

Union Calendar No. 734

115TH CONGRESS
2^D SESSION

H. R. 6369

[Report No. 115-943]

To amend the Small Business Act to eliminate the inclusion of option years in the award price for sole source contracts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2018

Mr. MARSHALL (for himself and Mr. SCHNEIDER) introduced the following bill; which was referred to the Committee on Small Business

SEPTEMBER 12, 2018

Additional sponsor: Miss GONZÁLEZ-COLÓN of Puerto Rico

SEPTEMBER 12, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on July 13, 2018]

A BILL

To amend the Small Business Act to eliminate the inclusion of option years in the award price for sole source contracts, 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 “Expanding Contracting*
5 *Opportunities for Small Businesses Act of 2018”.*

6 **SEC. 2. AMENDMENTS TO CONTRACTING AUTHORITY FOR**
7 **CERTAIN SMALL BUSINESS CONCERNS.**

8 (a) *QUALIFIED HUBZONE SMALL BUSINESS CON-*
9 *CERNS.—Subparagraph (A) of section 31(b)(2) of the Small*
10 *Business Act (15 U.S.C. 657a(b)(2)) is amended to read as*
11 *follows:*

12 *“(A) SOLE SOURCE CONTRACTS.—A con-*
13 *tracting officer may award sole source contracts*
14 *under this section to any qualified HUBZone*
15 *small business concern, if—*

16 *“(i) the qualified HUBZone small*
17 *business concern is determined to be a re-*
18 *sponsible contractor with respect to per-*
19 *formance of such contract opportunity;*

20 *“(ii) the contracting officer does not*
21 *have a reasonable expectation that two or*
22 *more qualified HUBZone small business*
23 *concerns will submit offers for the con-*
24 *tracting opportunity;*

1 “(iii) the anticipated award price of
2 the contract will not exceed—

3 “(I) \$7,000,000, in the case of a
4 contract opportunity assigned a stand-
5 ard industrial classification code for
6 manufacturing; or

7 “(II) \$4,000,000, in the case of all
8 other contract opportunities; and

9 “(iv) in the estimation of the con-
10 tracting officer, the contract award can be
11 made at a fair and reasonable price.”.

12 (b) *SMALL BUSINESS CONCERN OWNED AND CON-*
13 *TROLLED BY SERVICE-DISABLED VETERANS.*—*Subsection*
14 *(a) of section 36 of the Small Business Act (15 U.S.C. 657f)*
15 *is amended to read as follows:*

16 “(a) *SOLE SOURCE CONTRACTS.*—*In accordance with*
17 *this section, a contracting officer may award a sole source*
18 *contract to any small business concern owned and con-*
19 *trolled by service-disabled veterans if—*

20 “(1) such concern is determined to be a respon-
21 sible contractor with respect to performance of such
22 contract opportunity;

23 “(2) the contracting officer does not have a rea-
24 sonable expectation that two or more small business
25 concerns owned and controlled by service-disabled vet-

1 *erans will submit offers for the contracting oppor-*
2 *tunity;*

3 *“(3) the anticipated award price of the contract*
4 *will not exceed—*

5 *“(A) \$7,000,000, in the case of a contract*
6 *opportunity assigned a standard industrial clas-*
7 *sification code for manufacturing; or*

8 *“(B) \$4,000,000, in the case of any other*
9 *contract opportunity;*

10 *“(4) in the estimation of the contracting officer,*
11 *the contract award can be made at a fair and reason-*
12 *able price;*

13 *“(5) the contracting officer has notified the Ad-*
14 *ministration of the intent to make such award and*
15 *requested that the Administration determine the con-*
16 *cern’s eligibility for award; and*

17 *“(6) the Administration has determined that*
18 *such concern is eligible for award.”.*

19 *(c) CERTAIN SMALL BUSINESS CONCERNS OWNED AND*
20 *CONTROLLED BY WOMEN.—Section 8(m) of the Small Busi-*
21 *ness Act (15 U.S.C. 637(m)) is amended—*

22 *(1) by amending paragraph (7) to read as fol-*
23 *lows:*

24 *“(7) AUTHORITY FOR SOLE SOURCE CONTRACTS*
25 *FOR ECONOMICALLY DISADVANTAGED SMALL BUSI-*

1 *NESS CONCERNS OWNED AND CONTROLLED BY*
2 *WOMEN.—A contracting officer may award a sole*
3 *source contract under this subsection to any small*
4 *business concern owned and controlled by women de-*
5 *scribed in paragraph (2)(A) and certified under para-*
6 *graph (2)(E) if—*

7 *“(A) such concern is determined to be a re-*
8 *sponsible contractor with respect to performance*
9 *of the contract opportunity;*

10 *“(B) the contracting officer does not have a*
11 *reasonable expectation that two or more busi-*
12 *nesses described in paragraph (2)(A) will submit*
13 *offers;*

14 *“(C) the anticipated award price of the con-*
15 *tract will not exceed—*

16 *“(i) \$7,000,000, in the case of a con-*
17 *tract opportunity assigned a standard in-*
18 *dustrial classification code for manufac-*
19 *turing; or*

20 *“(ii) \$4,000,000, in the case of any*
21 *other contract opportunity;*

22 *“(D) in the estimation of the contracting of-*
23 *ficer, the contract award can be made at a fair*
24 *and reasonable price;*

1 “(E) the contracting officer has notified the
2 Administration of the intent to make such award
3 and requested that the Administration determine
4 the concern’s eligibility for award; and

5 “(F) the Administration has determined
6 that such concern is eligible for award.”; and

7 (2) by amending paragraph (8) to read as fol-
8 lows:

9 “(8) *AUTHORITY FOR SOLE SOURCE CONTRACTS*
10 *FOR SMALL BUSINESS CONCERNS OWNED AND CON-*
11 *TROLLED BY WOMEN IN SUBSTANTIALLY UNDERREP-*
12 *RESENTED INDUSTRIES.—A contracting officer may*
13 *award a sole source contract under this subsection to*
14 *any small business concern owned and controlled by*
15 *women certified under paragraph (2)(E) that is in an*
16 *industry in which small business concerns owned and*
17 *controlled by women are substantially underrep-*
18 *resented (as determined by the Administrator under*
19 *paragraph (3)) if—*

20 “(A) such concern is determined to be a re-
21 sponsible contractor with respect to performance
22 of the contract opportunity;

23 “(B) the contracting officer does not have a
24 reasonable expectation that two or more busi-

1 *nesses in an industry that has received a waiver*
2 *under paragraph (3) will submit offers;*

3 *“(C) the anticipated award price of the con-*
4 *tract will not exceed—*

5 *“(i) \$7,000,000, in the case of a con-*
6 *tract opportunity assigned a standard in-*
7 *dustrial classification code for manufac-*
8 *turing; or*

9 *“(ii) \$4,000,000, in the case of any*
10 *other contract opportunity;*

11 *“(D) in the estimation of the contracting of-*
12 *ficer, the contract award can be made at a fair*
13 *and reasonable price;*

14 *“(E) the contracting officer has notified the*
15 *Administration of the intent to make such award*
16 *and requested that the Administration determine*
17 *the concern’s eligibility for award; and*

18 *“(F) the Administration has determined*
19 *that such concern is eligible for award.”.*

20 *(d) ELIMINATION OF THE INCLUSION OF OPTION*
21 *YEARS IN THE AWARD PRICE FOR CONTRACTS.—Section*
22 *8 of the Small Business Act (15 U.S.C. 637) is amended*
23 *by striking “(including options)” each place such term ap-*
24 *pears.*

1 **SEC. 3. SBA CERTIFICATION PROGRAM NOTIFICATION.**

2 *The Administrator of the Small Business Administra-*
3 *tion shall notify the Committee on Small Business of the*
4 *House of Representatives and the Committee on Small*
5 *Business and Entrepreneurship of the Senate when the Ad-*
6 *ministrator has implemented each of the following:*

7 (1) *A program to certify small business concerns*
8 *owned and controlled by women.*

9 (2) *A program to certify small business concerns*
10 *owned and controlled by service-disabled veterans.*

11 **SEC. 4. GAO REPORT.**

12 (a) *STUDY.*—*With respect to the Small Business Ad-*
13 *ministration's procurement programs for women-owned*
14 *small business concerns and for small business concerns*
15 *owned and controlled by service-disabled veterans, the*
16 *Comptroller General of the United States shall conduct an*
17 *evaluation of the policies and practices used by the Admin-*
18 *istration and other Federal agencies to provide assurance*
19 *that contracting officers are properly classifying sole source*
20 *awards under those programs in the Federal Procurement*
21 *Data System and that sole source contracts awarded under*
22 *those programs are being awarded to eligible concerns.*

23 (b) *REPORT.*—*No later than 18 months after the Small*
24 *Business Administration implements the certification pro-*
25 *grams described under section 3, the Comptroller General*
26 *shall issue a report to the Committee on Small Business*

1 *of the House of Representatives and the Committee on*
2 *Small Business and Entrepreneurship of the Senate con-*
3 *taining the findings made in carrying out the study re-*
4 *quired under subsection (a).*

5 *(c) SBA CONSIDERATION OF GAO REPORT.—*

6 *(1) IN GENERAL.—The Administrator of the*
7 *Small Business Administration shall review the re-*
8 *port issued under subsection (b) and take such actions*
9 *as the Administrator may determine appropriate to*
10 *address any concerns raised in such report and any*
11 *recommendations contained in such report.*

12 *(2) REPORT TO CONGRESS.—After the review de-*
13 *scribed under paragraph (1), the Administrator shall*
14 *issue a report to the Congress—*

15 *(A) stating that no additional actions were*
16 *necessary to address any concerns or rec-*
17 *ommendations contained in the report; or*

18 *(B) describing the actions taken by the Ad-*
19 *ministrator to resolve such concerns or imple-*
20 *ment such recommendations.*

1 **SEC. 5. REMOVAL OF ELIGIBILITY DETERMINATION UPON**
2 **IMPLEMENTATION OF CERTIFICATION PRO-**
3 **GRAMS.**

4 *Effective upon the notification described under section*
5 *3, the Small Business Act (15 U.S.C. 631 et seq.) is amend-*
6 *ed—*

7 *(1) in section 8(m)—*

8 *(A) in paragraph (7)—*

9 *(i) in subparagraph (C), by adding*
10 *“and” at the end;*

11 *(ii) in subparagraph (D), by striking*
12 *the semicolon at the end and inserting a pe-*
13 *riod; and*

14 *(iii) by striking subparagraphs (E)*
15 *and (F); and*

16 *(B) in paragraph (8)—*

17 *(i) in subparagraph (C), by adding*
18 *“and” at the end;*

19 *(ii) in subparagraph (D), by striking*
20 *the semicolon at the end and inserting a pe-*
21 *riod; and*

22 *(iii) by striking subparagraphs (E)*
23 *and (F); and*

24 *(2) in section 36(a)—*

25 *(A) in paragraph (3), by adding “and” at*
26 *the end;*

- 1 *(B) in paragraph (4), by striking the semi-*
- 2 *colon at the end and inserting a period; and*
- 3 *(C) by striking paragraphs (5) and (6).*

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