

Calendar No. 635

111TH CONGRESS
2D SESSION**S. 2989****[Report No. 111-343]**

To improve the Small Business Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 2010

Ms. LANDRIEU (for herself, Ms. SNOWE, Mrs. SHAHEEN, Mr. FEINGOLD, Ms. KLOBUCHAR, Mr. MERKLEY, Mr. SPECTER, Mr. BURRIS, Ms. STABENOW, Ms. CANTWELL, and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

SEPTEMBER 29, 2010

Reported by Ms. LANDRIEU, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]**A BILL**

To improve 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 Con-
 5 tracting Revitalization Act of 2010”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents for this Act is as follows:

Sec. 1: Short title.
 Sec. 2: Table of contents.
 Sec. 3: Definitions.

TITLE I—CONTRACT BUNDLING

Sec. 101: Leadership and oversight.
 Sec. 102: Consolidation of contract requirements.
 Sec. 103: Small business teams pilot program.

TITLE II—SUBCONTRACTING INTEGRITY

Sec. 201: GAO recommendations on subcontracting misrepresentations.
 Sec. 202: Small business subcontracting improvements.

TITLE III—ACQUISITION PROCESS

Sec. 301: Reservation of prime contract awards for small businesses.
 Sec. 302: Micro-purchase guidelines.
 Sec. 303: Agency accountability.
 Sec. 304: Payment of subcontractors.
 Sec. 305: Repeal of Small Business Competitiveness Demonstration Program.

TITLE IV—SMALL BUSINESS SIZE AND STATUS INTEGRITY

Sec. 401: Policy and presumptions.
 Sec. 402: Annual certification.
 Sec. 403: Training for contracting and enforcement personnel.
 Sec. 404: Updated size standards.
 Sec. 405: Study and report on the mentor-protégé program.

3 **SEC. 3. DEFINITIONS.**

4 In this Act—

5 (1) the terms “Administration” and “Adminis-
 6 trator” mean the Small Business Administration
 7 and the Administrator thereof, respectively; and

8 (2) the term “small business concern” has the
 9 meaning given that term under section 3 of the
 10 Small Business Act (15 U.S.C. 632).

1 **TITLE I—CONTRACT BUNDLING**

2 **SEC. 101. LEADERSHIP AND OVERSIGHT.**

3 (a) IN GENERAL.—Section 15 of the Small Business
4 Act (~~15 U.S.C. 644~~) is amended by adding at the end the
5 following:

6 “(q) BUNDLING ACCOUNTABILITY MEASURES.—

7 “(1) TEAMING REQUIREMENTS.—Each Federal
8 agency shall include in each solicitation for any con-
9 tract award above the substantial bundling threshold
10 of the Federal agency a provision soliciting bids by
11 teams and joint ventures of small business concerns.

12 “(2) AGENCY POLICIES ON REDUCTION OF CON-
13 TRACT BUNDLING.—The head of each Federal agen-
14 cy shall—

15 “(A) not later than 180 days after the date
16 of enactment of this subsection, publish on the
17 website of the Federal agency the policy of the
18 Federal agency regarding contracting bundling
19 and consolidation, including regarding the solie-
20 itation of teaming and joint ventures under
21 paragraph (1); and

22 “(B) not later than 30 days after the date
23 on which the head of the Federal agency sub-
24 mits data certifications to the Administrator for
25 Federal Procurement Policy, publish on the

1 website of the Federal agency a list and ration-
 2 ale for any bundled contract for which the Fed-
 3 eral agency solicited bids or that was awarded
 4 by the Federal agency.

5 “(3) REPORTING.—Not later than 90 days after
 6 the date of enactment of this subsection, and every
 7 3 years thereafter, the Director of Small and Dis-
 8 advantaged Business Utilization for each Federal
 9 agency shall submit to the Committee on Small
 10 Business and Entrepreneurship of the Senate and
 11 the Committee on Small Business of the House of
 12 Representatives a report regarding procurement cen-
 13 ter representatives and commercial market rep-
 14 resentatives, which shall—

15 “(A) identify each area for which the Fed-
 16 eral agency has assigned a procurement center
 17 representative or a commercial market rep-
 18 resentative;

19 “(B) explain why the Federal agency se-
 20 lected the areas identified under subparagraph
 21 (A); and

22 “(C) describe the activities performed by
 23 procurement center representatives and com-
 24 mercial market representatives.”.

1 (b) ~~TECHNICAL CORRECTION.~~—Section 15(g) of the
 2 Small Business Act (15 U.S.C. 644(g)) is amended by
 3 striking “Administrator of the Office of Federal Procure-
 4 ment Policy” each place it appears and inserting “Admin-
 5 istrator for Federal Procurement Policy”.

6 (c) ~~REPORT.~~—

7 (1) ~~IN GENERAL.~~—Not later than 180 days
 8 after the date of enactment of this Act, the Comp-
 9 troller General of the United States shall submit to
 10 Congress a report regarding the procurement center
 11 representative program of the Administration.

12 (2) ~~CONTENTS.~~—The report submitted under
 13 paragraph (1) shall—

14 (A) address ways to improve the effective-
 15 ness of the procurement center representative
 16 program in helping small business concerns ob-
 17 tain Federal contracts;

18 (B) evaluate the effectiveness of procure-
 19 ment center representatives and commercial
 20 marketing representatives; and

21 (C) include recommendations, if any, on
 22 how to improve the procurement center rep-
 23 resentative program.

24 (d) ~~ELECTRONIC PROCUREMENT CENTER REP-~~
 25 ~~RESENTATIVE.~~—Not later than 180 days after the date

1 of enactment of this Act, the Administrator shall imple-
 2 ment an electronic procurement center representative pro-
 3 gram.

4 **SEC. 102. CONSOLIDATION OF CONTRACT REQUIREMENTS.**

5 The Small Business Act (15 U.S.C. 631 et seq.) is
 6 amended—

7 (1) by redesignating section 44 as section 45;
 8 and

9 (2) by inserting after section 43 the following:

10 **“SEC. 44. CONSOLIDATION OF CONTRACT REQUIREMENTS.**

11 **“(a) DEFINITIONS.—**In this section—

12 **“(1)** the term ‘Chief Acquisition Officer’ means
 13 the employee of a Federal agency designated as the
 14 Chief Acquisition Officer for the Federal agency
 15 under section 16(a) of the Office of Federal Pro-
 16 curement Policy Act (41 U.S.C. 414(a));

17 **“(2)** the term ‘consolidation of contract require-
 18 ments’, with respect to contract requirements of a
 19 Federal agency, means a use of a solicitation to ob-
 20 tain offers for a single contract or a multiple award
 21 contract to satisfy 2 or more requirements of the
 22 Federal agency for goods or services that have been,
 23 are being, or will be provided to, or will be per-
 24 formed for or would typically be performed for, the
 25 Federal agency under 2 or more separate contracts

1 lower in cost than the total cost of the contract for
 2 which the offers are solicited;

3 “(3) the term ‘Federal agency’ does not include
 4 the Department of Defense or any agency of the De-
 5 partment of Defense;

6 “(4) the term ‘multiple award contract’
 7 means—

8 “(A) a multiple award task order contract
 9 or delivery order contract that is entered into
 10 under the authority of sections 303H through
 11 303K of the Federal Property and Administra-
 12 tive Services Act of 1949 (41 U.S.C. 253h
 13 through 253k); and

14 “(B) any other indefinite delivery, indefi-
 15 nite quantity contract that is entered into by
 16 the head of a Federal agency with 2 or more
 17 sources pursuant to the same solicitation; and

18 “(5) the term ‘senior procurement executive’
 19 means an official designated under section 16(e) of
 20 the Office of Federal Procurement Policy Act (41
 21 U.S.C. 414(e)) as the senior procurement executive
 22 for a Federal agency.

23 “(b) POLICY.—The head of each Federal agency shall
 24 ensure that the decisions made by the Federal agency re-
 25 garding consolidation of contract requirements of the Fed-

1 eral agency are made with a view to providing small busi-
 2 ness concerns with appropriate opportunities to partici-
 3 pate as prime contractors and subcontractors in the pro-
 4 curements of the Federal agency.

