 that are interested in mentor-protégé programs

1 or community-based, statewide, or local busi-
2 ness development programs.

3 “(2) AUTHORIZATION OF APPROPRIATIONS.—

4 There is authorized to be appropriated to carry out
5 this subsection \$3,000,000 for each of fiscal years
6 2008 through 2010, to remain available until ex-
7 pended.

8 “(3) REPORTS TO CONGRESS.—

9 “(A) IN GENERAL.—Not later than April
10 30, 2009, and annually thereafter, the Asso-
11 ciate Administrator of Business Development of
12 the Administration shall collect data on the
13 BusinessLINC Program and submit to the
14 Committee on Small Business and Entrepre-
15 neurship of the Senate and the Committee on
16 Small Business of the House of Representa-
17 tives, a report on the effectiveness of the
18 BusinessLINC Program.

19 “(B) CONTENTS.—Each report submitted
20 under subparagraph (A) shall include, for the
21 year covered by the report—

22 “(i) the number of programs adminis-
23 tered in each State under the
24 BusinessLINC Program;

1 “(ii) the number of grant awards
2 under each program described in clause (i)
3 and the date of each such award;

4 “(iii) the number of participating
5 large businesses and participating small
6 business concerns;

7 “(iv) the number and dollar amount
8 of the contracts in effect in each State as
9 a result of the programs run by each grant
10 recipient under the BusinessLINC Pro-
11 gram; and

12 “(v) the number of mentor-protégé,
13 teaming relationships, or partnerships cre-
14 ated as a result of the BusinessLINC Pro-
15 gram.

16 “(4) DEFINITION.—In this subsection, the term
17 ‘BusinessLINC Program’ means the grant program
18 authorized under paragraph (1).”.

19 **TITLE IV—ACQUISITION**
20 **PROCESS**

21 **SEC. 401. PROCUREMENT IMPROVEMENTS.**

22 Section 15 of the Small Business Act (15 U.S.C.
23 644), as amended by this Act, is amended by adding at
24 the end the following:

1 “(r) BUNDLING DATA FIELDS.—For each contract
2 (including task or delivery orders against governmentwide
3 or other multiple award contracts, indefinite quantity or
4 indefinite delivery contracts, and blanket purchase agree-
5 ments) that is bundled or consolidated, an agency shall
6 report publicly, not later than 7 days after the date of
7 the award, by means of the Federal governmentwide pro-
8 curement data system described in subsection (c)(5)—

9 “(1) the number of contracts involving small
10 business concerns that were displaced by the bun-
11 dled or consolidated action;

12 “(2) the number of small business concerns
13 that the contracting officer identified as able to bid
14 on all or part of requirements; and

15 “(3) the projected cost savings anticipated as a
16 result of bundling or consolidating the requirements.

17 “(s) GOVERNMENTWIDE SMALL BUSINESS TRAIN-
18 ING.—The Administrator, in conjunction with the head of
19 any other appropriate Federal agency, shall coordinate the
20 development of governmentwide training courses on small
21 business contracting and subcontracting with small busi-
22 ness concerns, with special focus on the role of the small
23 business specialist as a vital part of the acquisition team.”.

1 **SEC. 402. RESERVATION OF PRIME CONTRACT AWARDS**
2 **FOR SMALL BUSINESSES.**

3 Section 15 of the Small Business Act (15 U.S.C.
4 644), as amended by this Act, is amended by adding at
5 the end the following:

6 “(t) MULTIPLE AWARD CONTRACTS.—Not later than
7 180 days after the date of enactment of this subsection,
8 the head of each Federal agency, with the concurrence of
9 the Administrator, shall, by regulation, establish criteria
10 for such agency—

11 “(1) setting aside part or parts of a multiple
12 award contract for small business concerns, includ-
13 ing the subcategories of small business concerns
14 identified in subsection (g)(2);

15 “(2) setting aside multiple award contracts for
16 small business concerns, including the subcategories
17 of small business concerns identified in subsection
18 (g)(2); and

19 “(3) reserving 1 or more contract awards for
20 small business concerns under full and open multiple
21 award procurements, including the subcategories of
22 small business concerns identified in subsection
23 (g)(2).”.

