

111TH CONGRESS  
1ST SESSION

# H. R. 2299

To amend the Small Business Act to enhance services to small business concerns that are disadvantaged, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2009

Mr. RUSH (for himself, Ms. CORRINE BROWN of Florida, Mr. COHEN, Mr. ISRAEL, Mr. CLAY, Mr. ORTIZ, Ms. FUDGE, Mr. MOORE of Kansas, Mr. BARROW, Mr. CROWLEY, Mr. ROSS, Ms. LEE of California, Mr. CLYBURN, Mr. JOHNSON of Georgia, Ms. JACKSON-LEE of Texas, Mr. TOWNS, Ms. CLARKE, Mr. CUMMINGS, Mr. CLEAVER, Mr. WEINER, Mr. McDERMOTT, Ms. EDWARDS of Maryland, Mrs. TAUSCHER, Mr. PERLMUTTER, Ms. KAPTUR, and Mr. LANGEVIN) introduced the following bill; which was referred to the Committee on Small Business

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## A BILL

To amend the Small Business Act to enhance services to small business concerns that are disadvantaged, 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 “Minority Small Busi-  
5   ness Enhancement Act of 2009”.

1 **SEC. 2. ENHANCEMENT OF SERVICES TO SMALL BUSI-**  
2 **NESSES THAT ARE DISADVANTAGED.**

3 (a) NET WORTH.—Section 8(a)(6)(A) of the Small  
4 Business Act (15 U.S.C. 637(a)(6)(A)) is amended by in-  
5 serting after “disadvantaged individual.” the following:  
6 “For purposes of eligibility for admission as a Program  
7 Participant and for continued eligibility after admission,  
8 the net worth of such individual may be any amount less  
9 than \$1,500,000.”.

10 (b) TIME LIMIT ON PARTICIPATION.—Section  
11 7(j)(15) of the Small Business Act (15 U.S.C. 636(j)(15))  
12 is amended—

13 (1) by redesignating subparagraphs (A) and  
14 (B) as clauses (i) and (ii), respectively;

15 (2) by inserting “(A)” after “(15)”; and

16 (3) by adding at the end the following:

17 “(B) No time limitation relating to the period that  
18 a small business concern may receive developmental assist-  
19 ance under the Program and contracts under section 8(a)  
20 shall apply to a small business concern that has not com-  
21 pleted a contract under section 8(a).”.

22 **SEC. 3. SURETY BOND GUARANTEES.**

23 Section 508(f) of division A of the American Recovery  
24 and Reinvestment Act of 2009 (Public Law 111–5; 123  
25 Stat. 159) is amended by striking “amendments made by

1 this section” and inserting “amendment made by sub-  
2 section (c)”.

3 **SEC. 4. BUNDLED CONTRACTS.**

4 (a) DEFINITION.—Section 3(o) of the Small Business  
5 Act (15 U.S.C. 632(o)) is amended to read as follows:

6 “(o) DEFINITIONS OF BUNDLING OF CONTRACT RE-  
7 QUIREMENTS AND RELATED TERMS.—For purposes of  
8 this Act:

9 “(1) BUNDLED CONTRACT.—

10 “(A) IN GENERAL.—The term ‘bundled  
11 contract’ means a contract or order that is en-  
12 tered into to meet procurement requirements  
13 that are consolidated in a bundling of contract  
14 requirements, without regard to its designation  
15 by the procuring agency or whether a study of  
16 the effects of the solicitation on civilian or mili-  
17 tary personnel has been made.

18 “(B) EXCEPTIONS.—The term does not in-  
19 clude—

20 “(i) a contract or order with an aggre-  
21 gate dollar value below the dollar threshold  
22 specified in paragraph (5); or

23 “(ii) a contract or order that is en-  
24 tered into to meet procurement require-

1                   ments, all of which are exempted require-  
2                   ments under paragraph (6).

3                   “(2) BUNDLING OF CONTRACT REQUIRE-  
4                   MENTS.—

5                   “(A) IN GENERAL.—The term ‘bundling of  
6                   contract requirements’ means the use of any  
7                   bundling methodology to satisfy 2 or more pro-  
8                   curement requirements for goods or services  
9                   previously supplied or performed under separate  
10                  smaller contracts or orders, or to satisfy 2 or  
11                  more procurement requirements for construc-  
12                  tion services of a type historically performed  
13                  under separate smaller contracts or orders, that  
14                  is likely to be unsuitable for award to a small  
15                  business concern due to—

16                  “(i) the diversity, size, or specialized  
17                  nature of the elements of the performance  
18                  specified;

19                  “(ii) the aggregate dollar value of the  
20                  anticipated award;

21                  “(iii) the geographical dispersion of  
22                  the contract or order performance sites; or

23                  “(iv) any combination of the factors  
24                  described in clauses (i), (ii), and (iii).