5 “(e) LIMITATION ON USE OF ACQUISITION STRATE-
 6 GIES INVOLVING CONSOLIDATION.—

7 “(1) IN GENERAL.—The head of a Federal
 8 agency may not carry out an acquisition strategy
 9 that includes a consolidation of contract require-
 10 ments of the Federal agency with a total value of
 11 more than \$2,000,000, unless the senior procure-
 12 ment executive or Chief Acquisition Officer for the
 13 Federal agency, before carrying out the acquisition
 14 strategy—

15 “(A) conducts market research;

16 “(B) identifies any alternative contracting
 17 approaches that would involve a lesser degree of
 18 consolidation of contract requirements; and

19 “(C) determines that the consolidation of
 20 contract requirements is necessary and justi-
 21 fied.

22 “(2) DETERMINATION THAT CONSOLIDATION IS
 23 NECESSARY AND JUSTIFIED.—

24 “(A) IN GENERAL.—A senior procurement
 25 executive or Chief Acquisition Officer may de-

1 terminate that an acquisition strategy involving a
 2 consolidation of contract requirements is nec-
 3 essary and justified for the purposes of para-
 4 graph (1)(C) if the benefits of the acquisition
 5 strategy substantially exceed the benefits of
 6 each of the possible alternative contracting ap-
 7 proaches identified under paragraph (1)(B).

8 ~~“(B) SAVINGS IN ADMINISTRATIVE OR~~
 9 ~~PERSONNEL COSTS.—~~For purposes of subpara-
 10 ~~graph (A), savings in administrative or per-~~
 11 ~~sonnel costs alone do not constitute a sufficient~~
 12 ~~justification for a consolidation of contract re-~~
 13 ~~quirements in a procurement unless the ex-~~
 14 ~~pected total amount of the cost savings, as de-~~
 15 ~~termined by the senior procurement executive~~
 16 ~~or Chief Acquisition Officer, is substantial in~~
 17 ~~relation to the total cost of the procurement.~~

18 ~~“(3) BENEFITS TO BE CONSIDERED.—~~The ben-
 19 ~~efits considered for the purposes of paragraphs (1)~~
 20 ~~and (2) may include cost and, regardless of whether~~
 21 ~~quantifiable in dollar amounts—~~

22 ~~“(A) quality;~~

23 ~~“(B) acquisition cycle;~~

24 ~~“(C) terms and conditions; and~~

25 ~~“(D) any other benefit.”.~~

1 **SEC. 103. SMALL BUSINESS TEAMS PILOT PROGRAM.**

2 (a) **DEFINITIONS.**—In this section—

3 (1) the term “Center” means the Center for
4 Small Business Teaming established under sub-
5 section (b); and

6 (2) the term “eligible organization” means a
7 well-established national organization for small busi-
8 ness concerns with the capacity to provide assistance
9 to small business concerns (which may be provided
10 with the assistance of the Center) relating to—

11 (A) customer relations and outreach;

12 (B) submitting bids and proposals;

13 (C) team relations and outreach; and

14 (D) performance measurement and quality
15 assurance.

16 (b) **ESTABLISHMENT.**—The Administrator shall es-
17 tablish a Center for Small Business Teaming within the
18 Administration to carry out a pilot program for teaming
19 and joint ventures involving small business concerns.

20 (c) **GRANTS.**—The Center may make grants to eligi-
21 ble organizations to assemble teams of small business con-
22 cerns to compete for larger procurement contracts.

23 (d) **CONTRACTING OPPORTUNITIES.**—

24 (1) **IN GENERAL.**—The Center shall work with
25 eligible organizations receiving a grant under this
26 section to identify appropriate contracting opportu-

1 nities for teams or joint ventures of small business
2 concerns.

3 ~~(2) RESTRICTED COMPETITION.—A contracting~~
4 ~~officer of a Federal agency may restrict competition~~
5 ~~for any contract for the procurement of goods or~~
6 ~~services by the Federal agency to teams or joint ven-~~
7 ~~tures of small business concerns if determined ap-~~
8 ~~propriate by the contracting officer.~~

9 ~~(c) TERMINATION.—The authorities under this sec-~~
10 ~~tion shall terminate 5 years after the date of enactment~~
11 ~~of this Act.~~

12 ~~(f) AUTHORIZATION OF APPROPRIATIONS.—There~~
13 ~~are authorized to be appropriated for grants by the Center~~
14 ~~under subsection (c) \$5,000,000 for each of fiscal years~~
15 ~~2010 through 2015.~~

16 **TITLE II—SUBCONTRACTING** 17 **INTEGRITY**

18 **SEC. 201. GAO RECOMMENDATIONS ON SUBCONTRACTING** 19 **MISREPRESENTATIONS.**

20 Section 8 of the Small Business Act (15 U.S.C. 637)
21 is amended by adding at the end the following:

22 ~~“(o) PREVENTION OF MISREPRESENTATIONS IN~~
23 ~~SUBCONTRACTING; IMPLEMENTATION OF RECOMMENDA-~~
24 ~~TIONS OF COMPTROLLER GENERAL.—~~

1 “(1) STATEMENT OF POLICY.—It is the policy
2 of Congress that the recommendations of the Comp-
3 troller General of the United States in Report No.
4 05–459, concerning oversight improvements nec-
5 essary to ensure maximum practicable participation
6 by small business concerns in subcontracting, shall
7 be implemented Government-wide, to the maximum
8 extent possible.

9 “(2) CONTRACTOR COMPLIANCE.—Compliance
10 of Federal prime contractors with subcontracting
11 plans relating to small business concerns shall be
12 evaluated as a percentage of obligated prime con-
13 tract dollars and as a percentage of subcontracts
14 awarded.

15 “(3) ISSUANCE OF AGENCY POLICIES.—Not
16 later than 180 days after the date of enactment of
17 this subsection, the head of each Federal agency
18 shall issue a policy on subcontracting compliance re-
19 lating to small business concerns, including assign-
20 ment of compliance responsibilities between con-
21 tracting offices, small business offices, and program
22 offices and periodic oversight and review activities.”.

1 **SEC. 202. SMALL BUSINESS SUBCONTRACTING IMPROVE-**
 2 **MENTS.**

3 Section 8(d)(6) of the Small Business Act (15 U.S.C.
 4 637(d)(6)) is amended—

5 (1) in subparagraph (E), by striking “and” at
 6 the end;

7 (2) in subparagraph (F), by striking the period
 8 at the end and inserting “; and”; and

9 (3) by adding at the end, the following:

10 “(G) a certification that the offeror or bid-
 11 der will acquire articles, equipment, supplies,
 12 services, or materials, or obtain the perform-
 13 ance of construction work from the small busi-
 14 ness concerns used in preparing and submitting
 15 to the contracting agency the bid or proposal,
 16 in the same amount and quality used in pre-
 17 paring and submitting the bid or proposal, un-
 18 less the small business concerns are no longer
 19 in business or can no longer meet the quality,
 20 quantity, or delivery date.”.

TITLE III—ACQUISITION PROCESS

SEC. 301. RESERVATION OF PRIME CONTRACT AWARDS FOR SMALL BUSINESSES.

