

SENATE RESOLUTION 120—EX-
PRESSING THE SENSE OF THE
SENATE ON THE OCCASION OF
THE DEATH OF MOTHER TERESA
OF CALCUTTA

Mr. NICKLES (for himself, Mr. DASCHLE, Mr. LOTT, Mr. MACK, Mr. BROWNBACK, Mr. HUTCHINSON, Mr. LEAHY, Mr. LEVIN, Mrs. FEINSTEIN, Mr. BUMPERS, Mr. ROBB, Mr. KOHL, Mr. BIDEN, Ms. LANDRIEU, Mr. SARBANES, Mr. REID, Mr. DODD, Mr. INOUE, Mr. LIEBERMAN, Mr. KERREY, Mrs. BOXER, Mr. MOYNIHAN, Mr. DOMENICI, Mr. KENNEDY, Mr. HATCH, Mr. KERRY, Mr. LAUTENBERG, Ms. MOSELEY-BRAUN, Ms. MIKULSKI, Mr. JOHNSON, Mr. KYL, Mr. MURKOWSKI, Mr. ASHCROFT, and Mr. INHOFE) submitted the following resolution; which was considered and agreed to:

S. RES. 120

Whereas, the American people are greatly saddened by the death of Mother Teresa of Calcutta;

Whereas, Mother Teresa founded the Missionaries of Charity, which now operates numerous orphanages, hospices, and other centers of charitable activity in the United States and around the world, offering compassionate care to those who are too often shunned by other institutions;

Whereas, Mother Teresa has been recognized as an outstanding humanitarian and has received: the first Pope John XXIII Peace Prize (1971); the Jawaharlal Nehru Award for International Understanding (1972); the Nobel Peace Prize (1979); the Presidential Medal of Freedom (1985); and the Congressional Gold Medal (1997);

Whereas, Mother Teresa became only the fifth person ever awarded honorary U.S. Citizenship (1996);

Whereas, Mother Teresa inspired people worldwide through her selfless actions and altruistic life;

Whereas, Mother Teresa embodied benevolence, compassion, and mercy and brought the face of God to humanity: Now, therefore, be it

Resolved, That the Senate—

(1). Expresses our deep admiration and respect for the life and work of Mother Teresa, and extends to her missionaries of Charity our sympathy for the loss they share with the world;

(2). Recognizes that Mother Teresa's work improved the lives of millions of people in the United States and around the world, and her example inspired countless others;

(3). Encourages all Americans to reflect on how they might keep the spirit of Mother Teresa alive through their own efforts; and

(4). Designates September 13, 1997 as a National Day of Recognition for the humanitarian efforts of Mother Teresa and of those who have labored with her in service to the poor and afflicted of the world.

SEC. 2. The Secretary of the Senate shall transmit an enrolled copy of this resolution to the Calcutta, India, Mother Teresa's House of the Missionaries of Charity.

AMENDMENTS SUBMITTED

THE DEPARTMENTS OF LABOR,
HEALTH AND HUMAN SERVICES,
AND EDUCATION, AND RELATED
AGENCIES APPROPRIATIONS
ACT, 1998

HARKIN (AND FEINGOLD)
AMENDMENT NO. 1123

Mr. HARKIN (for himself and Mr. FEINGOLD) proposed an amendment to amendment No. 1111 proposed by Mr. SPECTER to the bill (S. 1061) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes; as follows:

At the end of line 3 in the pending amendment insert the following: “: *Provided further*, That in carrying out its legislative mandate, the National Bipartisan Commission on the Future of Medicare shall examine the role increased investments in health research can play in reducing future Medicare costs, and the potential for coordinating Medicare with cost-effective long-term care services”.

THE SMALL BUSINESS
REAUTHORIZATION ACT OF 1997

BOND (AND KERRY) AMENDMENT
NO. 1124

Mr. BOND (for himself and Mr. KERRY) proposed an amendment to the bill (S. 1139) to reauthorize the programs of the Small Business Administration, and for other purposes, as follows:

At the end of Section 201, insert the following:

“(d) TECHNICAL ASSISTANCE GRANTS.—Section 7(m)(4)(E) of the Small Business Act (15 U.S.C. 636(m)(4)(E)) is amended—

“(i) by inserting ‘(i)’ before ‘Each intermediary’.

“(2) by striking ‘15’ and inserting ‘25’.

“(3) by adding at the end of the paragraph, ‘(ii) The intermediary may expend up to 25% of the funds received under paragraph (1)(B)(ii) to enter third party contracts for the provision of technical assistance.’”

