

112TH CONGRESS
2D SESSION

H. R. 3850

To amend the Small Business Act with respect to goals for procurement contracts awarded to small business concerns, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 2012

Mr. GRAVES of Missouri (for himself, Mr. OWENS, and Mr. SCHILLING) 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 amend the Small Business Act with respect to goals for procurement contracts awarded to small business concerns, 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 “Government Efficiency
5 through Small Business Contracting Act of 2012”.

1 **SEC. 2. GOALS FOR PROCUREMENT CONTRACTS AWARDED**
2 **TO SMALL BUSINESS CONCERNS.**

3 (a) IN GENERAL.—Section 15(g) of the Small Busi-
4 ness Act (15 U.S.C. 644(g)) is amended by striking the
5 subsection enumerator and inserting the following:

6 “(g) GOALS FOR PROCUREMENT CONTRACTS
7 AWARDED TO SMALL BUSINESS CONCERNS.—”.

8 (b) GOVERNMENTWIDE GOALS.—Paragraph (1) of
9 section 15(g) of such Act (15 U.S.C. 644(g)) is amended
10 to read as follows:

11 “(1) GOVERNMENTWIDE GOALS.—The Presi-
12 dent shall annually establish Governmentwide goals
13 for procurement contracts awarded to small business
14 concerns, small business concerns owned and con-
15 trolled by service-disabled veterans, qualified
16 HUBZone small business concerns, small business
17 concerns owned and controlled by socially and eco-
18 nomically disadvantaged individuals, and small busi-
19 ness concerns owned and controlled by women in ac-
20 cordance with the following:

21 “(A) The Governmentwide goal for partici-
22 pation by small business concerns shall be es-
23 tablished at not less than 25 percent of the
24 total value of all prime contract awards for each
25 fiscal year and 40 percent of the total value of
26 all subcontract awards for each fiscal year.

1 “(B) The Governmentwide goal for partici-
2 pation by small business concerns owned and
3 controlled by service-disabled veterans shall be
4 established at not less than 3 percent of the
5 total value of all prime contract and at not less
6 than 3 percent of the total value of all sub-
7 contract awards for each fiscal year.

8 “(C) The Governmentwide goal for partici-
9 pation by qualified HUBZone small business
10 concerns shall be established at not less than 3
11 percent of the total value of all prime contract
12 and at not less than 3 percent of the total value
13 of all subcontract awards for each fiscal year.

14 “(D) The Governmentwide goal for partici-
15 pation by small business concerns owned and
16 controlled by socially and economically dis-
17 advantaged individuals shall be established at
18 not less than 5 percent of the total value of all
19 prime contract and at not less than 5 percent
20 of the total value of all subcontract awards for
21 each fiscal year.

22 “(E) The Governmentwide goal for partici-
23 pation by small business concerns owned and
24 controlled by women shall be established at not
25 less than 5 percent of the total value of all

1 prime contract and at not less than 5 percent
2 of the total value of all subcontract awards for
3 each fiscal year.”.

4 (c) AGENCY GOALS.—Paragraph (2) of section 15(g)
5 of such Act (15 U.S.C. 644(g)) is amended to read as fol-
6 lows:

7 “(2) AGENCY GOALS.—

8 “(A) ESTABLISHMENT.—The head of each
9 Federal agency shall annually establish, for the
10 agency that individual heads, goals for procure-
11 ment contracts awarded to small business con-
12 cerns, small business concerns owned and con-
13 trolled by service-disabled veterans, qualified
14 HUBZone small business concerns, small busi-
15 ness concerns owned and controlled by socially
16 and economically disadvantaged individuals, and
17 small business concerns owned and controlled
18 by women.

19 “(B) RELATIONSHIP TO GOVERNMENT-
20 WIDE GOALS.—

21 “(i) SCOPE.—The goals established by
22 the head of a Federal agency under sub-
23 paragraph (A) shall be in the same format
24 as the goals established by the President
25 under paragraph (1) and shall address

1 both prime contract and subcontract
2 awards.

3 “(ii) REQUIREMENT TO MEET OR EX-
4 CEED GOVERNMENTWIDE GOALS.—With
5 respect to each goal for a fiscal year estab-
6 lished under subparagraph (A) for a cat-
7 egory of small business concern, the par-
8 ticipation percentage applicable to such
9 goal may not be less than the participation
10 percentage applicable to the Government-
11 wide goal for such fiscal year established
12 under paragraph (1) for such category.

13 “(C) CONSULTATION REQUIRED.—

14 “(i) IN GENERAL.—In establishing
15 goals under subparagraph (A), the head of
16 each Federal agency shall consult with the
17 Administrator.

18 “(ii) DISAGREEMENTS.—If the Ad-
19 ministrator and the head of a Federal
20 agency fail to agree on a goal established
21 under subparagraph (A), the disagreement
22 shall be submitted to the Administrator for
23 Federal Procurement Policy for final deter-
24 mination.