Section 15 of the Small Business Act (15 U.S.C. 644), as amended by this Act, is amended by adding at the end the following:

“(r) GOVERNMENT-WIDE ACQUISITION CONTRACTS.—Not later than 180 days after the date of enactment of this subsection, the Administrator for Federal Procurement Policy and the Administrator shall jointly, by regulation, establish criteria for Federal agencies for—

“(1) setting aside part or parts of a multiple award contract (as defined in section 44), Federal supply schedule contracts, and other Government-wide acquisition contracts for small business concerns, including the subcategories of small business concerns identified in subsection (g)(2);

“(2) setting aside orders placed against multiple award contracts, Federal supply schedule contracts, and other Government-wide acquisition contracts for small business concerns, including the subcategories of small business concerns identified in subsection (g)(2); and

1 ~~“(3) reserving 1 or more contract awards for~~
 2 ~~small business concerns under full and open multiple~~
 3 ~~award procurements, including the subcategories of~~
 4 ~~small business concerns identified in subsection~~
 5 ~~(g)(2).”.~~

6 **SEC. 302. MICRO-PURCHASE GUIDELINES.**

7 Not later than 1 year after the date of enactment
 8 of this Act, the Controller of the Office of Federal Finan-
 9 cial Management shall issue guidelines regarding the anal-
 10 ysis of purchase card expenditures to identify opportuni-
 11 ties for achieving and accurately measuring fair participa-
 12 tion of small business concerns in purchases in an amount
 13 not in excess of the micro-purchase threshold, as defined
 14 in section 32 of the Office of Federal Procurement Policy
 15 Act (41 U.S.C. 428) (in this section referred to as “micro-
 16 purchases”), consistent with the national policy on small
 17 business participation in Federal procurements set forth
 18 in sections 2(a) and 15(g) of the Small Business Act (15
 19 U.S.C. 631(a) and 644(g)), and dissemination of best
 20 practices for participation of small business concerns in
 21 micro-purchases.

22 **SEC. 303. AGENCY ACCOUNTABILITY.**

23 Section 15(g)(2) of the Small Business Act (15
 24 U.S.C. 644(g)(2)) is amended—

25 (1) by inserting “(A)” after “(2)”;

1 (2) by striking “Goals established” and insert-
2 ing the following:

3 “~~(B)~~ Goals established”;

4 (3) by striking “Whenever” and inserting the
5 following:

6 “~~(C)~~ Whenever”;

7 (4) by striking “For the purpose of” and insert-
8 ing the following:

9 “~~(D)~~ For the purpose of”;

10 (5) by striking “The head of each Federal
11 agency, in attempting to attain such participation”
12 and inserting the following:

13 “~~(E)~~ The head of each Federal agency, in attempting
14 to attain the participation described in subparagraph
15 ~~(D)~~”.

16 (6) in subparagraph (E), as so designated—

17 (A) by striking “(A) contracts” and insert-
18 ing “(i) contracts”; and

19 (B) by striking “(B) contracts” and insert-
20 ing “(ii) contracts”; and

21 (7) by adding at the end the following:

22 “~~(F)~~(i) Each procurement employee or program man-
23 ager described in clause (ii)—

1 “(I) shall communicate to the subordinates of
2 the procurement employee or program manager the
3 importance of achieving small business goals; and

4 “(H) shall have as a significant factor in the
5 annual performance evaluation of the procurement
6 employee or program manager, where appropriate,
7 the success of that procurement employee or pro-
8 gram manager in small business utilization, in ac-
9 cordance with the goals established under this sub-
10 section.

11 “(ii) A procurement employee or program manager
12 described in this clause is a senior procurement executive;
13 senior program manager, or Director of Small and Dis-
14 advantaged Business Utilization of a Federal agency hav-
15 ing contracting authority.”.

16 **SEC. 304. PAYMENT OF SUBCONTRACTORS.**

17 Section 8(d) of the Small Business Act (15 U.S.C.
18 637(d)) is amended by adding at the end the following:

19 “(11) PAYMENT OF SUBCONTRACTORS.—

20 “(A) DEFINITION.—In this paragraph, the term
21 ‘covered contract’ means a contract relating to which
22 a prime contractor is required to develop a subcon-
23 tracting plan under paragraph (4) or (5).

24 “(B) NOTICE.—

1 “(i) IN GENERAL.—A prime contractor for
 2 a covered contract shall notify in writing the
 3 contracting officer for the covered contract if
 4 the prime contractor pays a reduced price to a
 5 subcontractor for goods and services upon com-
 6 pletion of the responsibilities of the subcon-
 7 tractor or the payment to a subcontractor is
 8 more than 90 days past due for goods or serv-
 9 ices provided for the covered contract for
 10 which—

11 “(I) the Federal agency has paid the
 12 prime contractor; or

13 “(II) the prime contractor has sub-
 14 mitted a request for payment to the Fed-
 15 eral agency.

16 “(ii) CONTENTS.—A prime contractor shall
 17 include the reason for the reduction in a pay-
 18 ment to or failure to pay a subcontractor in any
 19 notice made under clause (i).

20 “(iii) PUBLIC AVAILABILITY.—The head of
 21 each Federal agency shall, after redacting infor-
 22 mation identifying any subcontractor, make
 23 publicly available any notice made under clause
 24 (i).

1 “(C) PERFORMANCE.—A contracting officer for
2 a covered contract shall consider the failure by a
3 prime contractor to make a full or timely payment
4 to a subcontractor in evaluating the performance of
5 the prime contractor.

6 “(D) CONTROL OF FUNDS.—A contracting offi-
7 cer for a covered contract may restrict the authority
8 of a prime contractor that has a history of untimely
9 payment of subcontractors (as determined by the
10 contracting officer) to make expenditures under or
11 control payment of subcontractors for a covered con-
12 tract.”.

13 **SEC. 305. REPEAL OF SMALL BUSINESS COMPETITIVENESS**
14 **DEMONSTRATION PROGRAM.**

15 (a) IN GENERAL.—The Business Opportunity Devel-
16 opment Reform Act of 1988 (Public Law 100–656) is
17 amended by striking title VII (15 U.S.C. 644 note).

18 (b) EFFECTIVE DATE AND APPLICABILITY.—The
19 amendment made by this section—

20 (1) shall take effect on the date of enactment
21 of this Act; and

22 (2) apply to the first full fiscal year after the
23 date of enactment of this Act.

1 **TITLE IV—SMALL BUSINESS SIZE** 2 **AND STATUS INTEGRITY**

3 **SEC. 401. POLICY AND PRESUMPTIONS.**

4 Section 3 of the Small Business Act (15 U.S.C. 632)
5 is amended by adding at the end the following:

6 “(t) PRESUMPTION.—

7 “(1) IN GENERAL.—In every contract, sub-
8 contract, cooperative agreement, cooperative re-
9 search and development agreement, or grant which
10 is set aside, reserved, or otherwise classified as in-
11 tended for award to small business concerns, there
12 shall be a presumption of loss to the United States
13 based on the total amount expended on the contract,
14 subcontract, cooperative agreement, cooperative re-
15 search and development agreement, or grant when-
16 ever it is established that a business concern other
17 than a small business concern willfully sought and
18 received the award by misrepresentation.

19 “(2) DEEMED CERTIFICATIONS.—The following
20 actions shall be deemed affirmative, willful, and in-
21 tentional certifications of small business size and
22 status:

23 “(A) Submission of a bid or proposal for a
24 Federal grant, contract, subcontract, coopera-
25 tive agreement, or cooperative research and de-

1 velopment agreement reserved, set aside, or oth-
 2 erwise classified as intended for award to small
 3 business concerns.

4 “(B) Submission of a bid or proposal for
 5 a Federal grant, contract, subcontract, coopera-
 6 tive agreement, or cooperative research and de-
 7 velopment agreement which in any way encour-
 8 ages a Federal agency to classify the bid or pro-
 9 posal, if awarded, as an award to a small busi-
 10 ness concern.

11 “(C) Registration on any Federal elec-
 12 tronic database for the purpose of being consid-
 13 ered for award of a Federal grant, contract,
 14 subcontract, cooperative agreement, or coopera-
 15 tive research agreement, as a small business
 16 concern.

17 “(3) CERTIFICATION BY SIGNATURE OF RE-
 18 SPONSIBLE OFFICIAL.—

19 “(A) IN GENERAL.—Each solicitation, bid,
 20 or application for a Federal contract, sub-
 21 contract, or grant shall contain a certification
 22 concerning the small business size and status of
 23 a business concern seeking the Federal con-
 24 tract, subcontract, or grant.

