

106TH CONGRESS
1ST SESSION

H. R. 2334

To amend title 10, United States Code, to extend and make improvements to the provisions relating to procurement contract goals for small disadvantaged businesses and certain institutions of higher education, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 1999

Ms. VELÁZQUEZ (for herself, Mr. SKELTON, Ms. MILLENDER-McDONALD, Mr. DAVIS of Illinois, Mrs. MCCARTHY of New York, Mr. PASCRELL, Mr. HINOJOSA, Mrs. CHRISTENSEN, Mr. BRADY of Pennsylvania, Mr. GONZALEZ, Ms. BERKLEY, Mrs. NAPOLITANO, Mr. SERRANO, Ms. BROWN of Florida, Mr. CLYBURN, Mr. FATTAH, Ms. JACKSON-LEE of Texas, Ms. KILPATRICK, Mr. RANGEL, Mr. CUMMINGS, Mr. WYNN, Mrs. CLAYTON, Ms. LEE, Mr. MENENDEZ, Mr. ORTIZ, Mrs. MEEK of Florida, Ms. WATERS, Mr. GUTIERREZ, and Ms. SANCHEZ) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to extend and make improvements to the provisions relating to procurement contract goals for small disadvantaged businesses and certain institutions of higher education, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Access to Contract
3 Equity Act”.

4 **SEC. 2. CONTRACT GOALS FOR SMALL DISADVANTAGED**
5 **BUSINESSES AND CERTAIN INSTITUTIONS OF**
6 **HIGHER EDUCATION.**

7 (a) MODIFICATION OF LIMITATION ON USE OF PRICE
8 ADJUSTMENTS.—Subparagraph (B) of section 2323(e)(3)
9 of title 10, United States Code, is amended—

10 (1) by redesignating clause (iii) as clause (iv);

11 and

12 (2) by inserting after clause (ii) the following
13 new clause:

14 “(iii) No suspension shall be issued in an indus-
15 try category under this paragraph if the President
16 determines in writing that contracts for a price ex-
17 ceeding fair market cost are necessary to remedy
18 demonstrated discrimination in such industry cat-
19 egory. Any such determination shall be published in
20 the Federal Register for a period of not less than 60
21 days before becoming effective. Any person or entity
22 adversely affected by the application of such des-
23 ignation may seek judicial review in the appropriate
24 United States district court.”.

25 (b) EXTENSION OF SECTION 2323.—Subsection (k)
26 of section 2323 of such Code is amended by striking out

1 “2000” both places it appears and inserting in lieu thereof
2 “2005”.

3 **SEC. 3. MENTOR-PROTEGE PROGRAM IMPROVEMENTS.**

4 (a) PROGRAM PARTICIPATION TERM.—Subsection
5 (e)(2) of section 831 of the National Defense Authoriza-
6 tion Act for Fiscal Year 1991 (10 U.S.C. 2302 note) is
7 amended to read as follows:

8 “(2) A program participation term for any pe-
9 riod of not more than three years, except that the
10 term may be a period of up to five years if the Sec-
11 retary of Defense determines in writing that unusual
12 circumstances justify a program participation term
13 in excess of three years.”.

14 (b) INCENTIVES AUTHORIZED FOR MENTOR
15 FIRMS.—Subsection (g) of such section is amended—

16 (1) in paragraph (1), by striking “shall” and
17 inserting “may”;

18 (2) in paragraph (2)—

19 (A) in subparagraph (A)—

20 (i) by striking “shall” and inserting
21 “may”;

22 (ii) by striking “subsection (f)” and
23 all that follows through “(i) as a line item”
24 and inserting “subsection (f) as provided
25 for in a line item”;

1 (iii) by striking the semicolon pre-
2 ceding clause (ii) and inserting “, except
3 that this clause does not apply in a case in
4 which the Secretary of Defense determines
5 in writing that unusual circumstances jus-
6 tify reimbursement using a separate con-
7 tract.”; and

8 (iv) by striking clauses (ii), (iii), and
9 (iv); and

10 (B) by striking subparagraph (B) and in-
11 serting the following:

12 “(B) The determinations made in annual perform-
13 ance reviews of a mentor firm’s mentor-protege agreement
14 under subsection (l)(2) shall be a major factor in the de-
15 terminations of amounts of reimbursement, if any, that
16 the mentor firm is eligible to receive in the remaining
17 years of the program participation term under the agree-
18 ment.

