

108TH CONGRESS  
1ST SESSION

# S. 633

To modify the contract consolidation requirements in the Small Business Act, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 17, 2003

Mr. KERRY (for himself, Ms. LANDRIEU, Ms. STABENOW, Ms. CANTWELL, and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

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## A BILL

To modify the contract consolidation requirements in the Small Business Act, 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 “Small Business Fed-  
5 eral Contractor Safeguard Act”.

6 **SEC. 2. CONTRACT CONSOLIDATION.**

7 (a) DEFINITIONS.—Section 3(o) of the Small Busi-  
8 ness Act (15 U.S.C. 632(o)) is amended to read as follows:

9 “(o) DEFINITIONS.—In this Act the following defini-  
10 tions shall apply:

1           “(1) CONSOLIDATED CONTRACT; CONSOLIDA-  
 2           TION.—The term ‘consolidated contract’ or ‘consoli-  
 3           dation’ means a multiple award contract or a con-  
 4           tract for goods or services with a Federal agency  
 5           that—

6                   “(A) combines discrete procurement re-  
 7                   quirements from not less than 2 existing con-  
 8                   tracts;

9                   “(B) adds new, discrete procurement re-  
 10                  quirements to an existing contract; or

11                  “(C) includes 2 or more discrete procure-  
 12                  ment requirements.

13           “(2) MULTIPLE AWARD CONTRACT.—The term  
 14           ‘multiple award contract’ means—

15                   “(A) a contract that is entered into by the  
 16                   Administrator of General Services under the  
 17                   multiple award schedule program referred to in  
 18                   section 2302(2)(C) of title 10, United States  
 19                   Code;

20                   “(B) a multiple award task order contract  
 21                   or delivery order contract that is entered into  
 22                   under the authority of sections 2304a through  
 23                   2304d of title 10, United States Code, or sec-  
 24                   tions 303H through 303K of the Federal Prop-

1           erty and Administrative Services Act of 1949  
2           (41 U.S.C. 253h through 253k); and

3           “(C) any other indefinite delivery or indefi-  
4           nite quantity contract that is entered into by  
5           the head of a Federal agency with 2 or more  
6           sources pursuant to the same solicitation.”.

7           (b) PROCUREMENT STRATEGIES.—Section 15(e) of  
8           the Small Business Act (15 U.S.C. 644(e)) is amended  
9           to read as follows:

10          “(e) PROCUREMENT STRATEGIES; CONTRACT CON-  
11          SOLIDATION.—

12                 “(1) IN GENERAL.—To the maximum extent  
13                 practicable, procurement strategies used by the var-  
14                 ious agencies having contracting authority shall fa-  
15                 cilitate the maximum participation of small business  
16                 concerns as—

17                         “(A) prime contractors;

18                         “(B) subcontractors; and

19                         “(C) suppliers.

20                 “(2) PROCUREMENT STRATEGY REQUIREMENTS  
21                 WHEN THE VALUE OF A CONSOLIDATED CONTRACT  
22                 IS GREATER THAN \$2,000,000.—

23                         “(A) IN GENERAL.—An agency official  
24                         may not execute a procurement strategy that  
25                         includes a consolidated contract valued at more

1           than \$2,000,000 unless the proposed procure-  
2           ment strategy—

3                   “(i) specifically identifies the benefits  
4                   anticipated from consolidation;

5                   “(ii) identifies any alternative con-  
6                   tracting approaches that would involve a  
7                   lesser degree of contract consolidation; and

8                   “(iii) includes a specific determination  
9                   that the proposed consolidation is nec-  
10                  essary and the anticipated benefits of such  
11                  consolidation justify its use.

12               “(B) NECESSARY AND JUSTIFIED.—The  
13               head of an agency may determine that a pro-  
14               curement strategy under subparagraph (A)(iii)  
15               is necessary and justified if the monetary bene-  
16               fits of the procurement strategy, including ad-  
17               ministrative and personnel costs, substantially  
18               exceed the monetary benefits of each of the pos-  
19               sible alternative contracting approaches identi-  
20               fied under subparagraph (A)(ii).

21               “(C) ADDITIONAL REQUIREMENTS WHEN  
22               THE VALUE OF A CONSOLIDATED CONTRACT IS  
23               GREATER THAN \$5,000,000.—In addition to  
24               meeting the requirements under paragraph (A),  
25               a procurement strategy that includes a consoli-

1           dated contract valued at more than  
2           \$5,000,000—

3                   “(i) shall be supported by current  
4                   market research that demonstrates that  
5                   the consolidated contract will result in—

6                           “(I) cost savings;

7                           “(II) quality improvements;

8                           “(III) reduction in acquisition  
9                           cycle times; or

10                           “(IV) better terms and condi-  
11                           tions;

12                   “(ii) shall include an assessment of  
13                   the specific impediments to participation  
14                   by small business concerns as prime con-  
15                   tractors that result from contract consoli-  
16                   dation;

17                   “(iii) shall specify actions designed to  
18                   maximize small business participation as  
19                   subcontractors, including suppliers, at var-  
20                   ious tiers under the consolidated contract;  
21                   and

22                   “(iv) shall not be justified under para-  
23                   graph (A)(iii) by savings in administrative  
24                   or personnel costs, unless the total amount  
25                   of the cost savings is expected to be sub-

1           stantial in relation to the total cost of the  
2           procurement.

3           “(3) CONTRACT TEAMING.—

4           “(A) IN GENERAL.—If the head of an  
5           agency solicits offers for a consolidated con-  
6           tract, a small business concern may submit an  
7           offer that provides for the use of a particular  
8           team of subcontractors for the performance of  
9           the contract (referred to in this paragraph as  
10          ‘teaming’).

11          “(B) EVALUATION OF OFFER.—The head  
12          of the agency shall evaluate an offer submitted  
13          by a small business concern under subpara-  
14          graph (A) in the same manner as other offers,  
15          with due consideration to the capabilities of all  
16          of the proposed subcontractors.

17          “(C) NO EFFECT ON STATUS AS A SMALL  
18          BUSINESS CONCERN.—If a small business con-  
19          cern engages in teaming under subparagraph  
20          (A), its status as a small business concern shall  
21          not be affected for any other purpose.”.

22          (c) CONFORMING AMENDMENTS.—The Small Busi-  
23          ness Act (15 U.S.C. 631 et seq.) is amended—

24               (1) in section 2(j)—

1 (A) by striking the subsection heading and  
 2 inserting the following:

3 “(j) CONTRACT CONSOLIDATION.—”; and

4 (B) in paragraph (3), by striking “bundling of contract requirements” and inserting  
 5 “contract consolidation”;  
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7 (2) in section 8(d)(4)(G), by striking “a bundled contract” and inserting “a consolidated contract”;  
 8  
 9

10 (3) in section 15(a)—

11 (A) by striking “bundling of contract requirements” and inserting “contract consolidation”; and  
 12  
 13

14 (B) by striking “the bundled contract” and  
 15 inserting “the consolidated contract”; and

16 (4) in section 15(k)(5)—

17 (A) by striking “significant bundling of contract requirements” and inserting “consolidated contracts valued at more than  
 18  
 19  
 20 \$2,000,000”; and

21 (B) by striking “bundled contract” and inserting “consolidated contract”.  
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