24 **SEC. 403. GAO STUDY OF REPORTING SYSTEMS.**

25 (a) STUDY REQUIRED.—The Comptroller General of
26 the United States shall conduct a study of—

1 (1) the accuracy and timeliness of data col-
2 lected under the Small Business Act (15 U.S.C. 631
3 et seq.) in the CCR database of the Administration,
4 or any successor database, the Federal procurement
5 data system described in section 15(c)(5) of the
6 Small Business Act (15 U.S.C. 644(c)(5)), and the
7 Subcontracting Reporting System; and

8 (2) the availability of small business informa-
9 tion in these computer-based systems to Congress,
10 Federal agencies, and the public.

11 (b) MATTERS COVERED.—The study conducted
12 under subsection (a) shall include—

13 (1) an assessment of the accuracy and timeli-
14 ness of the information provided by the data collec-
15 tion systems described in subsection (a)(1) and rec-
16 ommendations as to how any deficiencies in such
17 systems can be eliminated;

18 (2) a review of the system manuals for such
19 systems and a determination of the adequacy of such
20 manuals in assisting proper operation and adminis-
21 tration of the systems;

22 (3) a review of the user manuals for such sys-
23 tems and a determination of the clarity and ease of
24 use of such manuals in assisting those reporting into

1 such systems and those obtaining information from
2 such systems;

3 (4) the adequacy of the training given to indi-
4 viduals responsible for reporting into such systems
5 and recommendations for any necessary improve-
6 ments;

7 (5) an assessment of the adequacy of any safe-
8 guards in such systems against the reporting of in-
9 accurate and untimely data and the need for any ad-
10 ditional safeguards; and

11 (6) the system architecture, Internet access,
12 user-friendly characteristics, flexibility to add new
13 data fields, ability to provide structured and
14 unstructured reports, range of information necessary
15 to meet user needs, and adequacy of system and
16 user manuals and instructions of such systems.

17 (c) REPORT.—Not later than November 30, 2008,
18 the Comptroller General shall submit to the Committee
19 on Small Business and Entrepreneurship of the Senate
20 and the Committee on Small Business of the House of
21 Representatives a report containing the results of the
22 study under this section.

23 **SEC. 404. MICROPURCHASE GUIDELINES.**

24 Not later than 180 days after the date of enactment
25 of this Act, the Director of the Office of Federal Procure-

1 ment Policy shall issue guidelines regarding the analysis
2 of purchase card expenditures to identify opportunities for
3 achieving and accurately measuring fair participation of
4 small business concerns in micropurchases, consistent with
5 the national policy on small business participation in Fed-
6 eral procurements set forth in sections 2(a) and 15(g) of
7 the Small Business Act (15 U.S.C. 631(a) and 644(g)),
8 and dissemination of best practices for participation of
9 small business concerns in micropurchases.

10 **SEC. 405. REPORTING ON OVERSEAS CONTRACTS.**

11 Not later than 180 days after the end of each fiscal
12 year, the Administrator shall submit to Congress a report
13 identifying what portion of contracts and subcontracts
14 awarded for performance outside of the United States
15 were awarded to small business concerns.

16 **SEC. 406. AGENCY ACCOUNTABILITY.**

17 (a) IN GENERAL.—Section 15(g)(2) of the Small
18 Business Act (15 U.S.C. 644(g)(2)) is amended—

19 (1) by inserting “(A)” after “(2)”;

20 (2) in the first sentence, by striking “shall,
21 after consultation” and inserting the following:

22 “shall—

23 “(i) after consultation”;

24 (3) by striking “agency. Goals established” and
25 inserting the following: “agency;

1 “(ii) identify a percentage of the procurement
2 budget of the agency to be awarded to small busi-
3 ness concerns, in consultation with the Office of
4 Small and Disadvantaged Business Utilization of the
5 agency, which information shall be included in the
6 strategic plan required under section 306 of title 5,
7 United States Code, and the annual budget submis-
8 sion to Congress by that agency, and, upon request,
9 in any testimony provided by that agency before
10 Congress in connection with the budget process; and

11 “(iii) report, as part of its annual performance
12 plan, the extent to which the agency achieved the
13 goals referred to in clause (ii), and appropriate jus-
14 tification for any failure to do so.

15 “(B) Goals established”;

16 (4) by striking “Whenever” and inserting the
17 following:

18 “(C) Whenever”;

19 (5) by striking “For the purpose of” and insert-
20 ing the following:

21 “(D) For the purpose of”;

22 (6) in the last sentence—

23 (A) by striking “(A) contracts” and insert-
24 ing “(i) contracts”; and

1 (B) by striking “(B) contracts” and insert-
2 ing “(ii) contracts”; and

3 (7) by adding at the end the following:

4 “(E)(i) Each procurement employee described in
5 clause (ii)—

6 “(I) shall communicate to their subordinates
7 the importance of achieving small business goals;
8 and

9 “(II) shall have as a significant factor in the
10 annual performance evaluation of that procurement
11 employee, where appropriate, the success of that
12 procurement employee in small business utilization,
13 in accordance with the goals established under this
14 subsection.