19 “(C) The total amount reimbursed under this para-
20 graph to a mentor firm for costs of assistance furnished
21 in a fiscal year to a protege firm may not exceed
22 \$1,000,000, except in a case in which the Secretary of De-
23 fense determines in writing that unusual circumstances
24 justify a reimbursement of a higher amount.”; and

1 (3) in paragraph (3)(A), by striking “either
2 subparagraph (A) or (C) of paragraph (2) or are re-
3 imbursed pursuant to subparagraph (B) of such
4 paragraph” and inserting “paragraph (2)”.

5 (c) FIVE-YEAR EXTENSION OF AUTHORITY.—Sub-
6 section (j) of such section is amended to read as follows:

7 “(j) EXPIRATION OF AUTHORITY.—(1) No mentor-
8 protege agreement may be entered into under subsection
9 (e) after September 30, 2004.

10 “(2) No reimbursement may be paid, and no credit
11 toward the attainment of a subcontracting goal may be
12 granted, under subsection (g) for any cost incurred after
13 September 30, 2005.”.

14 (d) REPORTS AND REVIEWS.—Subsection (l) of such
15 section is amended to read as follows:

16 “(l) REPORTS AND REVIEWS.—(1) The mentor firm
17 and protege firm under a mentor-protege agreement shall
18 submit to the Secretary of Defense an annual report on
19 the progress made by the protege firm in employment, rev-
20 enues, and participation in Department of Defense con-
21 tracts during the fiscal year covered by the report. The
22 requirement for submission of an annual report applies
23 with respect to each fiscal year covered by the program
24 participation term under the agreement and each of the
25 two fiscal years following the expiration of the program

1 participation term. The Secretary shall prescribe the tim-
2 ing and form of the annual report.

3 “(2)(A) The Secretary shall conduct an annual per-
4 formance review of each mentor-protege agreement that
5 provides for reimbursement of costs. The Secretary shall
6 determine on the basis of the review whether—

7 “(i) all costs reimbursed to the mentor firm
8 under the agreement were reasonably incurred to
9 furnish assistance to the protege firm in accordance
10 with the requirements of this section and applicable
11 regulations; and

12 “(ii) the mentor firm and protege firm accu-
13 rately reported progress made by the protege firm in
14 employment, revenues, and participation in Depart-
15 ment of Defense contracts during the program par-
16 ticipation term covered by the mentor-protege agree-
17 ment and the two fiscal years following the expira-
18 tion of the program participation term.

19 “(B) The Secretary shall act through the Commander
20 of the Defense Contract Management Command in car-
21 rying out the reviews and making the determinations
22 under subparagraph (A).

23 “(3) Not later than 6 months after the end of each
24 of fiscal years 2000 through 2004, the Secretary of De-

1 fense shall submit to Congress an annual report on the
2 mentor-protege program for that fiscal year.

3 “(2) The annual report for a fiscal year shall include,
4 at a minimum, the following:

5 “(A) The number of mentor-protege agreements
6 that were entered into during the fiscal year.

7 “(B) The number of mentor-protege agreements
8 that were in effect during the fiscal year.

9 “(C) The total amount reimbursed to mentor
10 firms pursuant to subsection (g) during the fiscal
11 year.

12 “(D) Each mentor-protege agreement, if any,
13 that was approved during the fiscal year in accord-
14 ance with subsection (e)(2) to provide a program
15 participation term in excess of 3 years, together with
16 the justification for the approval.

17 “(E) Each reimbursement of a mentor firm in
18 excess of the limitation in subsection (g)(2)(C) that
19 was made during the fiscal year pursuant to an ap-
20 proval granted in accordance with that subsection,
21 together with the justification for the approval.

22 “(F) Trends in the progress made in employ-
23 ment, revenues, and participation in Department of
24 Defense contracts by the protege firms participating
25 in the program during the fiscal year and the pro-

1 tege firms that completed or otherwise terminated
2 participation in the program during the preceding
3 two fiscal years.”.

4 (e) REPEAL OF LIMITATION ON AVAILABILITY OF
5 FUNDING.—Subsection (n) of such section is repealed.

6 (f) EFFECTIVE DATE AND SAVINGS PROVISION.—(1)
7 The amendments made by this section shall take effect
8 on October 1, 1999, and shall apply with respect to men-
9 tor-protege agreements that are entered into under section
10 831(e) of the National Defense Authorization Act for Fis-
11 cal Year 1991 on or after that date.

12 (2) Section 831 of the National Defense Authoriza-
13 tion Act for Fiscal Year 1991, as in effect on September
14 30, 1999, shall continue to apply with respect to mentor-
15 protege agreements entered into before October 1, 1999.

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