“(B) INCLUSION OF NEW FEATURES OR  
FUNCTIONS.—A combination of contract re-  
quirements that would meet the definition of a  
bundling of contract requirements but for the  
addition of a procurement requirement with at  
least one new good or service shall be consid-  
ered to be a bundling of contract requirements  
unless the new features or functions substan-  
tially transform the goods or services and will  
provide measurably substantial benefits to the  
government in terms of quality, performance, or  
price.

“(C) EXCEPTIONS.—The term does not in-  
clude—

“(i) the use of a bundling method-  
ology for an anticipated award with an ag-  
gregate dollar value below the dollar  
threshold specified in paragraph (5); or

“(ii) the use of a bundling method-  
ology to meet procurement requirements,  
all of which are exempted requirements  
under paragraph (6).

“(3) BUNDLING METHODOLOGY.—The term  
‘bundling methodology’ means—

1           “(A) a solicitation to obtain offers for a  
2           single contract or order, or a multiple award  
3           contract or order; or

4           “(B) a solicitation of offers for the  
5           issuance of a task or a delivery order under an  
6           existing single or multiple award contract or  
7           order.

8           “(4) SEPARATE SMALLER CONTRACT.—The  
9           term ‘separate smaller contract’, with respect to  
10          bundling of contract requirements, means a contract  
11          or order that has been performed by 1 or more small  
12          business concerns or was suitable for award to 1 or  
13          more small business concerns.

14          “(5) DOLLAR THRESHOLD.—The term ‘dollar  
15          threshold’ means \$65,000,000, if solely for construc-  
16          tion services, and \$5,000,000 with respect to all  
17          other circumstances.

18          “(6) EXEMPTED REQUIREMENTS.—The term  
19          ‘exempted requirement’ means a procurement re-  
20          quirement solely for items that are not commercial  
21          items (as the term ‘commercial item’ is defined in  
22          section 4(12) of the Office of Federal Procurement  
23          Policy Act (41 U.S.C. 403(12)).

24          “(7) PROCUREMENT REQUIREMENT.—The term  
25          ‘procurement requirement’ means a determination

1 by an agency that a specified good or service is  
2 needed to satisfy the mission of the agency.”.

3 (b) PROPOSED PROCUREMENT REQUIREMENTS.—

4 Section 15(a) of the Small Business Act (15 U.S.C.  
5 644(a)) is amended—

6 (1) by striking “necessary and justified.” and  
7 inserting “necessary and justified, as well as identi-  
8 fying information on the incumbent contract holders,  
9 a description of the industries which might be inter-  
10 ested in bidding on the contract requirements, and  
11 the number of small businesses listed in the industry  
12 categories that could be excluded from future bid-  
13 ding if the contract is combined or packaged.”; and

14 (2) by striking the sentence beginning “When-  
15 ever the Administration and the contracting procure-  
16 ment agency fail to agree,” and inserting the fol-  
17 lowing: “Whenever the Administration and the con-  
18 tracting procurement agency fail to agree, the Ad-  
19 ministrator may review the proposed procurement,  
20 may delay the solicitation process for not more than  
21 10 days to make recommendations, and the matter  
22 shall be submitted to the Director of the Office of  
23 Management and Budget to mediate the disagree-  
24 ment.”.

1 **SEC. 5. FEDERAL CONTRACTING GOALS.**

2 (a) INCREASE IN CERTAIN GOALS.—Section 15(g)(1)  
3 of the Small Business Act (15 U.S.C. 644(g)(1)) is  
4 amended—

5 (1) by striking “not less than 23 percent” and  
6 inserting “not less than 25 percent”; and

7 (2) by striking “not less than 5 percent” each  
8 place it appears and inserting “not less than 10 per-  
9 cent”.

10 (b) LIMITATION ON NUMBER OF CATEGORIES FOR  
11 WHICH A BUSINESS MAY QUALIFY.—Section 15(g) of the  
12 Small Business Act (15 U.S.C. 644(g)) is amended by  
13 adding at the end the following:

14 “(3) For purposes of this subsection and subsection  
15 (h), with respect to each procurement contract a small  
16 business concern may not qualify as more than 2 specified  
17 categories, regardless of whether such small business con-  
18 cern satisfies the definition of more than 2 specified cat-  
19 egories. The specified categories are small business con-  
20 cerns, small business concerns owned and controlled by  
21 service-disabled veterans, qualified HUBZone small busi-  
22 ness concerns, small business concerns owned and con-  
23 trolled by socially and economically disadvantaged individ-  
24 uals, and small business concerns owned and controlled  
25 by women.”.



1       (c)     GOVERNMENT     ACCOUNTABILITY     OFFICE  
2     STUDY.—Not later than October 1, 2010, the Comptroller  
3     General of the United States shall conduct and submit to  
4     Congress a report describing the results of a study on dis-  
5     parities in the awarding of Federal contracts to procure  
6     goods or services with respect to small business concerns  
7     owned and controlled by socially and economically dis-  
8     advantaged individuals, small business concerns, and other  
9     business concerns.

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