AN ACT

To prohibit the use of reverse auctions for design and construction services procurements, 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,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Construction Consensus Procurement Improvement Act of 2019”.

SEC. 2. PROHIBITION ON USE OF A REVERSE AUCTION FOR THE AWARD OF A CONTRACT FOR DESIGN AND CONSTRUCTION SERVICES.

(a) FINDING.—Congress finds that, in contrast to a traditional auction in which the buyers bid up the price, sellers bid down the price in a reverse auction.

(b) PROHIBITION.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to prohibit the use of reverse auctions for awarding contracts for design and construction services.

(c) DEFINITIONS.—In this section:

(1) The term “design and construction services” means—

(A) site planning and landscape design;

(B) architectural and engineering services (as defined in section 1102 of title 40, United States Code);

(C) interior design;

(D) performance of substantial construction work for facility, infrastructure, and environmental restoration projects;
(E) delivery and supply of construction materials to construction sites; or  
(F) construction or substantial alteration of public buildings or public works.  

(2) The term “reverse auction” means, with respect to any procurement by an executive agency—  
(A) a real-time auction conducted through an electronic medium among 2 or more offerors who compete by submitting bids for a supply or service contract, or a delivery order, task order, or purchase order under the contract, with the ability to submit revised lower bids at any time before the closing of the auction; and  
(B) the award of the contract, delivery order, task order, or purchase order to the offeror is solely based on the price obtained through the auction process.

Passed the Senate December 19, 2019.

Attest: JULIE E. ADAMS, Secretary.