1 ~~“(B) CONTENT OF CERTIFICATIONS.—A~~
 2 ~~certification that a business concern qualifies as~~
 3 ~~a small business concern of the exact size and~~
 4 ~~status claimed by the business concern for pur-~~
 5 ~~poses of bidding on a Federal contract or sub-~~
 6 ~~contract, or applying for a Federal grant, shall~~
 7 ~~contain the signature of a director, officer, or~~
 8 ~~counsel on the same page on which the certifi-~~
 9 ~~cation is contained.~~

10 ~~“(4) REGULATIONS.—The Administrator shall~~
 11 ~~promulgate regulations to provide adequate protec-~~
 12 ~~tions to individuals and business concerns from li-~~
 13 ~~ability under this subsection in cases of uninten-~~
 14 ~~tional errors, technical malfunctions, and other simi-~~
 15 ~~lar situations.”.~~

16 **SEC. 402. ANNUAL CERTIFICATION.**

17 Section 3 of the Small Business Act (15 U.S.C. 632),
 18 as amended by this Act, is amended by adding at the end
 19 the following:

20 ~~“(a) ANNUAL CERTIFICATION.—~~

21 ~~“(1) IN GENERAL.—Each business certified as~~
 22 ~~a small business concern under this Act shall annu-~~
 23 ~~ally certify its small business size and, if appro-~~
 24 ~~priate, its small business status, by means of a con-~~

1 firming entry on the ORCA database of the Admin-
2 istration, or any successor thereto.

3 ~~“(2) REGULATIONS.—~~Not later than 1 year
4 after the date of enactment of this subsection, the
5 Administrator, in consultation with the Inspector
6 General and the Chief Counsel for Advocacy of the
7 Administration, shall promulgate regulations to en-
8 sure that—

9 ~~“(A) no business concern continues to be~~
10 certified as a small business concern on the
11 ORCA database of the Administration, or any
12 successor thereto, without fulfilling the require-
13 ments for annual certification under this sub-
14 section; and

15 ~~“(B) the requirements of this subsection~~
16 are implemented in a manner presenting the
17 least possible regulatory burden on small busi-
18 ness concerns.

19 ~~“(3) DETERMINATION OF SIZE STATUS.—~~The
20 small business size or status of a business concern
21 shall be determined at the time of the award of a
22 Federal—

23 ~~“(A) contract, except that, in the case of~~
24 interagency multiple award contracts (as de-
25 fined in section 44), small business size or sta-

tus shall be determined annually, except for purposes of the award of each task or delivery order set aside or reserved for small business concerns;

“(B) subcontract;

“(C) grant;

“(D) cooperative agreement; or

“(E) cooperative research and development agreement.”.

SEC. 403. TRAINING FOR CONTRACTING AND ENFORCEMENT PERSONNEL.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Acquisition Institute, in consultation with the Administrator for Federal Procurement Policy, shall develop courses concerning proper classification of business concerns and small business size and status for purposes of Federal contracts, subcontracts, grants, cooperative agreements, and cooperative research and development agreements.

(b) POLICY ON PROSECUTIONS OF SMALL BUSINESS SIZE AND STATUS FRAUD.—Section 3 of the Small Business Act (15 U.S.C. 632), as amended by this Act, is amended by adding at the end the following:

“(v) POLICY ON PROSECUTIONS OF SMALL BUSINESS SIZE AND STATUS FRAUD.—Not later than 1 year after

1 the date of enactment of this subsection, the head of each
 2 relevant Federal agency and the Inspector General of the
 3 Administration shall issue a Government-wide policy on
 4 prosecution of small business size and status fraud.”.

5 **SEC. 404. UPDATED SIZE STANDARDS.**

6 Not later than 1 year after the date of enactment
 7 of this Act, and every 5 years thereafter, the Adminis-
 8 trator shall—

9 (1) conduct a detailed review of the size stand-
 10 ards for small business concerns established under
 11 section 3(a)(2) of the Small Business Act (15 U.S.C.
 12 632(a)(2));

13 (2) make appropriate adjustments to size stand-
 14 ards under that section to reflect market conditions;
 15 and

16 (3) make publically available information re-
 17 garding—

18 (A) the factors evaluated as part of the re-
 19 view conducted under paragraph (1); and

20 (B) the criteria used for any revised size
 21 standards promulgated under paragraph (2).

22 **SEC. 405. STUDY AND REPORT ON THE MENTOR-PROTEGE**
 23 **PROGRAM.**

24 (a) IN GENERAL.—The Comptroller General of the
 25 United States shall conduct a study of the mentor-protege

1 program of the Administration for small business concerns
 2 participating in programs under section 8(a) of the Small
 3 Business Act (~~15 U.S.C. 637(a)~~), and other relationships
 4 and strategic alliances pairing a larger business and a
 5 small business concern partner to gain access to Federal
 6 Government contracts, to determine whether the programs
 7 and relationships are effectively supporting the goal of in-
 8 creasing the participation of small business concerns in
 9 Government contracting.

10 (b) MATTERS TO BE STUDIED.—The study con-
 11 ducted under this section shall include—

12 (1) a review of a broad cross-section of indus-
 13 tries; and

14 (2) an evaluation of—

15 (A) how each Federal agency carrying out
 16 a program described in subsection (a) admin-
 17 isters and monitors the program;

18 (B) whether there are systems in place to
 19 ensure that the mentor-protege relationship, or
 20 similar affiliation, promotes real gain to the
 21 protege, and is not just a mechanism to enable
 22 participants that would not otherwise qualify
 23 under section 8(a) of the Small Business Act
 24 (~~15 U.S.C. 637(a)~~) to receive contracts under
 25 that section; and

1 (C) the degree to which protege businesses
 2 become able to compete for Federal contracts
 3 without the assistance of a mentor.

4 (e) REPORT TO CONGRESS.—Not later than 180 days
 5 after the date of enactment of this Act, the Comptroller
 6 General shall submit to the Committee on Small Business
 7 and Entrepreneurship of the Senate and the Committee
 8 on Small Business of the House of Representatives a re-
 9 port on the results of the study conducted under this sec-
 10 tion.

11 **SECTION 1. SHORT TITLE.**

12 *This Act may be cited as the “Small Business Con-*
 13 *tracting Revitalization Act of 2010”.*

14 **SEC. 2. TABLE OF CONTENTS.**

15 *The table of contents for this Act is as follows:*

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—CONTRACT BUNDLING

Sec. 101. Leadership and oversight.
Sec. 102. Consolidation of contract requirements.
Sec. 103. Small business teams pilot program.

TITLE II—SUBCONTRACTING INTEGRITY

Sec. 201. GAO recommendations on subcontracting misrepresentations.
Sec. 202. Small business subcontracting improvements.

TITLE III—ACQUISITION PROCESS

Sec. 301. Reservation of prime contract awards for small businesses.
Sec. 302. Micro-purchase guidelines.
Sec. 303. Agency accountability.
Sec. 304. Payment of subcontractors.
Sec. 305. Repeal of Small Business Competitiveness Demonstration Program.

TITLE IV—SMALL BUSINESS SIZE AND STATUS INTEGRITY

Sec. 401. Policy and presumptions.

Sec. 402. Annual certification.

Sec. 403. Training for contracting and enforcement personnel.

Sec. 404. Updated size standards.

Sec. 405. Study and report on the mentor-protege program.

Sec. 406. Policy on support of competitive enterprise system.

Sec. 407. Contracting goals reports.

1 SEC. 3. DEFINITIONS.

2 In this Act—

3 (1) the terms “Administration” and “Adminis-
4 trator” mean the Small Business Administration and
5 the Administrator thereof, respectively; and

6 (2) the term “small business concern” has the
7 meaning given that term under section 3 of the Small
8 Business Act (15 U.S.C. 632).

9 TITLE I—CONTRACT BUNDLING

10 SEC. 101. LEADERSHIP AND OVERSIGHT.

11 (a) IN GENERAL.—Section 15 of the Small Business
12 Act (15 U.S.C. 644) is amended by adding at the end the
13 following:

14 “(q) BUNDLING ACCOUNTABILITY MEASURES.—

15 “(1) TEAMING REQUIREMENTS.—Each Federal
16 agency shall include in each solicitation for any con-
17 tract award above the substantial bundling threshold
18 of the Federal agency a provision soliciting bids by
19 teams and joint ventures of small business concerns.

