

114TH CONGRESS
1ST SESSION

S. 104

To provide for full and open competition for Federal contracts related to natural disaster reconstruction efforts.

IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2015

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide for full and open competition for Federal contracts related to natural disaster reconstruction efforts.

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 “Natural Disaster Fair-
5 ness in Contracting Act of 2015”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) EXECUTIVE AGENCY.—The term “executive
9 agency” has the meaning given the term in section
10 133 of title 41, United States Code.

1 (2) FULL AND OPEN COMPETITIVE PROCE-
2 DURES.—The term “full and open competitive proce-
3 dures” has the meaning given the term “full and
4 open competition” in section 107 of title 41, United
5 States Code.

6 (3) NATURAL DISASTER RECONSTRUCTION EF-
7 FORTS.—The term “natural disaster reconstruction
8 efforts” means reconstruction efforts undertaken in
9 an area subject to a declaration by the President of
10 a major disaster under section 401 of the Robert T.
11 Stafford Disaster Relief and Emergency Assistance
12 Act (42 U.S.C. 5170).

13 **SEC. 3. COMPETITION REQUIREMENTS.**

14 (a) IN GENERAL.—Except as provided in subsection
15 (b), the head of an executive agency, in entering into a
16 contract to procure property or services in connection with
17 natural disaster reconstruction efforts, shall comply with
18 the requirements under section 3301 of title 41, United
19 States Code.

20 (b) EXCEPTIONS.—The exceptions to the requirement
21 for competitive procedures provided under paragraphs (3),
22 (4), and (7) of section 3304(a) of title 41, United States
23 Code, shall not apply to a contract described in subsection
24 (a).

1 **SEC. 4. WRITTEN APPROVAL FOR USE OF NONCOMPETI-**
2 **TIVE PROCEDURES REQUIRED FOR CERTAIN**
3 **CONTRACTS.**

4 (a) APPROVAL REQUIRED.—The head of an executive
5 agency may enter into a contract to procure property or
6 services in connection with natural disaster reconstruction
7 efforts using other than full and open competition only
8 upon the written approval of the President or the Presi-
9 dent's designee.

10 (b) CONGRESSIONAL NOTIFICATION REQUIRED.—

11 (1) IN GENERAL.—If procedures other than full
12 and open competitive procedures are to be used to
13 enter into a contract described in subsection (a), the
14 head of the executive agency negotiating such con-
15 tract shall notify the Committee on Appropriations
16 of the Senate, the Committee on Appropriations of
17 the House of Representatives, and the standing com-
18 mittees of the Senate and the House of Representa-
19 tives that have jurisdiction over the executive agency
20 not later than 7 calendar days before the award of
21 the contract.

22 (2) JUSTIFICATION.—The notification under
23 paragraph (1) shall include—

24 (A) the justification for the use of other
25 than full and open competitive procedures;

1 (B) a brief description of the contract's
2 scope;

3 (C) the amount of the contract;

4 (D) a discussion of how the contracting
5 agency identified and solicited offers from con-
6 tractors;

7 (E) a list of the contractors solicited; and

8 (F) the justification and approval docu-
9 ments, required under section 3304(e)(1) of
10 title 41, United States Code, upon which the
11 determination of use of procedures other than
12 full and open competitive procedures was based.

13 (c) SCOPE OF REQUIREMENTS.—

14 (1) SIZE OF CONTRACTS.—This section shall
15 not apply to contracts of less than \$5,000,000.

16 (2) APPLICABILITY.—This section shall apply
17 to any extension, amendment, or modification of a
18 contract for the procurement of property or services
19 in connection with natural disaster reconstruction ef-
20 forts entered into before the date of the enactment
21 of this Act using other than full and open competi-
22 tive procedures.

23 (3) SMALL BUSINESS EXCEPTION.—This sec-
24 tion shall not apply to contracts authorized under
25 the Small Business Act (15 U.S.C. 631 et seq.).

1 **SEC. 5. DISCLOSURE REQUIRED.**

2 (a) PUBLICATION AND PUBLIC AVAILABILITY.—

3 (1) IN GENERAL.—The head of an executive
4 agency that enters into a contract for the procure-
5 ment of property or services in connection with nat-
6 ural disaster reconstruction efforts through the use
7 of other than full and open competitive procedures
8 shall publish in the Federal Register or Federal
9 Business Opportunities, and otherwise make avail-
10 able to the public not later than 7 calendar days be-
11 fore the date on which the contract is finalized—

12 (A) the amount of the contract;

13 (B) a brief description of the scope of the
14 contract;

15 (C) an explanation of how the executive
16 agency identified, and solicited offers from, po-
17 tential contractors to perform the contract, and
18 a list of the potential contractors that were
19 issued solicitations for the offers; and

20 (D) the justification and approval docu-
21 ments, required under section 3304(e)(1) of
22 title 41, United States Code, on which was
23 based the determination to use procedures other
24 than competitive procedures.

25 (2) SCOPE OF REQUIREMENTS.—

1 (A) SIZE OF CONTRACTS.—This section
 2 shall not apply to contracts of less than
 3 \$5,000,000.

4 (B) APPLICABILITY.—This section shall
 5 apply to any extension, amendment, or modi-
 6 fication of a contract entered into before the
 7 date of the enactment of this Act using other
 8 than full and open competitive procedures.

9 (C) SMALL BUSINESS EXCEPTION.—This
 10 section shall not apply to contracts authorized
 11 under the Small Business Act (15 U.S.C. 631
 12 et seq.).

13 (b) RELATIONSHIP TO OTHER DISCLOSURE LAWS.—
 14 Nothing in this section may be construed as affecting obli-
 15 gations to disclose United States Government information
 16 under any other provision of law.

17 **SEC. 6. CONTRACTS ENTERED INTO UNDER UNUSUAL AND**
 18 **COMPELLING URGENCY EXCEPTION.**

19 (a) REQUIREMENT FOR PERFORMANCE WITHIN 6-
 20 MONTH PERIOD.—The head of an executive agency may
 21 not rely on the exception under section 3304(a)(2) of title
 22 41, United States Code, to enter into a contract to procure
 23 property or services in connection with natural disaster re-
 24 construction efforts using procedures other than competi-

1 tive procedures unless the contract will be performed with-
2 in a 6-month period.

3 (b) EXTENDED NOTIFICATION AND DISCLOSURE
4 DEADLINES.—The notification and disclosure deadlines
5 under sections 4(b) and 5(a)(1), respectively, shall be 7
6 calendar days after the date on which a contract described
7 in subsection (a) is finalized.

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