15 “(ii) A procurement employee described in this clause
16 is a senior procurement executive, senior program man-
17 ager, or small and disadvantaged business utilization man-
18 ager of a Federal agency having contracting authority.”.

19 (b) ANNUAL REPORTS.—Section 10(d) of the Small
20 Business Act (15 U.S.C. 639(d)) is amended—

21 (1) by inserting “and each agency that is a
22 member of the President’s Management Council (or
23 any successor thereto)” after “Department of De-
24 fense” the first place that term appears; and

1 (2) by inserting “or that agency” after “De-
2 partment of Defense” the second place that term ap-
3 pears.

4 **TITLE V—SMALL BUSINESS SIZE**
5 **AND STATUS INTEGRITY**

6 **SEC. 501. POLICY AND PRESUMPTIONS.**

7 Section 3 of the Small Business Act (15 U.S.C. 632)
8 is amended by adding at the end the following:

9 “(s) PRESUMPTION.—

10 “(1) IN GENERAL.—In every contract, sub-
11 contract, cooperative agreement, cooperative re-
12 search and development agreement, or grant which
13 is set aside, reserved, or otherwise classified as in-
14 tended for award to small business concerns, there
15 shall be a presumption of loss to the United States
16 based on the total dollars expended on such con-
17 tract, subcontract, cooperative agreement, coopera-
18 tive research and development agreement, or grant
19 whenever it is established that a business concern
20 other than a small business concern willfully sought
21 and received the award by misrepresentation.

22 “(2) DEEMED CERTIFICATIONS.—The following
23 actions shall be deemed affirmative, willful, and in-
24 tentional certifications of small business size and
25 status:

1 “(A) Submission of a bid or proposal for a
2 Federal grant, contract, subcontract, coopera-
3 tive agreement, or cooperative research and de-
4 velopment agreement reserved, set aside, or oth-
5 erwise classified as intended for award to small
6 business concerns.

7 “(B) Submission of a bid or proposal for
8 a Federal grant, contract, subcontract, coopera-
9 tive agreement, or cooperative research and de-
10 velopment agreement which in any way encour-
11 ages a Federal agency to classify such bid or
12 proposal, if awarded, as an award to a small
13 business concern.

14 “(C) Registration on any Federal elec-
15 tronic database for the purpose of being consid-
16 ered for award of a Federal grant, contract,
17 subcontract, cooperative agreement, or coopera-
18 tive research agreement, as a small business
19 concern.

20 “(3) PAPER-BASED CERTIFICATION BY SIGNA-
21 TURE OF RESPONSIBLE OFFICIAL.—

22 “(A) IN GENERAL.—Each solicitation, bid,
23 or application for a Federal contract, sub-
24 contract, or grant shall contain a certification
25 concerning the small business size and status of

1 a business concern seeking such Federal con-
2 tract, subcontract, or grant.

3 “(B) CONTENT OF CERTIFICATIONS.—A
4 certification that a business concern qualifies as
5 a small business concern of the exact size and
6 status claimed by such business concern for
7 purposes of bidding on a Federal contract or
8 subcontract, or applying for a Federal grant,
9 shall contain the signature of a director, officer,
10 or counsel on the same page on which the cer-
11 tification is contained.

12 “(4) REGULATIONS.—The Administrator shall
13 promulgate regulations to provide adequate protec-
14 tions to individuals and business concerns from li-
15 ability under this subsection in cases of uninten-
16 tional errors, technical malfunctions, and other simi-
17 lar situations.”.

18 **SEC. 502. ANNUAL CERTIFICATION.**

19 Section 3 of the Small Business Act (15 U.S.C. 632),
20 as amended by this Act, is amended by adding at the end
21 the following:

22 “(t) ANNUAL CERTIFICATION.—

23 “(1) IN GENERAL.—Each business certified as
24 a small business concern under this Act shall annu-
25 ally certify its small business size and, if appro-

1 appropriate, its small business status, by means of a con-
2 firming entry on the CCR database of the Adminis-
3 tration, or any successor thereto.