1 “(2) *AGENCY POLICIES ON REDUCTION OF CON-*
 2 *TRACT BUNDLING.—The head of each Federal agency*
 3 *shall—*

4 “(A) *not later than 180 days after the date*
 5 *of enactment of this subsection, publish on the*
 6 *website of the Federal agency the policy of the*
 7 *Federal agency regarding contracting bundling*
 8 *and consolidation, including regarding the solic-*
 9 *itation of teaming and joint ventures under*
 10 *paragraph (1); and*

11 “(B) *not later than 30 days after the date*
 12 *on which the head of the Federal agency submits*
 13 *data certifications to the Administrator for Fed-*
 14 *eral Procurement Policy, publish on the website*
 15 *of the Federal agency a list and rationale for*
 16 *any bundled contract for which the Federal agen-*
 17 *cy solicited bids or that was awarded by the Fed-*
 18 *eral agency.*

19 “(3) *REPORTING.—Not later than 90 days after*
 20 *the date of enactment of this subsection, and every 3*
 21 *years thereafter, the Area Directors for Government*
 22 *Contracting of the Administration shall submit to the*
 23 *Committee on Small Business and Entrepreneurship*
 24 *of the Senate and the Committee on Small Business*
 25 *of the House of Representatives a report regarding*

1 *procurement center representatives and commercial*
 2 *market representatives, which shall—*

3 *“(A) identify each area for which the Ad-*
 4 *ministration has assigned a procurement center*
 5 *representative or a commercial market represent-*
 6 *ative;*

7 *“(B) explain why the Administration se-*
 8 *lected the areas identified under subparagraph*
 9 *(A); and*

10 *“(C) describe the activities performed by*
 11 *procurement center representatives and commer-*
 12 *cial market representatives.”.*

13 *(b) TECHNICAL CORRECTION.—Section 15(g) of the*
 14 *Small Business Act (15 U.S.C. 644(g)) is amended by strik-*
 15 *ing “Administrator of the Office of Federal Procurement*
 16 *Policy” each place it appears and inserting “Administrator*
 17 *for Federal Procurement Policy”.*

18 *(c) REPORT.—*

19 *(1) IN GENERAL.—Not later than 180 days after*
 20 *the date of enactment of this Act, the Comptroller*
 21 *General of the United States shall submit to Congress*
 22 *a report regarding the procurement center representa-*
 23 *tive program of the Administration.*

24 *(2) CONTENTS.—The report submitted under*
 25 *paragraph (1) shall—*

1 (A) address ways to improve the effective-
 2 ness of the procurement center representative
 3 program in helping small business concerns ob-
 4 tain Federal contracts;

5 (B) evaluate the effectiveness of procurement
 6 center representatives and commercial marketing
 7 representatives; and

8 (C) include recommendations, if any, on
 9 how to improve the procurement center rep-
 10 resentative program.

11 (d) *ELECTRONIC PROCUREMENT CENTER REPRESENT-*
 12 *ATIVE.*—Not later than 180 days after the date of enactment
 13 of this Act, the Administrator shall implement an electronic
 14 procurement center representative program.

15 **SEC. 102. CONSOLIDATION OF CONTRACT REQUIREMENTS.**

16 *The Small Business Act (15 U.S.C. 631 et seq.) is*
 17 *amended—*

18 (1) *by redesignating section 44 as section 45;*

19 *and*

20 (2) *by inserting after section 43 the following:*

21 **“SEC. 44. CONSOLIDATION OF CONTRACT REQUIREMENTS.**

22 **“(a) DEFINITIONS.**—*In this section—*

23 **“(1) the term ‘Chief Acquisition Officer’ means**
 24 *the employee of a Federal agency designated as the*
 25 *Chief Acquisition Officer for the Federal agency under*

1 *section 16(a) of the Office of Federal Procurement*
 2 *Policy Act (41 U.S.C. 414(a));*

3 “(2) the term ‘consolidation of contract require-
 4 *ments’, with respect to contract requirements of a*
 5 *Federal agency, means a use of a solicitation to ob-*
 6 *tain offers for a single contract or a multiple award*
 7 *contract to satisfy 2 or more requirements of the Fed-*
 8 *eral agency for goods or services that have been, are*
 9 *being, or will be provided to, or will be performed for*
 10 *or would typically be performed for, the Federal agen-*
 11 *cy under 2 or more separate contracts lower in cost*
 12 *than the total cost of the contract for which the offers*
 13 *are solicited;*

14 “(3) the term ‘multiple award contract’ means—

15 “(A) a multiple award task order contract
 16 *or delivery order contract that is entered into*
 17 *under the authority of sections 303H through*
 18 *303K of the Federal Property and Administra-*
 19 *tive Services Act of 1949 (41 U.S.C. 253h*
 20 *through 253k); and*

21 “(B) any other indefinite delivery, indefi-
 22 *nite quantity contract that is entered into by the*
 23 *head of a Federal agency with 2 or more sources*
 24 *pursuant to the same solicitation; and*

1 “(4) the term ‘senior procurement executive’
 2 means an official designated under section 16(c) of
 3 the Office of Federal Procurement Policy Act (41
 4 U.S.C. 414(c)) as the senior procurement executive for
 5 a Federal agency.

6 “(b) *POLICY.*—The head of each Federal agency shall
 7 ensure that the decisions made by the Federal agency re-
 8 garding consolidation of contract requirements of the Fed-
 9 eral agency are made with a view to providing small busi-
 10 ness concerns with appropriate opportunities to participate
 11 as prime contractors and subcontractors in the procure-
 12 ments of the Federal agency.

13 “(c) *LIMITATION ON USE OF ACQUISITION STRATE-*
 14 *GIES INVOLVING CONSOLIDATION.*—

15 “(1) *IN GENERAL.*—The head of a Federal agen-
 16 cy may not carry out an acquisition strategy that in-
 17 cludes a consolidation of contract requirements of the
 18 Federal agency with a total value of more than
 19 \$2,000,000, unless the senior procurement executive or
 20 Chief Acquisition Officer for the Federal agency, be-
 21 fore carrying out the acquisition strategy—

22 “(A) conducts market research;

23 “(B) identifies any alternative contracting
 24 approaches that would involve a lesser degree of
 25 consolidation of contract requirements;

1 “(C) makes a written determination that
2 the consolidation of contract requirements is nec-
3 essary and justified;

4 “(D) identifies any negative impact by the
5 acquisition strategy on contracting with small
6 business concerns; and

7 “(E) certifies that the acquisition strategy
8 fulfills the small business contracting goals of the
9 Federal agency.

10 “(2) DETERMINATION THAT CONSOLIDATION IS
11 NECESSARY AND JUSTIFIED.—

12 “(A) IN GENERAL.—A senior procurement
13 executive or Chief Acquisition Officer may deter-
14 mine that an acquisition strategy involving a
15 consolidation of contract requirements is nec-
16 essary and justified for the purposes of para-
17 graph (1)(C) if the benefits of the acquisition
18 strategy substantially exceed the benefits of each
19 of the possible alternative contracting approaches
20 identified under paragraph (1)(B).

21 “(B) SAVINGS IN ADMINISTRATIVE OR PER-
22 SONNEL COSTS.—For purposes of subparagraph
23 (A), savings in administrative or personnel costs
24 alone do not constitute a sufficient justification
25 for a consolidation of contract requirements in a

1 *procurement unless the expected total amount of*
 2 *the cost savings, as determined by the senior pro-*
 3 *curement executive or Chief Acquisition Officer,*
 4 *is substantial in relation to the total cost of the*
 5 *procurement.*

6 “(3) *BENEFITS TO BE CONSIDERED.*—*The bene-*
 7 *fits considered for the purposes of paragraphs (1) and*
 8 *(2) may include cost and, regardless of whether quan-*
 9 *tifiable in dollar amounts—*

10 *“(A) quality;*

11 *“(B) acquisition cycle;*

12 *“(C) terms and conditions; and*

13 *“(D) any other benefit.”.*

14 **SEC. 103. SMALL BUSINESS TEAMS PILOT PROGRAM.**

15 *(a) DEFINITIONS.—In this section—*

16 *(1) the term “Center” means the Center for*
 17 *Small Business Teaming established under subsection*
 18 *(b); and*

19 *(2) the term “eligible organization” means a*
 20 *well-established national organization for small busi-*
 21 *ness concerns with the capacity to provide assistance*
 22 *to small business concerns (which may be provided*
 23 *with the assistance of the Center) relating to—*

24 *(A) customer relations and outreach;*

25 *(B) submitting bids and proposals;*

1 (C) team relations and outreach; and

2 (D) performance measurement and quality
3 assurance.

