

115TH CONGRESS
2D SESSION

H. R. 6369

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2018

Received; read twice and referred to the Committee on Small Business and
Entrepreneurship

AN ACT

To amend the Small Business Act to eliminate the inclusion
of option years in the award price for sole source con-
tracts, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Expanding Contracting
3 Opportunities for Small Businesses Act of 2018”.

4 **SEC. 2. AMENDMENTS TO CONTRACTING AUTHORITY FOR**
5 **CERTAIN SMALL BUSINESS CONCERNS.**

6 (a) QUALIFIED HUBZONE SMALL BUSINESS CON-
7 CERNs.—Subparagraph (A) of section 31(b)(2) of the
8 Small Business Act (15 U.S.C. 657a(b)(2)) is amended
9 to read as follows:

10 “(A) SOLE SOURCE CONTRACTS.—A con-
11 tracting officer may award sole source contracts
12 under this section to any qualified HUBZone
13 small business concern, if—

14 “(i) the qualified HUBZone small
15 business concern is determined to be a re-
16 sponsible contractor with respect to per-
17 formance of such contract opportunity;

18 “(ii) the contracting officer does not
19 have a reasonable expectation that two or
20 more qualified HUBZone small business
21 concerns will submit offers for the con-
22 tracting opportunity;

23 “(iii) the anticipated award price of
24 the contract will not exceed—

25 “(I) \$7,000,000, in the case of a
26 contract opportunity assigned a stand-

1 ard industrial classification code for
2 manufacturing; or

3 “(II) \$4,000,000, in the case of
4 all other contract opportunities; and

5 “(iv) in the estimation of the con-
6 tracting officer, the contract award can be
7 made at a fair and reasonable price.”.

8 (b) SMALL BUSINESS CONCERN OWNED AND CON-
9 TROLLED BY SERVICE-DISABLED VETERANS.—Sub-
10 section (a) of section 36 of the Small Business Act (15
11 U.S.C. 657f) is amended to read as follows:

12 “(a) SOLE SOURCE CONTRACTS.—In accordance with
13 this section, a contracting officer may award a sole source
14 contract to any small business concern owned and con-
15 trolled by service-disabled veterans if—

16 “(1) such concern is determined to be a respon-
17 sible contractor with respect to performance of such
18 contract opportunity;

19 “(2) the contracting officer does not have a rea-
20 sonable expectation that two or more small business
21 concerns owned and controlled by service-disabled
22 veterans will submit offers for the contracting oppor-
23 tunity;

24 “(3) the anticipated award price of the contract
25 will not exceed—

1 “(A) \$7,000,000, in the case of a contract
2 opportunity assigned a standard industrial clas-
3 sification code for manufacturing; or

4 “(B) \$4,000,000, in the case of any other
5 contract opportunity;

6 “(4) in the estimation of the contracting officer,
7 the contract award can be made at a fair and rea-
8 sonable price;

9 “(5) the contracting officer has notified the Ad-
10 ministration of the intent to make such award and
11 requested that the Administration determine the
12 concern’s eligibility for award; and

13 “(6) the Administration has determined that
14 such concern is eligible for award.”.

15 (c) CERTAIN SMALL BUSINESS CONCERNS OWNED
16 AND CONTROLLED BY WOMEN.—Section 8(m) of the
17 Small Business Act (15 U.S.C. 637(m)) is amended—

18 (1) by amending paragraph (7) to read as fol-
19 lows:

20 “(7) AUTHORITY FOR SOLE SOURCE CON-
21 TRACTS FOR ECONOMICALLY DISADVANTAGED
22 SMALL BUSINESS CONCERNS OWNED AND CON-
23 TROLLED BY WOMEN.—A contracting officer may
24 award a sole source contract under this subsection
25 to any small business concern owned and controlled

1 by women described in paragraph (2)(A) and cer-
2 tified under paragraph (2)(E) if—

3 “(A) such concern is determined to be a
4 responsible contractor with respect to perform-
5 ance of the contract opportunity;

6 “(B) the contracting officer does not have
7 a reasonable expectation that two or more busi-
8 nesses described in paragraph (2)(A) will sub-
9 mit offers;

10 “(C) the anticipated award price of the
11 contract will not exceed—

12 “(i) \$7,000,000, in the case of a con-
13 tract opportunity assigned a standard in-
14 dustrial classification code for manufac-
15 turing; or

16 “(ii) \$4,000,000, in the case of any
17 other contract opportunity;

18 “(D) in the estimation of the contracting
19 officer, the contract award can be made at a
20 fair and reasonable price;

21 “(E) the contracting officer has notified
22 the Administration of the intent to make such
23 award and requested that the Administration
24 determine the concern’s eligibility for award;
25 and

1 “(F) the Administration has determined
2 that such concern is eligible for award.”; and
3 (2) by amending paragraph (8) to read as fol-
4 lows:

5 “(8) AUTHORITY FOR SOLE SOURCE CON-
6 TRACTS FOR SMALL BUSINESS CONCERNS OWNED
7 AND CONTROLLED BY WOMEN IN SUBSTANTIALLY
8 UNDERREPRESENTED INDUSTRIES.—A contracting
9 officer may award a sole source contract under this
10 subsection to any small business concern owned and
11 controlled by women certified under paragraph
12 (2)(E) that is in an industry in which small business
13 concerns owned and controlled by women are sub-
14 stantially underrepresented (as determined by the
15 Administrator under paragraph (3)) if—

16 “(A) such concern is determined to be a
17 responsible contractor with respect to perform-
18 ance of the contract opportunity;

19 “(B) the contracting officer does not have
20 a reasonable expectation that two or more busi-
21 nesses in an industry that has received a waiver
22 under paragraph (3) will submit offers;

23 “(C) the anticipated award price of the
24 contract will not exceed—

1 “(i) \$7,000,000, in the case of a con-
2 tract opportunity assigned a standard in-
3 dustrial classification code for manufac-
4 turing; or

5 “(ii) \$4,000,000, in the case of any
6 other contract opportunity;

7 “(D) in the estimation of the contracting
8 officer, the contract award can be made at a
9 fair and reasonable price;

10 “(E) the contracting officer has notified
11 the Administration of the intent to make such
12 award and requested that the Administration
13 determine the concern’s eligibility for award;
14 and

15 “(F) the Administration has determined
16 that such concern is eligible for award.”.

17 (d) ELIMINATION OF THE INCLUSION OF OPTION
18 YEARS IN THE AWARD PRICE FOR CONTRACTS.—Section
19 8 of the Small Business Act (15 U.S.C. 637) is amended
20 by striking “(including options)” each place such term ap-
21 pears.

22 **SEC. 3. SBA CERTIFICATION PROGRAM NOTIFICATION.**

23 The Administrator of the Small Business Administra-
24 tion shall notify the Committee on Small Business of the
25 House of Representatives and the Committee on Small

1 Business and Entrepreneurship of the Senate when the
2 Administrator has implemented each of the following:

3 (1) A program to certify small business con-
4 cerns owned and controlled by women.

5 (2) A program to certify small business con-
6 cerns owned and controlled by service-disabled vet-
7 erans.

8 **SEC. 4. GAO REPORT.**

9 (a) STUDY.—With respect to the Small Business Ad-
10 ministration’s procurement programs for women-owned
11 small business concerns and for small business concerns
12 owned and controlled by service-disabled veterans, the
13 Comptroller General of the United States shall conduct
14 an evaluation of the policies and practices used by the Ad-
15 ministration and other Federal agencies to provide assur-
16 ance that contracting officers are properly classifying sole
17 source awards under those programs in the Federal Pro-
18 curement Data System and that sole source contracts
19 awarded under those programs are being awarded to eligi-
20 ble concerns.

21 (b) REPORT.—No later than 18 months after the
22 Small Business Administration implements the certifi-
23 cation programs described under section 3, the Comp-
24 troller General shall issue a report to the Committee on
25 Small Business of the House of Representatives and the

1 Committee on Small Business and Entrepreneurship of
2 the Senate containing the findings made in carrying out
3 the study required under subsection (a).

4 (c) SBA CONSIDERATION OF GAO REPORT.—

5 (1) IN GENERAL.—The Administrator of the
6 Small Business Administration shall review the re-
7 port issued under subsection (b) and take such ac-
8 tions as the Administrator may determine appro-
9 priate to address any concerns raised in such report
10 and any recommendations contained in such report.

11 (2) REPORT TO CONGRESS.—After the review
12 described under paragraph (1), the Administrator
13 shall issue a report to the Congress—

14 (A) stating that no additional actions were
15 necessary to address any concerns or rec-
16 ommendations contained in the report; or

17 (B) describing the actions taken by the
18 Administrator to resolve such concerns or im-
19 plement such recommendations.

20 **SEC. 5. REMOVAL OF ELIGIBILITY DETERMINATION UPON**
21 **IMPLEMENTATION OF CERTIFICATION PRO-**
22 **GRAMS.**

23 Effective upon the notification described under sec-
24 tion 3, the Small Business Act (15 U.S.C. 631 et seq.)
25 is amended—

1 (1) in section 8(m)—

2 (A) in paragraph (7)—

3 (i) in subparagraph (C), by adding
4 “and” at the end;

5 (ii) in subparagraph (D), by striking
6 the semicolon at the end and inserting a
7 period; and

8 (iii) by striking subparagraphs (E)
9 and (F); and

10 (B) in paragraph (8)—

11 (i) in subparagraph (C), by adding
12 “and” at the end;

13 (ii) in subparagraph (D), by striking
14 the semicolon at the end and inserting a
15 period; and

16 (iii) by striking subparagraphs (E)
17 and (F); and

18 (2) in section 36(a)—

19 (A) in paragraph (3), by adding “and” at
20 the end;

21 (B) in paragraph (4), by striking the semi-
22 colon at the end and inserting a period; and

1 (C) by striking paragraphs (5) and (6).

Passed the House of Representatives September 25,
2018.

Attest:

KAREN L. HAAS,
Clerk.