4 “(2) REGULATIONS.—Not later than 120 days
5 after the date of enactment of this subsection, the
6 Administrator, in consultation with the Inspector
7 General and the Chief Counsel for Advocacy of the
8 Administration, shall promulgate regulations to en-
9 sure that—

10 “(A) no business concern continues to be
11 certified as a small business concern on the
12 CCR database of the Administration, or any
13 successor thereto, without fulfilling the require-
14 ments for annual certification under this sub-
15 section; and

16 “(B) the requirements of this subsection
17 are implemented in a manner presenting the
18 least possible regulatory burden on small busi-
19 ness concerns.

20 “(3) DETERMINATION OF SIZE STATUS.—Small
21 business size or status for purposes of this Act shall
22 be determined at the time of the award of a Fed-
23 eral—

24 “(A) contract, provided that, in the case of
25 interagency multiple award contracts, small

1 business size, or status shall be determined an-
 2 nually, except for purposes of the award of each
 3 task or delivery order set aside or reserved for
 4 small business concerns;

5 “(B) subcontract;

6 “(C) grant;

7 “(D) cooperative agreement; or

8 “(E) cooperative research and development
 9 agreement.”.

10 **SEC. 503. MEANINGFUL PROTESTS OF SMALL BUSINESS**
 11 **SIZE AND STATUS.**

12 The Small Business Act (15 U.S.C. 631 et seq.) is
 13 amended by inserting after section 37, as added by this
 14 Act, the following:

15 **“SEC. 38. SMALL BUSINESS SIZE AND STATUS PROTEST SYS-**
 16 **TEM.**

17 “(a) DEFINITIONS.—In this section:

18 “(1) PROTEST.—The term ‘protest’ means a
 19 written objection by an interested party to a viola-
 20 tion of any small business size or status requirement
 21 established under any provision of law, including
 22 section 3, in connection with—

23 “(A) a solicitation or other request by a
 24 Federal agency for offers for a contract for the
 25 procurement of property or services;

1 “(B) the cancellation of such a solicitation
2 or other request;

3 “(C) an award or proposed award of such
4 a contract; or

5 “(D) a termination or cancellation of an
6 award of such a contract, if the written objec-
7 tion contains an allegation that the termination
8 or cancellation is based in whole or in part on
9 improprieties concerning the award of the con-
10 tract.

11 “(2) INTERESTED PARTY.—

12 “(A) IN GENERAL.—The term ‘interested
13 party’, with respect to a contract or a solicita-
14 tion or other request for offers described in
15 paragraph (1), means an actual or prospective
16 bidder or offeror whose direct economic interest
17 would be affected by the award of the contract
18 or by failure to award the contract.

19 “(B) INCLUSIONS.—The term ‘interested
20 party’ includes the official responsible for sub-
21 mitting the Federal agency tender in a public-
22 private competition conducted under Office of
23 Management and Budget Circular A-76 (or any
24 successor thereto) regarding an activity or func-
25 tion of a Federal agency performed by more

1 than 65 full-time equivalent employees of the
2 Federal agency.

3 “(3) FEDERAL AGENCY.—The term ‘Federal
4 agency’ has the same meaning as in section 102 of
5 title 40, United States Code.

6 “(b) REVIEW OF PROTESTS; EFFECT ON CONTRACTS
7 PENDING DECISION.—

8 “(1) IN GENERAL.—Under procedures estab-
9 lished under subsection (d), the Administrator shall
10 decide a protest submitted to the Administrator by
11 an interested party.

12 “(2) RECEIPTS OF PROTESTS.—

13 “(A) IN GENERAL.—Not later than 1 day
14 after the receipt of a protest, the Administrator
15 shall notify the Federal agency involved of the
16 protest.

17 “(B) AGENCIES.—Except as provided in
18 subparagraph (C), a Federal agency receiving a
19 notice of a protested procurement under sub-
20 paragraph (A) shall submit to the Adminis-
21 trator a complete report (including all relevant
22 documents) on the small business size or status
23 aspects of the protested procurement—

1 “(i) not later than 30 days after the
2 date of the receipt of that notice by the
3 agency;

4 “(ii) if the Administrator, upon a
5 showing by the Federal agency, determines
6 (and states the reasons in writing) that the
7 specific circumstances of the protest re-
8 quire a longer period, within the longer pe-
9 riod determined by the Administrator; or

10 “(iii) in a case determined by the Ad-
11 ministrator to be suitable for the express
12 option under subsection (c)(1)(B), not
13 later than 20 days after the date of the re-
14 ceipt of that determination by the agency.