At the end of Section 504, insert the following new section:

“SEC. 505. ASSET SALES.—in connection with the Administration's implementation of a program to sell to the private sector loans and other assets held by the Administration, the Administration shall provide to the Committees on Small Business in the Senate and House of Representatives a copy of the draft and final plans describing the sale and the anticipated benefits resulting from such sale.”

On page 76, line 1, strike “Administration” and add the following: “the technical and environmental compliance assistance programs established in each state under section 507 of the Clean Air Act Amendments of 1970, or state pollution prevention programs.”.

On page 76, line 16, strike “regulations.” and insert the following paragraph: “regulation including cooperating with the technical and environmental compliance assistance programs established in each state under section 507 of the Clean Air Act

Amendments of 1970 or state pollution prevention programs in the provision of counseling and technology development to help small businesses find solutions for complying with environmental regulations.”.

On page 16, line 8, after “used” add the following “to provide intensive management, marketing and technical assistance as well as”.

At the appropriate place in the bill, add the following new section:

SEC. 506. SMALL BUSINESS EXPORT PROMOTION.

(a) IN GENERAL.—Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (Q), by striking “and” at the end;

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

(3) by inserting after subparagraph (R) the following:

“(S) providing small business owners with access to a wide variety of export-related information by establishing on-line computer linkages between small business development centers and an international trade data information network with ties to the Export Assistance Center program.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out section 21(c)(3)(S) of the Small Business Act (15 U.S.C. 648(c)(3)(S)), as added by this section, \$1,500,000 for each fiscal years 1998 and 1999.

On page 28, line 2, add the following new subsection:

“(E) COLLATERAL REQUIREMENTS.—Adequacy of collateral provided by the small business shall be one factor evaluated in the credit determination. Collateral provided by the small business concern generally will include a subordinate lien position on the property being financed, and additional collateral may be required in a case-by-case basis, as determined by the Administration.”

Strike out sections 411 through 418 and insert in lieu thereof the following:

SEC. 411. CONTRACT BUNDLING.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following:

“(j) In complying with the statement of congressional policy expressed in subsection (a), relating to fostering the participation of small business concerns in the contracting opportunities of the Government, each Federal agency, to the maximum extent practicable, shall—

“(1) comply with congressional intent to foster the participation of small business concerns as prime contractors, subcontractors, and suppliers;

“(2) structure its contracting requirements to facilitate competition by and among small business concerns, taking all reasonable steps to eliminate obstacles to their participation; and

“(3) avoid unnecessary and unjustified bundling of contract requirements that precludes small business participation in procurements as prime contractors.”.

SEC. 412. DEFINITION OF CONTRACT BUNDLING.

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

“(o) DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.—In this Act—

“(1) The term ‘bundling of contract requirements’ means consolidating two or more procurement requirements for goods or services previously provided or performed under separate smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small-business concern due to—

“(A) the diversity, size, or specialized nature of the elements of the performance specified;

"(B) the aggregate dollar value of the anticipated award;

"(C) the geographical dispersion of the contract performance sites; or

"(D) any combination of the factors described in subparagraphs (A), (B), and (C).

"(2) The term 'separate smaller contract', with respect to a bundling of contract requirements, means a contract that has been performed by one or more small business concerns or was suitable for award to one or more small business concerns.

"(3) The term 'bundled contract' means a contract that is entered into to meet requirements that are consolidated in a bundling of contract requirements."

SEC. 413. ASSESSING PROPOSED CONTRACT BUNDLING.

(a) IN GENERAL.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by inserting after subsection (d) the following new subsection (e):

"(e) PROCUREMENT STRATEGIES; CONTRACT BUNDLING.—

"(1) IN GENERAL.—To the maximum extent practicable, procurement strategies used by the various agencies having contracting authority shall facilitate the maximum participation of small business concerns as prime contractors, subcontractors, and suppliers.

"(2) MARKET RESEARCH.—

"(A) IN GENERAL.—Before proceeding with an acquisition strategy that could lead to a contract containing consolidated procurement requirements, the head of an agency shall conduct market research to determine whether consolidation of the requirements is necessary and justified.

"(B) FACTORS.—For purposes of subparagraph (A), consolidation of the requirements may be determined as being necessary and justified if, as compared to the benefits that would be derived from contracting to meet those requirements if not consolidated, the Federal Government would derive from the consolidation measurably substantial benefits, including any combination of benefits that, in combination, are measurably substantial. Benefits described in the preceding sentence may include the following:

"(i) Cost savings.

