

111TH CONGRESS
1ST SESSION

H. R. 3558

To allow incumbent contractors to be eligible to re-compete for Government contracts as small businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2009

Mr. GRIFFITH introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To allow incumbent contractors to be eligible to re-compete for Government contracts as small businesses, 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.**

4 This Act may be cited as the “Small Business Fair
5 Competition Act”.

1 **SEC. 2. REPRESENTATION BY CONTRACTORS AS SMALL**
2 **BUSINESSES.**

3 (a) ELIGIBILITY OF INCUMBENT CONTRACTORS TO
4 RE-COMPETE AS SMALL BUSINESSES.—In the case of a
5 solicitation for bids or proposals by the Government for
6 a proposed contract award, if the goods or services to be
7 provided or performed under the proposed contract are
8 substantially the same as the goods or services being pro-
9 vided or performed under a current contract, then the in-
10 cumbent contractor is eligible to re-compete for the pro-
11 posed contract as a small business if the incumbent con-
12 tractor represents in good faith that it is a small business
13 in accordance with this section. Such representation may
14 be made if—

15 (1) the incumbent contractor meets the defini-
16 tion of a small business concern applicable to the so-
17 licitation and has not been determined by the Small
18 Business Administration to be a concern other than
19 a small business; or

20 (2) the incumbent contractor was a small busi-
21 ness at the time of initial award of the current con-
22 tract to the incumbent, is no longer a small business
23 at the time of the solicitation, and will revert to
24 being a small business (as defined in the solicitation
25 for the proposed contract) if not awarded the pro-
26 posed contract.

1 (b) SMALL BUSINESS SET-ASIDE.—In the case of a
2 proposed contract referred to in subsection (a) being
3 awarded to the incumbent contractor, the Government
4 may qualify the contract as a small business set-aside for
5 the duration of the contract.

6 (c) INCUMBENT CONTRACTOR DEFINED.—In this
7 section, the term “incumbent contractor”, with respect to
8 a contract, means the contractor currently performing the
9 contract.

10 (d) AMENDMENT OF FEDERAL ACQUISITION REGU-
11 LATION.—The Federal Acquisition Regulation shall be re-
12 vised within 180 days after the date of the enactment of
13 this Act to implement this Act.

○