15 “(C) EXCEPTIONS.—A Federal agency
16 need not submit a report to the Administrator
17 under subparagraph (B) if the agency is noti-
18 fied by the Administrator before the date on
19 which such report is to be submitted that the
20 protest concerned has been dismissed under
21 subsection (c)(1)(D).

22 “(3) AWARD OF CONTRACTS.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), a contract may not be
25 awarded in any procurement after the Federal

1 agency has received notice of a protest with re-
2 spect to such procurement from the Adminis-
3 trator and while the protest is pending.

4 “(B) EXCEPTIONS.—The head of the pro-
5 curing activity responsible for award of a con-
6 tract may authorize the award of the contract
7 (notwithstanding a protest of which the Federal
8 agency has notice under this section)—

9 “(i) upon a written finding that ur-
10 gent and compelling circumstances which
11 significantly affect interests of the United
12 States will not permit waiting for the deci-
13 sion of the Administrator under this sec-
14 tion; and

15 “(ii) after the Administrator is ad-
16 vised of that finding.

17 “(C) URGENT AND COMPELLING CIR-
18 CUMSTANCES.—A finding may not be made
19 under subparagraph (B)(i), unless the award of
20 the contract is otherwise likely to occur within
21 30 days after the making of such finding.

22 “(4) PERFORMANCE.—

23 “(A) IN GENERAL.—A contractor awarded
24 a Federal agency contract may, during the pe-
25 riod described in subparagraph (D), begin per-

1 performance of the contract and engage in any re-
2 lated activities that result in obligations being
3 incurred by the United States under the con-
4 tract, unless the contracting officer responsible
5 for the award of the contract withholds author-
6 ization to proceed with performance of the con-
7 tract.

8 “(B) AUTHORIZATION WITHHELD.—The
9 contracting officer may withhold an authoriza-
10 tion to proceed with performance of the con-
11 tract during the period described in subpara-
12 graph (D) if the contracting officer determines
13 in writing that—

14 “(i) a protest is likely to be filed with
15 the Administrator alleging a violation of a
16 small business size or status requirement;
17 and

18 “(ii) the immediate performance of
19 the contract is not in the best interests of
20 the United States.

21 “(C) NOTICE OF PROTEST.—

22 “(i) IN GENERAL.—If the Federal
23 agency awarding the contract receives no-
24 tice of a protest in accordance with this

1 subsection during the period described in
2 subparagraph (D)—

3 “(I) the contracting officer may
4 not authorize performance of the con-
5 tract to begin while the protest is
6 pending; or

7 “(II) if authorization for contract
8 performance to proceed was not with-
9 held in accordance with subparagraph
10 (B) before receipt of the notice, the
11 contracting officer shall immediately
12 direct the contractor to cease perform-
13 ance under the contract and to sus-
14 pend any related activities that may
15 result in additional obligations being
16 incurred by the United States under
17 that contract.

18 “(ii) PERFORMANCE.—Performance
19 and related activities suspended under
20 clause (i)(II) by reason of a protest may
21 not be resumed while the protest is pend-
22 ing.

23 “(iii) EXCEPTIONS.—The head of the
24 procuring activity may authorize the per-
25 formance of the contract (notwithstanding

1 a protest of which the Federal agency has
2 notice under this section)—

3 “(I) upon a written finding
4 that—

5 “(aa) performance of the
6 contract is in the best interests
7 of the United States; or

8 “(bb) urgent and compelling
9 circumstances that significantly
10 affect interests of the United
11 States will not permit waiting for
12 the decision of the Administrator
13 concerning the protest; and

14 “(II) after the Administrator is
15 notified of that finding.

16 “(D) TIME PERIOD.—The period described
17 in this subparagraph, with respect to a con-
18 tract, is the period beginning on the date of the
19 contract award and ending on the later of—

20 “(i) the date that is 10 days after the
21 date of the contract award; or

22 “(ii) the date that is 5 days after the
23 debriefing date offered to an unsuccessful
24 offeror for any debriefing that is requested
25 and, when requested, is required.

1 “(5) NONDELEGATION.—The authority of the
2 head of the procuring activity to make findings and
3 to authorize the award and performance of contracts
4 under paragraphs (3) and (4) may not be delegated.

5 “(6) PROVISION OF DOCUMENTS.—

6 “(A) IN GENERAL.—Within such deadlines
7 as the Administrator prescribes, and upon re-
8 quest, each Federal agency shall provide to an
9 interested party any document relevant to a
10 protested procurement action (including the re-
11 port required by paragraph (2)(B)) that would
12 not give that party a competitive advantage and
13 that the party is otherwise authorized by law to
14 receive.