1 “(D) PLAN FOR ACHIEVING GOALS.—After
2 establishing goals under subparagraph (A) for a
3 fiscal year, the head of each Federal agency
4 shall develop a plan for achieving such goals,
5 which shall apportion responsibilities among the
6 employees of such agency having procurement
7 powers.

8 “(E) EXPANDED PARTICIPATION.—In es-
9 tablishing goals under subparagraph (A), the
10 head of each Federal agency shall make a con-
11 sistent effort to annually expand participation
12 by small business concerns from each industry
13 category in procurement contracts of such agen-
14 cy, including participation by small business
15 concerns owned and controlled by service-dis-
16 abled veterans, qualified HUBZone small busi-
17 ness concerns, small business concerns owned
18 and controlled by socially and economically dis-
19 advantaged individuals, and small business con-
20 cerns owned and controlled by women.

21 “(F) CONSIDERATION.—The head of each
22 Federal agency, in attempting to attain ex-
23 panded participation under subparagraph (E),
24 shall consider—

1 “(i) contracts awarded as the result of
2 unrestricted competition; and

3 “(ii) contracts awarded after competi-
4 tion restricted to eligible small business
5 concerns under this section and under the
6 program established under section 8(a).

7 “(G) COMMUNICATION REGARDING
8 GOALS.—

9 “(i) IMPORTANCE OF ACHIEVING
10 GOALS.—Each procurement employee or
11 program manager described in clause (ii)
12 shall communicate to the subordinates of
13 the procurement employee or program
14 manager the importance of achieving goals
15 established under subparagraph (A).

16 “(ii) PROCUREMENT EMPLOYEES OR
17 PROGRAM MANAGERS DESCRIBED.—A pro-
18 curement employee or program manager
19 described in this clause is a senior procure-
20 ment executive, senior program manager,
21 or Director of Small and Disadvantaged
22 Business Utilization of a Federal agency
23 having contracting authority.”.

24 (d) ENFORCEMENT; DETERMINATIONS OF THE
25 TOTAL VALUE OF CONTRACT AWARDS.—Section 15(g) of

1 the Small Business Act (15 U.S.C. 644(g)), as amended
2 by this Act, is further amended by adding at the end the
3 following:

4 “(3) ENFORCEMENT.—If the Administrator
5 does not issue the report required in paragraph (2)
6 on or before the date that is 120 days after the end
7 of the prior fiscal year, the Administrator may not
8 carry out or establish any pilot program until the
9 date on which the Administrator issues the report.

10 “(4) DETERMINATIONS OF THE TOTAL VALUE
11 OF CONTRACT AWARDS.—For purposes of the goals
12 established under paragraphs (1) and (2), the total
13 value of contract awards for a fiscal year may not
14 be determined in a manner that excludes the value
15 of a contract based on—

16 “(A) where the contract is awarded;

17 “(B) where the contract is performed;

18 “(C) whether the contract is mandated by
19 Federal law to be performed by an entity other
20 than a small business concern;

21 “(D) whether funding for the contract is
22 made available in an appropriations Act, if the
23 contract is subject to competition in the Con-
24 tract Act; or

1 “(E) whether the contract is subject to the
2 Federal Acquisition Regulation.”.

3 **SEC. 3. REPORTING ON GOALS FOR PROCUREMENT CON-**
4 **TRACTS AWARDED TO SMALL BUSINESS CON-**
5 **CERNS.**

6 Subsection (h) of section 15 of the Small Business
7 Act (15 U.S.C. 644) is amended to read as follows:

8 “(h) REPORTING ON GOALS FOR PROCUREMENT
9 CONTRACTS AWARDED TO SMALL BUSINESS CON-
10 CERNS.—

11 “(1) AGENCY REPORTS.—At the conclusion of
12 each fiscal year, the head of each Federal agency
13 shall submit to the Administrator a report describ-
14 ing—

15 “(A) the extent of the participation by
16 small business concerns, small business con-
17 cerns owned and controlled by veterans (includ-
18 ing service-disabled veterans), qualified
19 HUBZone small business concerns, small busi-
20 ness concerns owned and controlled by socially
21 and economically disadvantaged individuals, and
22 small business concerns owned and controlled
23 by women in the procurement contracts of such
24 agency during such fiscal year;

1 “(B) whether the agency achieved the
2 goals established for the agency under sub-
3 section (g)(2)(A) with respect to such fiscal
4 year; and

5 “(C) any justifications for a failure to
6 achieve such goals.