"(ii) Quality improvements.

"(iii) Reduction in acquisition cycle times.

"(iv) Better terms and conditions.

"(v) Any other benefits.

"(C) REDUCTION OF COSTS NOT DETERMINATIVE.—The reduction of administrative or personnel costs alone shall not be a justification for bundling of contract requirements unless the cost savings are expected to be substantial in relation to the dollar value of the procurement requirements to be consolidated.

"(3) STRATEGY SPECIFICATIONS.—If the head of a contracting agency determines that a proposed procurement strategy for a procurement involves a substantial bundling of contract requirements, the proposed procurement strategy shall—

"(A) identify specifically the benefits anticipated to be derived from the bundling of contract requirements;

"(B) set forth an assessment of the specific impediments to participation by small business concerns as prime contractors that result from the bundling of contract requirements and specify actions designed to maximize small business participation as subcontractors (including suppliers) at various tiers under the contract or contracts that are awarded to meet the requirements; and

"(C) include a specific determination that the anticipated benefits of the proposed bundled contract justify its use.

"(4) CONTRACT TEAMING.—In the case of a solicitation of offers for a bundled contract that is issued by the head of an agency, a

small-business concern may submit an offer that provides for use of a particular team of subcontractors for the performance of the contract. The head of the agency shall evaluate the offer in the same manner as other offers, with due consideration to the capabilities of all of the proposed subcontractors. When a small business concern teams under this paragraph, it shall not affect its status as a small business concern for any other purpose."

(b) ADMINISTRATION REVIEW.—The third sentence of subsection (a) of such section is amended—

(1) by inserting after "discrete construction projects," the following: "or the solicitation involves an unnecessary or unjustified bundling of contract requirements, as determined by the Administration,";

(2) by striking out "or (4)" and inserting in lieu thereof "(4)"; and

(3) by inserting before the period at the end the following: ", or (5) why the agency has determined that the bundled contract (as defined in section 3(o)) is necessary and justified".

(c) RESPONSIBILITIES OF AGENCY SMALL BUSINESS ADVOCATES.—Subsection (k) of such section is amended—

(1) by redesignating paragraphs (5) through (9) as paragraphs (6) through (10), respectively; and

(2) by inserting after paragraph (4) the following:

"(5) identify proposed solicitations that involve significant bundling of contract requirements, and work with the agency acquisition officials and the Administration to revise the procurement strategies for such proposed solicitations where appropriate to increase the probability of participation by small businesses as prime contractors, or to facilitate small business participation as subcontractors and suppliers, if a solicitation for a bundled contract is to be issued;"

SEC. 414. REPORTING OF BUNDLED CONTRACT OPPORTUNITIES.

(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)(A)) shall be modified to collect data regarding bundling of contract requirements when the contracting officer anticipates that the resulting contract price, including all options, is expected to exceed \$5,000,000. The data shall reflect a determination made by the contracting officer regarding whether a particular solicitation constitutes a contract bundling.

(b) DEFINITIONS.—In this section, the term "bundling of contract requirements" has the meaning given that term in section 3(o) of the Small Business Act (15 U.S.C. 632(o)) (as added by section 412 of this title).

SEC. 415. EVALUATING SUBCONTRACT PARTICIPATION IN AWARDING CONTRACTS.

Section 8(d)(4) of the Small Business Act (15 U.S.C. 637(d)(4)) is amended by adding at the end the following:

"(G) The following factors shall be designated by the Federal agency as significant factors for purposes of evaluating offers for a bundled contract where the head of the agency determines that the contract offers a significant opportunity for subcontracting:

"(i) A factor that is based on the rate provided under the subcontracting plan for small business participation in the performance of the contract.

"(ii) For the evaluation of past performance of an offeror, a factor that is based on the extent to which the offeror attained applicable goals for small business participation in the performance of contracts."

SEC. 416. IMPROVED NOTICE OF SUBCONTRACTING OPPORTUNITIES.

(a) USE OF THE COMMERCE BUSINESS DAILY AUTHORIZED.—Section 8 of the Small Busi-

ness Act (15 U.S.C. 637) is amended by adding at the end the following:

"(k) NOTICES OF SUBCONTRACTING OPPORTUNITIES.—

"(1) IN GENERAL.—Notices of subcontracting opportunities may be submitted for publication in the Commerce Business Daily by—

"(A) a business concern awarded a contract by an executive agency subject to subsection (e)(1)(C); and

"(B) a business concern which is a subcontractor or supplier (at any tier) to such contractor having a subcontracting opportunity in excess of \$10,000.