15 “(B) PROTECTIVE ORDERS.—

16 “(i) IN GENERAL.—The Administrator
17 may issue protective orders which establish
18 terms, conditions, and restrictions for the
19 provision of any document to a party
20 under subparagraph (A), that prohibit or
21 restrict the disclosure by the party of in-
22 formation described in clause (ii) that is
23 contained in such a document.

24 “(ii) TYPES OF INFORMATION.—Infor-
25 mation referred to in clause (i) is procure-

1 ment sensitive information, trade secrets,
2 or other proprietary or confidential re-
3 search, development, or commercial infor-
4 mation.

5 “(iii) INFORMATION TO THE FEDERAL
6 GOVERNMENT.—A protective order under
7 this subparagraph shall not be considered
8 to authorize the withholding of any docu-
9 ment or information from Congress or an
10 executive agency.

11 “(7) INTERESTED PARTIES.—If an interested
12 party files a protest in connection with a public-pri-
13 vate competition described in subsection (a)(2)(B), a
14 person representing a majority of the employees of
15 the Federal agency who are engaged in the perform-
16 ance of the activity or function subject to the public-
17 private competition may intervene in protest.

18 “(c) DECISIONS ON PROTESTS.—

19 “(1) IN GENERAL.—

20 “(A) INEXPENSIVE AND EXPEDITIOUS RES-
21 OLUTION.—To the maximum extent practicable,
22 the Administrator shall provide for the inexpen-
23 sive and expeditious resolution of protests under
24 this section. Except as provided under subpara-
25 graph (B), the Administrator shall issue a final

1 decision concerning a protest not later than 100
2 days after the date on which the protest is sub-
3 mitted to the Administration.

4 “(B) EXPRESS OPTION.—The Adminis-
5 trator shall, by regulation established under
6 subsection (d), establish an express option for
7 deciding those protests which the Administrator
8 determines suitable for resolution, not later
9 than 65 days after the date on which the pro-
10 test is submitted.

11 “(C) AMENDMENTS.—An amendment to a
12 protest that adds a new ground of protest, if
13 timely made, should be resolved, to the max-
14 imum extent practicable, within the time limit
15 established under subparagraph (A) for final
16 decision of the initial protest. If an amended
17 protest cannot be resolved within such time
18 limit, the Administrator may resolve the amend-
19 ed protest through the express option under
20 subparagraph (B).

21 “(D) FRIVOLOUS PROTESTS.—The Admin-
22 istrator may dismiss a protest that the Admin-
23 istrator determines is frivolous or which, on its
24 face, does not state a valid basis for protest.

25 “(2) COMPLIANCE WITH LAW.—

1 “(A) IN GENERAL.—With respect to a so-
2 licitation for a contract, or a proposed award or
3 the award of a contract, protested under this
4 section, the Administrator may determine
5 whether the solicitation, proposed award, or
6 award complies with statutes and regulations
7 regarding small business size or status. If the
8 Administrator determines that the solicitation,
9 proposed award, or award does not comply with
10 a statute or regulation, the Administrator shall
11 recommend that the Federal agency—

12 “(i) refrain from exercising any of its
13 options under the contract;

14 “(ii) recompetete the contract imme-
15 diately;

16 “(iii) issue a new solicitation;

17 “(iv) terminate the contract;

18 “(v) award a contract consistent with
19 the requirements of such statutes and reg-
20 ulations; or

21 “(vi) implement such other rec-
22 ommendations as the Administrator deter-
23 mines to be necessary in order to promote
24 compliance with procurement statutes and
25 regulations.

1 “(B) BEST INTERESTS OF UNITED
2 STATES.—If the head of the procuring activity
3 responsible for a contract makes a finding de-
4 scribed in subsection (b)(4)(C)(iii)(I)(aa), the
5 Administrator shall make recommendations
6 under this paragraph without regard to any
7 cost or disruption from terminating, recom-
8 peting, or reawarding the contract.

9 “(C) IMPLEMENTATION.—If the Federal
10 agency fails to implement fully the rec-
11 ommendations of the Administrator under this
12 paragraph with respect to a solicitation for a
13 contract or an award or proposed award of a
14 contract by the date that is 60 days after the
15 date on which the agency received the rec-
16 ommendations, the head of the procuring activ-
17 ity responsible for that contract shall report
18 such failure to the Administrator not later than
19 5 days after the end of such 60-day period.

