

107TH CONGRESS
2D SESSION

H. R. 3637

To amend the Small Business Act to provide a penalty for the failure by a Federal contractor to subcontract with small businesses as described in its subcontracting plan, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 2002

Mr. WYNN introduced the following bill; which was referred to the Committee on Small Business

A BILL

To amend the Small Business Act to provide a penalty for the failure by a Federal contractor to subcontract with small businesses as described in its subcontracting plan, 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 “Subcontractor Protec-
5 tion Act”.

1 **SEC. 2. IMPLEMENTATION OF SUBCONTRACTING PLANS.**

2 Section 8(d) of the Small Business Act (15 U.S.C.
3 637(d)) is amended by adding at the end the following
4 new paragraphs:

5 “(12) In the case of any contract containing a sub-
6 contracting plan included pursuant to paragraph (4) or
7 (5), the following provisions apply:

8 “(A) The Federal agency awarding the contract
9 shall include in the contract a clause providing for
10 the withholding of not less than (i) \$5,000 in the
11 case of a contract in the amount of \$100,000 or
12 less, (ii) 3 percent of the contract amount in the
13 case of a contract in an amount of more than
14 \$100,000 and less than \$5,000,000, and (iii) 5 per-
15 cent of the contract amount in the case of a contract
16 in an amount of \$5,000,000 or more, if the con-
17 tractor does not achieve the percentage goal for the
18 utilization of small business concerns owned and
19 controlled by socially and economically disadvan-
20 taged individuals as set forth in the subcontracting
21 plan.

22 “(B) The Federal agency awarding the contract
23 shall require the contractor to provide written jus-
24 tification to the agency whenever the contractor, in
25 performing the contract, does not enter into a sub-
26 contract with, or substitutes another subcontractor

1 for, a specific small business concern identified in
 2 the subcontracting plan.

3 “(13) The Administration shall establish a telephone
 4 line or other electronic means of communication through
 5 which any small business concern identified in a subcon-
 6 tracting plan by an offeror or bidder may communicate
 7 to the Administration any concerns regarding major devi-
 8 ations by prime contractors from the use of small business
 9 concerns as subcontractors under the prime contract as
 10 described in subcontracting plans.”.

11 **SEC. 3. REQUIREMENT TO CONSIDER USE OF SMALL BUSI-**
 12 **NESS CONCERNS OWNED AND CONTROLLED**
 13 **BY SOCIALLY AND ECONOMICALLY DIS-**
 14 **ADVANTAGED INDIVIDUALS WHEN CONSID-**
 15 **ERING PAST COMPLIANCE WITH SUBCON-**
 16 **TRACTING PLANS.**

17 Section 8(d) of the Small Business Act (15 U.S.C.
 18 637(d)) is amended in the second sentence of paragraphs
 19 (4)(C) and (5)(B) by inserting after “other such subcon-
 20 tracting plans” each place it appears the following:
 21 “, especially compliance with the goal set forth in such
 22 plans for the utilization of small business concerns owned
 23 and controlled by socially and economically disadvantaged
 24 individuals,”.

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