"(2) CONTENT OF NOTICE.—The notice of a subcontracting opportunity shall include—

"(A) a description of the business opportunity that is comparable to the description specified in paragraphs (1), (2), (3), and (4) of subsection (f); and

"(B) the due date for receipt of offers."

(b) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall be amended to provide uniform implementation of the amendments made by this section.

(c) CONFORMING AMENDMENT.—Section 8(e)(1)(C) of the Small Business Act (15 U.S.C. 637(e)(1)(C)) is amended by striking "\$25,000" each place that term appears and inserting "\$100,000".

SEC. 417. DEADLINES FOR ISSUANCE OF REGULATIONS.

(a) PROPOSED REGULATIONS.—Proposed amendments to the Federal Acquisition Regulation or proposed Small Business Administration regulations under this subtitle and the amendments made by this subtitle shall be published not later than 120 days after the date of enactment of this Act for the purpose of obtaining public comment pursuant to section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b), or chapter 5 of title 5, United States Code, as appropriate. The public shall be afforded not less than 60 days to submit comments.

(b) FINAL REGULATIONS.—Final regulations shall be published not later than 270 days after the date of enactment of this Act. The effective date for such final regulations shall be not less than 30 days after the date of publication.

At an appropriate place, insert the following:

SEC. ____ DEFENSE LOAN AND TECHNICAL ASSISTANCE PROGRAM.

(a) DELTA PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Administrator of the Small Business Administration may administer the Defense Loan and Technical Assistance program in accordance with the authority and requirements of this section.

(2) EXPIRATION OF AUTHORITY.—The authority of the Administrator to carry out the DELTA program under paragraph (1) shall terminate when the funds referred to in subsection (g)(1) have been expended.

(3) DELTA PROGRAM DEFINED.—In this section, the terms "Defense Loan and Technical Assistance program" and "DELTA program" mean the Defense Loan and Technical Assistance program that has been established by a memorandum of understanding entered into by the Administrator and the Secretary of Defense on June 26, 1995.

(b) ASSISTANCE.—

(1) AUTHORITY.—Under the DELTA program, the Administrator may assist small business concerns that are economically dependent on defense expenditures to acquire dual-use capabilities.

(2) FORMS OF ASSISTANCE.—Forms of assistance authorized under paragraph (1) are as follows:

(A) LOAN GUARANTEES.—Loan guarantees under the terms and conditions specified under this section and other applicable law.

(B) NONFINANCIAL ASSISTANCE.—Other forms of assistance that are not financial.

(C) ADMINISTRATION OF PROGRAM.—In the administration of the DELTA program under this section, the Administrator shall—

(1) process applications for DELTA program loan guarantees;

(2) guarantee repayment of the resulting loans in accordance with this section; and

(3) take such other actions as are necessary to administer the program.

(D) SELECTION AND ELIGIBILITY REQUIREMENTS FOR DELTA LOAN GUARANTEES.—

(1) IN GENERAL.—The selection criteria and eligibility requirements set forth in this subsection shall be applied in the selection of small business concerns to receive loan guarantees under the DELTA program.

(2) SELECTION CRITERIA.—The criteria used for the selection of a small business concern to receive a loan guarantee under this section are as follows:

(A) The selection criteria established under the memorandum of understanding referred to in subsection (a)(3).

(B) The extent to which the loans to be guaranteed would support the retention of defense workers whose employment would otherwise be permanently or temporarily terminated as a result of reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

(C) The extent to which the loans to be guaranteed would stimulate job creation and new economic activities in communities most adversely affected by reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

(D) The extent to which the loans to be guaranteed would be used to acquire (or permit the use of other funds to acquire) capital equipment to modernize or expand the facilities of the borrower to enable the borrower to remain in the national technology and industrial base available to the Department of Defense.

(3) ELIGIBILITY REQUIREMENTS.—To be eligible for a loan guarantee under the DELTA program, a borrower must demonstrate to the satisfaction of the Administrator that, during any 1 of the 5 preceding operating years of the borrower, not less than 25 percent of the value of the borrower's sales were derived from—

(A) contracts with the Department of Defense or the defense-related activities of the Department of Energy; or

(B) subcontracts in support of defense-related prime contracts.

(E) MAXIMUM AMOUNT OF LOAN PRINCIPAL.—The maximum amount of loan principal for which the Administrator may provide a guarantee under this section during a fiscal year may not exceed \$1,250,000.