20 “(3) PAYMENT OF COSTS.—

21 “(A) IN GENERAL.—If the Administrator
22 determines that a solicitation for a contract or
23 a proposed award or the award of a contract
24 does not comply with a statute or regulation,
25 the Administrator may recommend that the

1 Federal agency conducting the procurement pay
2 to an appropriate interested party the costs
3 of—

4 “(i) filing and pursuing the protest,
5 including reasonable attorney’s fees and
6 consultant and expert witness fees; and

7 “(ii) bid and proposal preparation.

8 “(B) COSTS NOT INCLUDED.—No party
9 (other than a small business concern) may be
10 paid, under a recommendation made under the
11 authority of subparagraph (A)—

12 “(i) costs for consultant and expert
13 witness fees that exceed the highest rate of
14 compensation for expert witnesses paid by
15 the Federal Government; or

16 “(ii) costs for attorney’s fees that ex-
17 ceed \$300 per hour, unless the agency de-
18 termines, based on the recommendation of
19 the Administrator on a case by case basis,
20 that an increase in the cost of living or a
21 special factor, such as the limited avail-
22 ability of qualified attorneys for the pro-
23 ceedings involved, justifies a higher fee.

24 “(C) RECOMMENDATION TO PAY COSTS.—

25 If the Administrator recommends under sub-

1 paragraph (A) that a Federal agency pay costs
2 to an interested party, the Federal agency
3 shall—

4 “(i) pay the costs promptly; or

5 “(ii) if the Federal agency does not
6 make such payment, promptly report to
7 the Administrator the reasons for the fail-
8 ure to follow the Administrator’s rec-
9 ommendation.

10 “(D) AGREEMENT ON AMOUNT.—If the
11 Administrator recommends under subparagraph
12 (A) that a Federal agency pay costs to an inter-
13 ested party, the Federal agency and the inter-
14 ested party shall attempt to reach an agreement
15 on the amount of the costs to be paid. If the
16 Federal agency and the interested party are un-
17 able to agree on the amount to be paid, the Ad-
18 ministrator may, upon the request of the inter-
19 ested party, recommend to the Federal agency
20 the amount of the costs that the Federal agency
21 should pay.

22 “(4) DECISIONS.—Each decision of the Admin-
23 istrator under this section shall be signed by the Ad-
24 ministrator or a designee for that purpose. A copy
25 of the decision shall be made available to the inter-

1 ested parties, the head of the procuring activity re-
2 sponsible for the solicitation, proposed award, or
3 award of the contract, and the senior procurement
4 executive of the Federal agency involved.

5 “(5) REPORTS.—

6 “(A) FAILURE TO IMPLEMENT REC-
7 COMMENDATIONS.—

8 “(i) IN GENERAL.—The Administrator
9 shall report promptly to the Committee on
10 Small Business and Entrepreneurship of
11 the Senate and to the Committee on Small
12 Business of the House of Representatives
13 any case in which a Federal agency fails to
14 implement fully a recommendation of the
15 Administrator under paragraph (2) or (3).

16 “(ii) CONTENTS.—Each report under
17 clause (i) shall include—

18 “(I) a comprehensive review of
19 the pertinent procurement, including
20 the circumstances of the failure of the
21 Federal agency to implement a rec-
22 ommendation of the Administrator;
23 and

24 “(II) a recommendation regard-
25 ing whether, in order to correct an in-

1 equity or to preserve the integrity of
 2 the procurement process, Congress
 3 should consider—

4 “(aa) private relief legisla-
 5 tion;

6 “(bb) legislative rescission or
 7 cancellation of funds;

8 “(cc) further investigation
 9 by Congress; or

10 “(dd) other action.

11 “(B) ANNUAL REPORTS.—Not later than
 12 January 31 of each year, the Administrator
 13 shall transmit to Congress a report containing
 14 a summary of each instance in which a Federal
 15 agency did not fully implement a recommenda-
 16 tion of the Administrator under subsection (b)
 17 or this subsection during the preceding year.
 18 The report shall also describe each instance in
 19 which a final decision in a protest was not ren-
 20 dered within 100 days after the date on which
 21 the protest was submitted to the Administrator.

22 “(d) REGULATIONS; AUTHORITY OF ADMINISTRATOR
 23 TO VERIFY ASSERTIONS.—

24 “(1) IN GENERAL.—The Administrator shall es-
 25 tablish such procedures as may be necessary for the

1 expeditious decision of protests under this section,
2 including procedures for accelerated resolution of
3 protests under the express option authorized by sub-
4 section (c)(1)(B). Such procedures shall provide that
5 the protest process may not be delayed by the failure
6 of a party to make a filing within the time provided
7 for the filing.