4 (b) *ESTABLISHMENT.*—*The Administrator shall estab-*
5 *lish a Center for Small Business Teaming within the Ad-*
6 *ministration to carry out a pilot program for teaming and*
7 *joint ventures involving small business concerns.*

8 (c) *GRANTS.*—*The Center may make grants to eligible*
9 *organizations to assemble teams of small business concerns*
10 *to compete for larger procurement contracts.*

11 (d) *CONTRACTING OPPORTUNITIES.*—

12 (1) *IN GENERAL.*—*The Center shall work with el-*
13 *igible organizations receiving a grant under this sec-*
14 *tion to identify appropriate contracting opportunities*
15 *for teams or joint ventures of small business concerns.*

16 (2) *RESTRICTED COMPETITION.*—*A contracting*
17 *officer of a Federal agency may restrict competition*
18 *for any contract for the procurement of goods or serv-*
19 *ices by the Federal agency to teams or joint ventures*
20 *of small business concerns if determined appropriate*
21 *by the contracting officer.*

22 (e) *TERMINATION.*—*The authorities under this section*
23 *shall terminate 5 years after the date of enactment of this*
24 *Act.*

1 (f) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
 2 *authorized to be appropriated for grants by the Center*
 3 *under subsection (c) \$5,000,000 for each of fiscal years 2010*
 4 *through 2015.*

5 ***TITLE II—SUBCONTRACTING***
 6 ***INTEGRITY***

7 ***SEC. 201. GAO RECOMMENDATIONS ON SUBCONTRACTING***
 8 ***MISREPRESENTATIONS.***

9 *Section 8 of the Small Business Act (15 U.S.C. 637)*
 10 *is amended by adding at the end the following:*

11 “(o) *PREVENTION OF MISREPRESENTATIONS IN SUB-*
 12 *CONTRACTING; IMPLEMENTATION OF RECOMMENDATIONS*
 13 *OF COMPTROLLER GENERAL.*—

14 “(1) *STATEMENT OF POLICY.*—*It is the policy of*
 15 *Congress that the recommendations of the Comptroller*
 16 *General of the United States in Report No. 05–459,*
 17 *concerning oversight improvements necessary to en-*
 18 *sure maximum practicable participation by small*
 19 *business concerns in subcontracting, shall be imple-*
 20 *mented Government-wide, to the maximum extent*
 21 *possible.*

22 “(2) *CONTRACTOR COMPLIANCE.*—*Compliance of*
 23 *Federal prime contractors with subcontracting plans*
 24 *relating to small business concerns shall be evaluated*

1 *as a percentage of obligated prime contract dollars*
 2 *and as a percentage of subcontracts awarded.*

3 “(3) *ISSUANCE OF AGENCY POLICIES.*—*Not later*
 4 *than 180 days after the date of enactment of this sub-*
 5 *section, the head of each Federal agency shall issue a*
 6 *policy on subcontracting compliance relating to small*
 7 *business concerns, including assignment of compli-*
 8 *ance responsibilities between contracting offices, small*
 9 *business offices, and program offices and periodic*
 10 *oversight and review activities.”.*

11 **SEC. 202. SMALL BUSINESS SUBCONTRACTING IMPROVE-**
 12 **MENTS.**

13 *Section 8(d)(6) of the Small Business Act (15 U.S.C.*
 14 *637(d)(6)) is amended—*

15 (1) *in subparagraph (E), by striking “and” at*
 16 *the end;*

17 (2) *in subparagraph (F), by striking the period*
 18 *at the end and inserting “; and”; and*

19 (3) *by adding at the end, the following:*

20 “(G) *a certification that the offeror or bid-*
 21 *der will acquire articles, equipment, supplies,*
 22 *services, or materials, or obtain the performance*
 23 *of construction work from the small business con-*
 24 *cerns used in preparing and submitting to the*
 25 *contracting agency the bid or proposal, in the*

1 *same amount and quality used in preparing and*
 2 *submitting the bid or proposal, unless the small*
 3 *business concerns are no longer in business or*
 4 *can no longer meet the quality, quantity, or de-*
 5 *livery date.”.*

6 ***TITLE III—ACQUISITION*** 7 ***PROCESS***

8 ***SEC. 301. RESERVATION OF PRIME CONTRACT AWARDS FOR*** 9 ***SMALL BUSINESSES.***

10 *Section 15 of the Small Business Act (15 U.S.C. 644),*
 11 *as amended by this Act, is amended by adding at the end*
 12 *the following:*

13 *“(r) GOVERNMENT-WIDE ACQUISITION CONTRACTS.—*
 14 *Not later than 180 days after the date of enactment of this*
 15 *subsection, the Administrator for Federal Procurement Pol-*
 16 *icy, in consultation with the Administrator, shall, by regu-*
 17 *lation, establish criteria for Federal agencies for—*

18 *“(1) setting aside part or parts of a multiple*
 19 *award contract (as defined in section 44), Federal*
 20 *supply schedule contracts, and other Government-wide*
 21 *acquisition contracts for small business concerns, in-*
 22 *cluding the subcategories of small business concerns*
 23 *identified in subsection (g)(2);*

24 *“(2) setting aside orders placed against multiple*
 25 *award contracts, Federal supply schedule contracts,*

1 *and other Government-wide acquisition contracts for*
 2 *small business concerns, including the subcategories of*
 3 *small business concerns identified in subsection*
 4 *(g)(2); and*

5 *“(3) reserving 1 or more contract awards for*
 6 *small business concerns under full and open multiple*
 7 *award procurements, including the subcategories of*
 8 *small business concerns identified in subsection*
 9 *(g)(2).*

10 *“(s) PROTECTING INDIVIDUAL SMALL BUSINESS CON-*
 11 *TRACT OPPORTUNITIES.—For each fiscal year, the head of*
 12 *a Federal agency shall award through competition re-*
 13 *stricted to small business concerns contracts in a total num-*
 14 *ber and amount equal to the total number and amount of*
 15 *contracts not awarded through competition restricted to*
 16 *small business concerns because—*

17 *“(1) the small business concern that is the prime*
 18 *contractor for the contract merged with or was ac-*
 19 *quired by a business concern that is not a small busi-*
 20 *ness concern; or*

21 *“(2) the Federal agency awarded the contract*
 22 *through full and open competition for the purposes of*
 23 *a follow-on contract.”.*

1 **SEC. 302. MICRO-PURCHASE GUIDELINES.**

2 *Not later than 1 year after the date of enactment of*
 3 *this Act, the Director of the Office of Management and*
 4 *Budget shall issue guidelines regarding the analysis of pur-*
 5 *chase card expenditures to identify opportunities for achiev-*
 6 *ing and accurately measuring fair participation of small*
 7 *business concerns in purchases in an amount not in excess*
 8 *of the micro-purchase threshold, as defined in section 32*
 9 *of the Office of Federal Procurement Policy Act (41 U.S.C.*
 10 *428) (in this section referred to as “micro-purchases”), con-*
 11 *sistent with the national policy on small business partici-*
 12 *pation in Federal procurements set forth in sections 2(a)*
 13 *and 15(g) of the Small Business Act (15 U.S.C. 631(a) and*
 14 *644(g)), and dissemination of best practices for participa-*
 15 *tion of small business concerns in micro-purchases.*

16 **SEC. 303. AGENCY ACCOUNTABILITY.**

17 *Section 15(g)(2) of the Small Business Act (15 U.S.C.*
 18 *644(g)(2)) is amended—*

19 *(1) by inserting “(A)” after “(2)”;*

20 *(2) by striking “Goals established” and inserting*
 21 *the following:*

22 *“(B) Goals established”;*

23 *(3) by striking “Whenever” and inserting the fol-*
 24 *lowing:*

25 *“(C) Whenever”;*

1 (4) by striking “For the purpose of” and insert-
2 ing the following:

3 “(D) For the purpose of”;

4 (5) by striking “The head of each Federal agen-
5 cy, in attempting to attain such participation” and
6 inserting the following:

7 “(E) The head of each Federal agency, in attempting
8 to attain the participation described in subparagraph (D)”.

