

Union Calendar No. 500

113TH CONGRESS
2^D SESSION

H. R. 2750

[Report No. 113–668]

To amend title 41, United States Code, to require the use of two-phase selection procedures when design-build contracts are suitable for award to small business concerns, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2013

Mr. GRAVES of Missouri (for himself, Ms. HERRERA BEUTLER, Mr. HANNA, Mr. MULVANEY, Mr. CONNOLLY, Mr. MEADOWS, and Ms. MENG) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

DECEMBER 12, 2014

Additional sponsors: Mr. FARENTHOLD, Mr. SCHRADER, Mr. TERRY, Mr. PAULSEN, Mr. ROSS, Mr. TIPTON, Mr. MILLER of Florida, Mr. WELCH, Mr. SCHNEIDER, Mr. CARTWRIGHT, and Ms. WILSON of Florida

DECEMBER 12, 2014

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend title 41, United States Code, to require the use of two-phase selection procedures when design-build contracts are suitable for award to small business concerns, 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 “Design-Build Effi-
 5 ciency and Jobs Act of 2013”.

6 **SEC. 2. DESIGN-BUILD SELECTION PROCEDURES.**

7 Section 3309 of title 41, United States Code, is
 8 amended—

9 (1) in subsection (d) by striking “agency deter-
 10 mines with respect to” and all that follows through
 11 the period at the end, and inserting the following:
 12 “the head of the agency approves the contracting of-
 13 ficer’s justification that an individual solicitation
 14 must have greater than 5 finalists to be in the Fed-
 15 eral Government’s interest. The contracting officer
 16 must provide written documentation of how a max-
 17 imum number of offerors exceeding 5 is consistent
 18 with the purposes and objectives of the two-phase se-
 19 lection process.”; and

20 (2) by adding at the end the following:

21 “(f) DESIGN AND CONSTRUCTION CONTRACTS.—

22 Two-phase selection procedures shall be used for entering
 23 into a contract for the design and construction of a public
 24 building, facility, or work when a contracting officer deter-
 25 mines that the contract has a value of \$750,000 or great-

1 er, as adjusted for inflation in accordance with section
 2 1908 of title 41, United States Code.

3 ~~“(g) REPORTS.—~~

4 ~~“(1) AGENCY REPORTS.—Beginning on the date~~
 5 ~~that is 1 year after the effective date of this sub-~~
 6 ~~section, and for each of the 4 years thereafter, each~~
 7 ~~agency shall submit to the Comptroller General of~~
 8 ~~the United States and publish in the Federal Reg-~~
 9 ~~ister, an annual report regarding all cases in the~~
 10 ~~preceding year in which—~~

11 ~~“(A) more than 5 finalists were selected~~
 12 ~~for phase-two requests for competitive pro-~~
 13 ~~posals; or~~

14 ~~“(B) for a contract that has a value of~~
 15 ~~\$750,000 (as adjusted for inflation in accord-~~
 16 ~~ance with section 1908 of title 41, United~~
 17 ~~States Code) or greater for which the two-phase~~
 18 ~~selection procedures was not used.~~

19 ~~“(2) GAO REPORT.—On the first full fiscal~~
 20 ~~year that is 5 years after the effective date of this~~
 21 ~~subsection, the Comptroller General of the United~~
 22 ~~States shall publish a report that, based on the in-~~
 23 ~~formation provided in the agency reports required~~
 24 ~~under paragraph (1), analyzes the degree to which~~

1 agencies have complied with the requirements of this
 2 section.”.

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Design-Build Efficiency*
 5 *and Jobs Act of 2014”.*

6 **SEC. 2. DESIGN-BUILD SELECTION PROCEDURES.**

7 (a) *CIVILIAN AGENCY CONTRACTS.*—Section 3309 of
 8 title 41, United States Code, is amended—

9 (1) *in subsection (d), by striking “agency deter-*
 10 *mines with respect to” and all that follows through*
 11 *the period at the end, and inserting the following:*
 12 *“head of the agency approves the contracting officer’s*
 13 *justification that an individual solicitation must have*
 14 *greater than 5 finalists to be in the Federal Govern-*
 15 *ment’s interest. The contracting officer must provide*
 16 *written documentation of how a maximum number of*
 17 *offerors exceeding 5 is consistent with the purposes*
 18 *and objectives of the two-phase selection process.”; and*