8 “(2) COMPUTATION OF TIME.—The procedures
9 established under paragraph (1) shall provide that,
10 in the computation of any period described in this
11 section—

12 “(A) the day of the act, event, or default
13 from which the designated period of time begins
14 to run not be included; and

15 “(B) the last day after such act, event, or
16 default be included, unless—

17 “(i) such last day is a Saturday, a
18 Sunday, or a legal holiday; or

19 “(ii) in the case of a filing of a paper
20 at the Administration or another Federal
21 agency, such last day is a day on which
22 weather or other conditions cause the clos-
23 ing of the Administration or other Federal
24 agency, in which event the next day that is

1 not a Saturday, Sunday, or legal holiday
2 shall be included.

3 “(3) ELECTRONIC FILING.—The Administrator
4 may prescribe procedures for the electronic filing
5 and dissemination of documents and information re-
6 quired under this section. In prescribing such proce-
7 dures, the Administrator shall consider the ability of
8 all parties to achieve electronic access to such docu-
9 ments and records.

10 “(e) ENFORCEMENT.—The Administrator may use
11 any authority available under this Act or any other provi-
12 sion of law to verify assertions made by parties in protests
13 under this section.

14 “(f) REGULATIONS.—The Administrator may issue
15 regulations regarding the use of the protest authority to
16 consider small business size or status challenges under
17 this section in matters involving any other program for
18 small business concerns.”.

19 **SEC. 504. TRAINING FOR CONTRACTING AND ENFORCE-**
20 **MENT PERSONNEL.**

21 (a) IN GENERAL.—Not later than 270 days after the
22 date of enactment of this Act, the head of each appro-
23 priate Federal agency or entity shall, in consultation with
24 the Administrator or the Inspector General of the Admin-
25 istration, as appropriate, develop courses concerning prop-

1 er classification of business concerns and small business
2 size and status for purposes of Federal contracts, sub-
3 contracts, grants, cooperative agreements, and cooperative
4 research and development agreements.

5 (b) POLICY ON PROSECUTIONS OF SMALL BUSINESS
6 SIZE AND STATUS FRAUD.—Section 3 of the Small Busi-
7 ness Act (15 U.S.C. 632), as amended by this Act, is
8 amended by adding at the end the following:

9 “(u) POLICY ON PROSECUTIONS OF SMALL BUSI-
10 NESS SIZE AND STATUS FRAUD.—Not later than 180
11 days after the date of enactment of this subsection, the
12 head of each relevant Federal agency and the Inspector
13 General of the Administration shall issue a Government-
14 wide policy on prosecution of small business size and sta-
15 tus fraud.”.

16 **SEC. 505. UPDATED SIZE STANDARDS.**

17 (a) IN GENERAL.—Not later than 1 year after the
18 date of enactment of this Act, the Administrator shall—

19 (1) conduct a detailed review of the size stand-
20 ards for small business concerns established under
21 section 3(a)(2) of the Small Business Act (15 U.S.C.
22 632(a)(2)); and

23 (2) if determined appropriate by the Adminis-
24 trator, promulgate revised size standards under that
25 section.

1 (b) PUBLICATION.—Not later than 1 year after the
 2 date of enactment of this Act, the Administrator shall
 3 make publically available information regarding—

4 (1) the factors evaluated as part of the review
 5 conducted under subsection (a)(1); and

6 (2) the criteria used for any revised size stand-
 7 ards promulgated under subsection (a)(2).

8 **SEC. 506. SMALL BUSINESS SIZE AND STATUS FOR PUR-**
 9 **POSE OF MULTIPLE AWARD CONTRACTS.**

10 Section 3 of the Small Business Act (15 U.S.C. 632),
 11 as amended by this Act, is amended by adding at the end
 12 the following:

13 “(w) SMALL BUSINESS SIZE AND STATUS FOR PUR-
 14 POSE OF MULTIPLE AWARD CONTRACTS.—

15 “(1) IN GENERAL.—A business concern that en-
 16 ters a multiple award contract of any kind with the
 17 Federal Government shall in any year in which such
 18 a contract is in effect, submit an annual statement
 19 at the end of its fiscal year recertifying its small
 20 business size and status to the Federal agency which
 21 awarded the contract.

22 “(2) RELATION TO OTHER LAWS.—Compliance
 23 with paragraph (1) shall not affect the obligation of

- 1 a business concern to comply with other provisions
- 2 of law concerning small business size or status.”.

