

116TH CONGRESS
1ST SESSION

H. R. 190

To amend the Small Business Act to eliminate the inclusion of option years in the award price for sole source contracts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. MARSHALL (for himself and Mr. SCHNEIDER) introduced the following bill; which was referred to the Committee on Small Business

A BILL

To amend the Small Business Act to eliminate the inclusion of option years in the award price for sole source contracts, 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 “Expanding Contracting
5 Opportunities for Small Businesses Act of 2019”.

6 **SEC. 2. AMENDMENTS TO CONTRACTING AUTHORITY FOR**
7 **CERTAIN SMALL BUSINESS CONCERNS.**

8 (a) QUALIFIED HUBZONE SMALL BUSINESS CON-
9 CERNs.—Subparagraph (A) of section 31(b)(2) of the

1 Small Business Act (15 U.S.C. 657a(b)(2)) is amended
2 to read as follows:

3 “(A) SOLE SOURCE CONTRACTS.—A con-
4 tracting officer may award sole source contracts
5 under this section to any qualified HUBZone
6 small business concern, if—

7 “(i) the qualified HUBZone small
8 business concern is determined to be a re-
9 sponsible contractor with respect to per-
10 formance of such contract opportunity;

11 “(ii) the contracting officer does not
12 have a reasonable expectation that two or
13 more qualified HUBZone small business
14 concerns will submit offers for the con-
15 tracting opportunity;

16 “(iii) the anticipated award price of
17 the contract will not exceed—

18 “(I) \$7,000,000, in the case of a
19 contract opportunity assigned a stand-
20 ard industrial classification code for
21 manufacturing; or

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

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

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

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

12 “(1) such concern is determined to be a respon-
13 sible contractor with respect to performance of such
14 contract opportunity;

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

20 “(3) the anticipated award price of the contract
21 will not exceed—

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

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

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

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

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

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

15 (1) by amending paragraph (7) to read as fol-
16 lows:

17 “(7) AUTHORITY FOR SOLE SOURCE CON-
18 TRACTS FOR ECONOMICALLY DISADVANTAGED
19 SMALL BUSINESS CONCERNS OWNED AND CON-
20 TROLLED BY WOMEN.—A contracting officer may
21 award a sole source contract under this subsection
22 to any small business concern owned and controlled
23 by women described in paragraph (2)(A) and cer-
24 tified under paragraph (2)(E) if—

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

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

8 “(C) the anticipated award price of the
9 contract will not exceed—

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

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

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

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

24 “(F) the Administration has determined
25 that such concern is eligible for award.”; and

1 (2) by amending paragraph (8) to read as fol-
2 lows:

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

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

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

21 “(C) the anticipated award price of the
22 contract will not exceed—

23 “(i) \$7,000,000, in the case of a con-
24 tract opportunity assigned a standard in-

1 industrial classification code for manufac-
 2 turing; or

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

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

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

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

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

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

21 (a) IN GENERAL.—The Administrator of the Small
 22 Business Administration shall notify the Committee on
 23 Small Business of the House of Representatives and the
 24 Committee on Small Business and Entrepreneurship of

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

3 (1) A program to certify small business con-
 4 cerns owned and controlled by women (as defined in
 5 section 8(m) of the Small Business Act (15 U.S.C.
 6 637(m))).

7 (2) A program to certify small business con-
 8 cerns owned and controlled by service-disabled vet-
 9 erans (as defined in section 3(q)(1) of the Small
 10 Business Act (15 U.S.C. 632(q))).

11 (b) ADDITIONAL NOTICE.—The Administrator of the
 12 Small Business Administration shall submit a copy of a
 13 notification required under subsection (a) to the Law Re-
 14 vision Counsel of the House of Representatives so that the
 15 Law Revision Counsel may execute the amendments re-
 16 quired under section 4.

17 **SEC. 4. REMOVAL OF ELIGIBILITY DETERMINATION UPON**
 18 **IMPLEMENTATION OF CERTIFICATION PRO-**
 19 **GRAMS.**

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

23 (1) in section 8(m)—

24 (A) in paragraph (7)—

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

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

6 (iii) by striking subparagraphs (E)
 7 and (F); and

8 (B) in paragraph (8)—

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

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

14 (iii) by striking subparagraphs (E)
 15 and (F); and

16 (2) in section 36(a)—

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

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

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

22 **SEC. 5. GAO REPORT.**

23 (a) STUDY.—With respect to the procurement pro-
 24 grams of the Small Business Administration for small
 25 business concerns owned and controlled by women (as de-

1 fined in section 8(m) of the Small Business Act (15 U.S.C.
2 637(m))) and for small business concerns owned and con-
3 trolled by service-disabled veterans (as defined in section
4 3(q)(1) of the Small Business Act (15 U.S.C. 632(q))),
5 the Comptroller General of the United States shall con-
6 duct an evaluation of the policies and practices used by
7 the Administration and other Federal agencies to provide
8 assurances that contracting officers are properly classify-
9 ing sole source awards under those programs in the Fed-
10 eral Procurement Data System and that sole source con-
11 tracts awarded under those programs are being awarded
12 to eligible concerns.

13 (b) REPORT.—Not later than 18 months after the
14 Small Business Administration implements the certifi-
15 cation programs described under section 3, the Comp-
16 troller General shall issue a report to the Committee on
17 Small Business of the House of Representatives and the
18 Committee on Small Business and Entrepreneurship of
19 the Senate containing the findings made in carrying out
20 the study required under subsection (a).

21 (c) SBA CONSIDERATION OF GAO REPORT.—

22 (1) IN GENERAL.—The Administrator of the
23 Small Business Administration shall review the re-
24 port issued under subsection (b) and take such ac-
25 tions as the Administrator may determine appro-

1 piate to address any concerns raised in such report
2 and any recommendations contained in such report.

3 (2) REPORT TO CONGRESS.—After the review
4 described under paragraph (1), the Administrator
5 shall issue a report to Congress—

6 (A) stating that no additional actions were
7 necessary to address any concerns or rec-
8 ommendations contained in the report; or

9 (B) describing the actions taken by the
10 Administrator to resolve such concerns or im-
11 plement such recommendations.

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