(F) LOAN GUARANTY RATE.—The maximum allowable guarantee percentage for loans guaranteed under this section may not exceed 80 percent.

(G) FUNDING.—

(1) IN GENERAL.—The funds that have been made available for loan guarantees under the DELTA program and have been transferred from the Department of Defense to the Small Business Administration before the date of the enactment of this Act shall be used for carrying out the DELTA program under this section.

(2) CONTINUED AVAILABILITY OF EXISTING FUNDS.—The funds made available under the second proviso under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE" in Public Law 103-335 (108 Stat. 2613) shall be available until expended—

(A) to cover the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees issued under this section; and

(B) to cover the reasonable costs of the administration of the loan guarantees.

SESSIONS (AND OTHERS) AMENDMENT NO. 1125

Mr. SESSIONS (for himself, Mr. CRAIG, and Mr. FAIRCLOTH) proposed an amendment to amendment No. 1078 proposed by Mr. DURBIN to the bill, S. 1061, *supra*; as follows:

At the end of the amendment, add the following:

SEC. . (a) GENERAL LIMITATION.—Notwithstanding any other provision of law, if any attorneys' fees are paid (on behalf of attorneys for the plaintiffs) in connection with an action maintained by a State against one or more tobacco companies to recover tobacco-related Medicaid expenditures or for other causes of action involved in the settlement agreement, such fees shall—

(1) not be paid at a rate that exceeds \$250 per hour; and

(2) be limited to a total of \$5,000,000.

(b) FEE ARRANGEMENTS.—Subsection (a) shall apply to attorneys' fees provided for or in connection with an action of the type described in such subsection under any—

(1) court order;

(2) settlement agreement;

(3) contingency fee arrangement;

(4) arbitration procedure;

(5) alternative dispute resolution procedure (including mediation); or

(6) other arrangement providing for the payment of attorneys' fees.

(c) EXPENSES.—The limitation described in subsection (a) shall not apply to any amounts provided for the attorneys' reasonable and customary expenses.

(d) REQUIREMENTS.—No award of attorneys' fees shall be made under any national tobacco settlement until the attorneys involved have—

(1) provided to the Governor of the appropriate State, a detailed time accounting with respect to the work performed in relation to any legal action which is the subject of the settlement or with regard to the settlement itself; and

(2) made public disclosure of the time accounting under paragraph (1) and any fee agreements entered into, or fee arrangements made, with respect to any legal action that is the subject of the settlement.

(e) PROVISION OF FUNDS FOR CHILDREN'S HEALTH RESEARCH.—Any amounts provided for attorneys' fees in excess of the limitation applicable under this section shall be paid into the Treasury for use by the National Institutes of Health for research relating to children's health.

(f) EFFECTIVE DATE.—The limitation on the payment of attorneys' fees contained in this section shall become effective on the date of enactment of any Act providing for a national tobacco settlement.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL
RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the infor-

mation of the Senate and the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to consider the nominations of Ernest J. Moniz to be Under Secretary, Department of Energy; Michael Telson to be chief financial officer, Department of Energy; Mary Anne Sullivan to be general counsel, Department of Energy; Dan Reicher to be Assistant Secretary for Energy, Efficiency, and Renewable Energy, Department of Energy; Robert Gee to be Assistant Secretary for Policy and International Affairs, Department of Energy; and John Angell to be Assistant Secretary for Congressional and Intergovernmental Affairs, Department of Energy.

The hearing will take place Thursday, September 18, 1997 at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Camille Flint at (202) 224-5070.

COMMITTEE ON AGRICULTURE, NUTRITION, AND
FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Tuesday, October 7, 1997 at 9 a.m. in SR-328A. The purpose of this hearing is to examine food safety issues and recent food safety legislation proposed by the U.S. Department of Agriculture.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, September 9, 1997, at 10 a.m. in open session, to consider the nomination of Gen. Henry H. Shelton, USA, to be Chairman of the Joint Chiefs of Staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BROWNBACK. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Tuesday, September 9, at 10 a.m., for a hearing on campaign financing issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ISLAMIC AND ARAB BUSINESS INVESTMENT CONFERENCE

• Mr. ABRAHAM. Mr. President, I rise today to express my sincere best wishes to those individuals who are participating in the Islamic & Arab Business Investment Conference in Detroit, MI. The objective of this Conference is to bring Islamic and Arab leaders together to focus upon business investment opportunities in North