19 (2) *by adding at the end the following:*

20 *“(f) DESIGN AND CONSTRUCTION CONTRACTS.—Two-*
 21 *phase selection procedures shall be used for entering into*
 22 *a contract for the design and construction of a public build-*
 23 *ing, facility, or work when a contracting officer determines*
 24 *that the contract has a value of \$1,500,000 or greater, as*
 25 *adjusted for inflation in accordance with section 1908 of*

1 *this title, unless the head of the agency approves the con-*
 2 *tracting officer's justification that procedures other than*
 3 *two-phase selection procedures are in the best interest of the*
 4 *Federal Government.*

5 “(g) *REPORTS.*—

6 “(1) *AGENCY REPORTS.*—*Beginning on the date*
 7 *that is 1 year after the effective date of this sub-*
 8 *section, and for each of the 4 years thereafter, each*
 9 *agency shall submit to the Comptroller General of the*
 10 *United States and publish in the Federal Register an*
 11 *annual report regarding all cases in the preceding*
 12 *year—*

13 “(A) *in which more than 5 finalists were se-*
 14 *lected for phase-two requests for competitive pro-*
 15 *posals; or*

16 “(B) *for a contract that has a value of*
 17 *\$1,500,000 (as adjusted for inflation in accord-*
 18 *ance with section 1908 of this title) or greater for*
 19 *which the two-phase selection procedures were*
 20 *not used.*

21 “(2) *GAO REPORT.*—*In the first full fiscal year*
 22 *that is 5 years after the effective date of this sub-*
 23 *section, the Comptroller General of the United States*
 24 *shall publish a report that, based on the information*
 25 *provided in the agency reports required under para-*

1 *graph (1), analyzes the degree to which agencies have*
2 *complied with the requirements of this section.”.*

3 *(b) DEFENSE CONTRACTS.—Section 2305a title 10,*
4 *United States Code, is amended—*

5 *(1) in subsection (d), by striking “agency deter-*
6 *mines with respect to” and all that follows through*
7 *the period at the end, and inserting the following:*
8 *“head of the agency approves the contracting officer’s*
9 *justification that an individual solicitation must have*
10 *greater than 5 finalists to be in the Federal Govern-*
11 *ment’s interest. The contracting officer must provide*
12 *written documentation of how a maximum number of*
13 *offerors exceeding 5 is consistent with the purposes*
14 *and objectives of the two-phase selection process.”; and*

15 *(2) by adding at the end the following:*

16 *“(g) DESIGN AND CONSTRUCTION CONTRACTS.—Two-*
17 *phase selection procedures shall be used for entering into*
18 *a contract for the design and construction of a public build-*
19 *ing, facility, or work when a contracting officer determines*
20 *that the contract has a value of \$1,500,000 or greater, as*
21 *adjusted for inflation in accordance with section 1908 of*
22 *title 41, unless the head of the agency approves the con-*
23 *tracting officer’s justification that procedures other than*
24 *two-phase selection procedures are in the best interest of the*
25 *Federal Government.*

1 “(h) *REPORTS.*—(1) *Beginning on the date that is 1*
2 *year after the effective date of this subsection, and for each*
3 *of the 4 years thereafter, each agency shall submit to the*
4 *Comptroller General of the United States and publish in*
5 *the Federal Register an annual report regarding all cases*
6 *in the preceding year—*

7 “(A) *in which more than 5 finalists were selected*
8 *for phase-two requests for competitive proposals; or*

9 “(B) *for a contract that has a value of*
10 *\$1,500,000 (as adjusted for inflation in accordance*
11 *with section 1908 of title 41) or greater for which the*
12 *two-phase selection procedures were not used.*

13 “(2) *In the first full fiscal year that is 5 years after*
14 *the effective date of this subsection, the Comptroller General*
15 *of the United States shall publish a report that, based on*
16 *the information provided in the agency reports required*
17 *under paragraph (1), analyzes the degree to which agencies*
18 *have complied with the requirements of this section.”.*

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