7 “(2) REPORTS BY ADMINISTRATOR.—Not later
8 than 60 days after receiving a report from each Fed-
9 eral agency under paragraph (1) with respect to a
10 fiscal year, the Administrator shall submit to the
11 President and Congress a report that includes—

12 “(A) a copy of each report submitted to
13 the Administrator under paragraph (1);

14 “(B) a determination of whether each goal
15 established by the President under subsection
16 (g)(1) for such fiscal year was achieved;

17 “(C) a determination of whether each goal
18 established by the head of a Federal agency
19 under subsection (g)(2)(A) for such fiscal year
20 was achieved;

21 “(D) the reasons for any failure to achieve
22 a goal established under paragraph (1) or
23 (2)(A) of subsection (g) for such fiscal year and
24 a description of actions planned by the applica-
25 ble agency to address such failure, except that

1 the Administrator must concur with each reme-
2 diation plan;

3 “(E) for the Federal Government and each
4 Federal agency, an analysis of the number and
5 dollar amount of prime contracts awarded dur-
6 ing such fiscal year to—

7 “(i) small business concerns—

8 “(I) in the aggregate;

9 “(II) through sole source con-
10 tracts;

11 “(III) through competitions re-
12 stricted to small business concerns;

13 and

14 “(IV) through unrestricted com-
15 petition;

16 “(ii) small business concerns owned
17 and controlled by service-disabled vet-
18 erans—

19 “(I) in the aggregate;

20 “(II) through sole source con-
21 tracts;

22 “(III) through competitions re-
23 stricted to small business concerns;

24 “(IV) through competitions re-
25 stricted to small business concerns

1 owned and controlled by service-dis-
2 abled veterans; and

3 “(V) through unrestricted com-
4 petition;

5 “(iii) qualified HUBZone small busi-
6 ness concerns—

7 “(I) in the aggregate;

8 “(II) through sole source con-
9 tracts;

10 “(III) through competitions re-
11 stricted to small business concerns;

12 “(IV) through competitions re-
13 stricted to qualified HUBZone small
14 business concerns;

15 “(V) through unrestricted com-
16 petition where a price evaluation pref-
17 erence was used; and

18 “(VI) through unrestricted com-
19 petition where a price evaluation pref-
20 erence was not used;

21 “(iv) small business concerns owned
22 and controlled by socially and economically
23 disadvantaged individuals—

24 “(I) in the aggregate;

1 “(II) through sole source con-
2 tracts;

3 “(III) through competitions re-
4 stricted to small business concerns;

5 “(IV) through competitions re-
6 stricted to small business concerns
7 owned and controlled by socially and
8 economically disadvantaged individ-
9 uals; and

10 “(V) through unrestricted com-
11 petition;

12 “(v) small business concerns owned by
13 an Alaska Native Corporation—

14 “(I) in the aggregate;

15 “(II) through sole source con-
16 tracts;

17 “(III) through competitions re-
18 stricted to small business concerns;

19 “(IV) through competitions re-
20 stricted to small business concerns
21 owned and controlled by socially and
22 economically disadvantaged individ-
23 uals; and

24 “(V) through unrestricted com-
25 petition; and

1 “(vi) small business concerns owned
2 and controlled by women—

3 “(I) in the aggregate;

4 “(II) through competitions re-
5 stricted to small business concerns;

6 “(III) through competitions re-
7 stricted using the authority under sec-
8 tion 8(m)(2);

9 “(IV) through competitions re-
10 stricted using the authority under sec-
11 tion 8(m)(2) and in which the waiver
12 authority under section 8(m)(3) was
13 used; and

14 “(V) through unrestricted com-
15 petition; and

16 “(F) for the Federal Government and each
17 Federal agency, the number, dollar amount,
18 and distribution with respect to the North
19 American Industry Classification System of
20 subcontracts awarded during such fiscal year to
21 small business concerns, small business con-
22 cerns owned and controlled by service-disabled
23 veterans, qualified HUBZone small business
24 concerns, small business concerns owned and
25 controlled by socially and economically dis-

1 advantaged individuals, and small business con-
2 cerns owned and controlled by women.”.

3 **SEC. 4. SENIOR EXECUTIVES.**

4 (a) TRAINING.—Programs established for the devel-
5 opment of senior executives under section 3396(a) of title
6 5, United States Code, shall include training with respect
7 to Federal procurement requirements, including con-
8 tracting requirements under the Small Business Act (15
9 U.S.C. 631 et seq.).

10 (b) SABBATICALS.—If a Federal agency does not
11 achieve, with respect to a fiscal year, a goal established
12 by the head of such agency under section 15(g)(2)(A) of
13 the Small Business Act (15 U.S.C. 644(g)(2)(A)), a senior
14 executive within that agency may not be granted, during
15 the succeeding fiscal year, a sabbatical under section
16 3396(c) of title 5, United States Code.

17 (c) INCENTIVE AWARDS.—If a Federal agency does
18 not achieve, with respect to a fiscal year, a goal established
19 by the head of such agency under section 15(g)(2)(A) of
20 the Small Business Act (15 U.S.C. 644(g)(2)(A)), a senior
21 executive within that agency may not receive, during the
22 succeeding fiscal year, any incentive award under sub-
23 chapter I of chapter 45 of title 5, United States Code.

1 (d) SENIOR EXECUTIVE DEFINED.—In this section,
2 the term “senior executive” has the meaning given that
3 term in section 3132(a) of title 5, United States Code.

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