9 (6) in subparagraph (E), as so designated—

10 (A) by striking “(A) contracts” and insert-
11 ing “(i) contracts”; and

12 (B) by striking “(B) contracts” and insert-
13 ing “(ii) contracts”; and

14 (7) by adding at the end the following:

15 “(F)(i) Each procurement employee or program man-
16 ager described in clause (ii)—

17 “(I) shall communicate to the subordinates of the
18 procurement employee or program manager the im-
19 portance of achieving small business goals; and

20 “(II) shall have as a significant factor in the an-
21 nual performance evaluation of the procurement em-
22 ployee or program manager, where appropriate, the
23 success of that procurement employee or program
24 manager in small business utilization, in accordance
25 with the goals established under this subsection.

1 “(ii) *A procurement employee or program manager de-*
 2 *scribed in this clause is a senior procurement executive, sen-*
 3 *ior program manager, or Director of Small and Disadvan-*
 4 *taged Business Utilization of a Federal agency having con-*
 5 *tracting authority.*”.

6 **SEC. 304. PAYMENT OF SUBCONTRACTORS.**

7 *Section 8(d) of the Small Business Act (15 U.S.C.*
 8 *637(d)) is amended by adding at the end the following:*

9 “(11) *PAYMENT OF SUBCONTRACTORS.—*

10 “(A) *DEFINITION.—In this paragraph, the term*
 11 *‘covered contract’ means a contract relating to which*
 12 *a prime contractor is required to develop a subcon-*
 13 *tracting plan under paragraph (4) or (5).*

14 “(B) *NOTICE.—*

15 “(i) *IN GENERAL.—A prime contractor for*
 16 *a covered contract shall pay a small business as*
 17 *quickly as possible after the date on which prop-*
 18 *er documentation is received according to the*
 19 *contract terms and before the payment due date.*
 20 *A prime contractor for a covered contract shall*
 21 *notify in writing the contracting officer for the*
 22 *covered contract if the prime contractor pays a*
 23 *reduced price to a subcontractor for goods and*
 24 *services upon completion of the responsibilities of*
 25 *the subcontractor or the payment to a subcon-*

1 *tractor is more than 90 days past due for goods*
 2 *or services provided for the covered contract for*
 3 *which—*

4 *“(I) the Federal agency has paid the*
 5 *prime contractor; or*

6 *“(II) the prime contractor has sub-*
 7 *mitted a request for payment to the Federal*
 8 *agency.*

9 *“(ii) CONTENTS.—A prime contractor shall*
 10 *include the reason for the reduction in a pay-*
 11 *ment to or failure to pay a subcontractor in any*
 12 *notice made under clause (i).*

13 *“(iii) PUBLIC AVAILABILITY.—The head of*
 14 *each Federal agency shall, after redacting infor-*
 15 *mation identifying any subcontractor, make pub-*
 16 *licly available any notice made under clause (i).*

17 *“(C) PERFORMANCE.—A contracting officer for a*
 18 *covered contract shall consider the failure by a prime*
 19 *contractor to make a full or timely payment to a sub-*
 20 *contractor in evaluating the performance of the prime*
 21 *contractor.*

22 *“(D) CONTROL OF FUNDS.—A contracting officer*
 23 *for a covered contract may restrict the authority of a*
 24 *prime contractor that has a history of untimely pay-*
 25 *ment of subcontractors (as determined by the con-*

1 *tracting officer) to make expenditures under or con-*
 2 *trol payment of subcontractors for a covered con-*
 3 *tract.”.*

4 **SEC. 305. REPEAL OF SMALL BUSINESS COMPETITIVENESS**
 5 **DEMONSTRATION PROGRAM.**

6 *(a) IN GENERAL.—The Business Opportunity Develop-*
 7 *ment Reform Act of 1988 (Public Law 100–656) is amended*
 8 *by striking title VII (15 U.S.C. 644 note).*

9 *(b) EFFECTIVE DATE AND APPLICABILITY.—The*
 10 *amendment made by this section—*

11 *(1) shall take effect on the date of enactment of*
 12 *this Act; and*

13 *(2) apply to the first full fiscal year after the*
 14 *date of enactment of this Act.*

15 **TITLE IV—SMALL BUSINESS SIZE**
 16 **AND STATUS INTEGRITY**

17 **SEC. 401. POLICY AND PRESUMPTIONS.**

18 *Section 3 of the Small Business Act (15 U.S.C. 632)*
 19 *is amended by adding at the end the following:*

20 *“(t) PRESUMPTION.—*

21 *“(1) IN GENERAL.—In every contract, sub-*
 22 *contract, cooperative agreement, cooperative research*
 23 *and development agreement, or grant which is set*
 24 *aside, reserved, or otherwise classified as intended for*
 25 *award to small business concerns, there shall be a pre-*

1 *sumption of loss to the United States based on the*
 2 *total amount expended on the contract, subcontract,*
 3 *cooperative agreement, cooperative research and devel-*
 4 *opment agreement, or grant whenever it is established*
 5 *that a business concern other than a small business*
 6 *concern willfully sought and received the award by*
 7 *misrepresentation.*

8 “(2) *DEEMED CERTIFICATIONS.—The following*
 9 *actions shall be deemed affirmative, willful, and in-*
 10 *tentional certifications of small business size and sta-*
 11 *tus:*

12 “(A) *Submission of a bid or proposal for a*
 13 *Federal grant, contract, subcontract, cooperative*
 14 *agreement, or cooperative research and develop-*
 15 *ment agreement reserved, set aside, or otherwise*
 16 *classified as intended for award to small busi-*
 17 *ness concerns.*

18 “(B) *Submission of a bid or proposal for a*
 19 *Federal grant, contract, subcontract, cooperative*
 20 *agreement, or cooperative research and develop-*
 21 *ment agreement which in any way encourages a*
 22 *Federal agency to classify the bid or proposal, if*
 23 *awarded, as an award to a small business con-*
 24 *cern.*

1 “(C) *Registration on any Federal electronic*
 2 *database for the purpose of being considered for*
 3 *award of a Federal grant, contract, subcontract,*
 4 *cooperative agreement, or cooperative research*
 5 *agreement, as a small business concern.*

6 “(3) *CERTIFICATION BY SIGNATURE OF RESPON-*
 7 *SIBLE OFFICIAL.—*

8 “(A) *IN GENERAL.—Each solicitation, bid,*
 9 *or application for a Federal contract, sub-*
 10 *contract, or grant shall contain a certification*
 11 *concerning the small business size and status of*
 12 *a business concern seeking the Federal contract,*
 13 *subcontract, or grant.*

14 “(B) *CONTENT OF CERTIFICATIONS.—A cer-*
 15 *tification that a business concern qualifies as a*
 16 *small business concern of the exact size and sta-*
 17 *tus claimed by the business concern for purposes*
 18 *of bidding on a Federal contract or subcontract,*
 19 *or applying for a Federal grant, shall contain*
 20 *the signature of a director, officer, or counsel on*
 21 *the same page on which the certification is con-*
 22 *tained.*

23 “(4) *REGULATIONS.—The Administrator shall*
 24 *promulgate regulations to provide adequate protec-*
 25 *tions to individuals and business concerns from li-*

1 *ability under this subsection in cases of unintentional*
 2 *errors, technical malfunctions, and other similar situ-*
 3 *ations.”.*

4 **SEC. 402. ANNUAL CERTIFICATION.**

5 *Section 3 of the Small Business Act (15 U.S.C. 632),*
 6 *as amended by this Act, is amended by adding at the end*
 7 *the following:*

8 “(u) *ANNUAL CERTIFICATION.*—

9 “(1) *IN GENERAL.*—*Each business certified as a*
 10 *small business concern under this Act shall annually*
 11 *certify its small business size and, if appropriate, its*
 12 *small business status, by means of a confirming entry*
 13 *on the ORCA database of the Administration, or any*
 14 *successor thereto.*

15 “(2) *REGULATIONS.*—*Not later than 1 year after*
 16 *the date of enactment of this subsection, the Adminis-*
 17 *trator, in consultation with the Inspector General and*
 18 *the Chief Counsel for Advocacy of the Administration,*
 19 *shall promulgate regulations to ensure that—*

20 “(A) *no business concern continues to be*
 21 *certified as a small business concern on the*
 22 *ORCA database of the Administration, or any*
 23 *successor thereto, without fulfilling the require-*
 24 *ments for annual certification under this sub-*
 25 *section; and*

1 “(B) the requirements of this subsection are
 2 implemented in a manner presenting the least
 3 possible regulatory burden on small business con-
 4 cerns.

5 “(3) DETERMINATION OF SIZE STATUS.—The
 6 small business size or status of a business concern
 7 shall be determined at the time of the award of a Fed-
 8 eral—

9 “(A) contract, except that, in the case of
 10 interagency multiple award contracts (as defined
 11 in section 44), small business size or status shall
 12 be determined annually, except for purposes of
 13 the award of each task or delivery order set aside
 14 or reserved for small business concerns;

15 “(B) subcontract;

16 “(C) grant;

17 “(D) cooperative agreement; or

18 “(E) cooperative research and development
 19 agreement.”.

20 **SEC. 403. TRAINING FOR CONTRACTING AND ENFORCE-**
 21 **MENT PERSONNEL.**

22 (a) IN GENERAL.—Not later than 1 year after the date
 23 of enactment of this Act, the Federal Acquisition Institute,
 24 in consultation with the Administrator for Federal Procure-
 25 ment Policy, shall develop courses for acquisition personnel

1 *concerning proper classification of business concerns and*
 2 *small business size and status for purposes of Federal con-*
 3 *tracts, subcontracts, grants, cooperative agreements, and co-*
 4 *operative research and development agreements.*

5 *(b) POLICY ON PROSECUTIONS OF SMALL BUSINESS*
 6 *SIZE AND STATUS FRAUD.—Section 3 of the Small Busi-*
 7 *ness Act (15 U.S.C. 632), as amended by this Act, is amend-*
 8 *ed by adding at the end the following:*

9 *“(v) POLICY ON PROSECUTIONS OF SMALL BUSINESS*
 10 *SIZE AND STATUS FRAUD.—Not later than 1 year after the*
 11 *date of enactment of this subsection, the head of each rel-*
 12 *evant Federal agency and the Inspector General of the Ad-*
 13 *ministration shall issue a Government-wide policy on pros-*
 14 *ecution of small business size and status fraud.”.*

15 **SEC. 404. UPDATED SIZE STANDARDS.**

16 *(a) IN GENERAL.—The Administrator shall—*

17 *(1) once every 5 years, conduct a detailed review*
 18 *of the size standards for small business concerns es-*
 19 *tablished under section 3(a)(2) of the Small Business*
 20 *Act (15 U.S.C. 632(a)(2));*

21 *(2) after each review under paragraph (1) make*
 22 *appropriate adjustments to size standards under that*
 23 *section to reflect market conditions; and*

24 *(3) make publically available information re-*
 25 *garding—*

1 (A) the factors evaluated as part of each re-
 2 view conducted under paragraph (1); and

3 (B) the criteria used for any revised size
 4 standards promulgated under paragraph (2).

5 (b) *RULES.*—Not later than 1 year after the date of
 6 enactment of this Act, the Administrator shall promulgate
 7 rules for conducting the reviews required under subsection
 8 (a).

9 **SEC. 405. STUDY AND REPORT ON THE MENTOR-PROTEGE**
 10 **PROGRAM.**

11 (a) *IN GENERAL.*—The Comptroller General of the
 12 United States shall conduct a study of the mentor-protege
 13 program of the Administration for small business concerns
 14 participating in programs under section 8(a) of the Small
 15 Business Act (15 U.S.C. 637(a)), and other relationships
 16 and strategic alliances pairing a larger business and a
 17 small business concern partner to gain access to Federal
 18 Government contracts, to determine whether the programs
 19 and relationships are effectively supporting the goal of in-
 20 creasing the participation of small business concerns in
 21 Government contracting.

22 (b) *MATTERS TO BE STUDIED.*—The study conducted
 23 under this section shall include—

24 (1) a review of a broad cross-section of indus-
 25 tries; and

1 (2) *an evaluation of—*

2 (A) *how each Federal agency carrying out*
 3 *a program described in subsection (a) admin-*
 4 *isters and monitors the program;*

5 (B) *whether there are systems in place to*
 6 *ensure that the mentor-protege relationship, or*
 7 *similar affiliation, promotes real gain to the*
 8 *protege, and is not just a mechanism to enable*
 9 *participants that would not otherwise qualify*
 10 *under section 8(a) of the Small Business Act (15*
 11 *U.S.C. 637(a)) to receive contracts under that*
 12 *section; and*

13 (C) *the degree to which protege businesses*
 14 *become able to compete for Federal contracts*
 15 *without the assistance of a mentor.*

16 (c) *REPORT TO CONGRESS.—Not later than 180 days*
 17 *after the date of enactment of this Act, the Comptroller Gen-*
 18 *eral shall submit to the Committee on Small Business and*
 19 *Entrepreneurship of the Senate and the Committee on*
 20 *Small Business of the House of Representatives a report on*
 21 *the results of the study conducted under this section.*

22 **SEC. 406. POLICY ON SUPPORT OF COMPETITIVE ENTER-**
 23 **PRISE SYSTEM.**

24 (a) *FINDING.—Congress finds that the competitive en-*
 25 *terprise system, including small business concerns, is—*

1 (1) *characterized by individual freedom and ini-*
 2 *tiative; and*

3 (2) *the primary source of economic strength of*
 4 *the United States.*

5 (b) *POLICY.—Section 2 of the Small Business Act (15*
 6 *U.S.C. 631) is amended by adding at the end the following:*

7 “(k) *POLICY ON SUPPORT OF COMPETITIVE ENTER-*
 8 *PRISE SYSTEM.—It is the declared policy of Congress that*
 9 *the Federal Government—*

10 “(1) *should support the competitive enterprise*
 11 *system of the United States, including small business*
 12 *concerns;*

13 “(2) *should not compete with the citizens of the*
 14 *United States;*

15 “(3) *should rely on commercial sources to supply*
 16 *the products and services required by the Federal*
 17 *Government; and*

18 “(4) *should avoid starting or carrying out any*
 19 *activity that provides a product or service that can*
 20 *be procured more effectively and efficiently from a*
 21 *nongovernmental source.”.*

22 **SEC. 407. CONTRACTING GOALS REPORTS.**

23 *Section 15(h)(2) of the Small Business Act (15 U.S.C.*
 24 *644(h)(2)) is amended by striking “submit them” and all*
 25 *that follows through “the following:” and inserting “submit*

1 *to the President and the Committee on Small Business and*
2 *Entrepreneurship of the Senate and the Committee on*
3 *Small Business of the House of Representatives the compila-*
4 *tion and analysis, which shall include the following:”.*

5 **SEC. 408. SURETY BONDS.**

6 *Section 508(f) of division A of the American Recovery*
7 *and Reinvestment Act of 2009 (15 U.S.C. 694a note) is re-*
8 *pealed.*

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A BILL

To improve the Small Business Act, and for other
purposes.

SEPTEMBER 29, 2010

Reported with an amendment