

115TH CONGRESS
1ST SESSION

S. 1038

To require the Administrator of the Small Business Administration to submit to Congress a report on the utilization of small businesses with respect to certain Federal contracts.

IN THE SENATE OF THE UNITED STATES

MAY 4, 2017

Mrs. ERNST (for herself and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To require the Administrator of the Small Business Administration to submit to Congress a report on the utilization of small businesses with respect to certain Federal contracts.

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. FINDINGS.**

4 Congress finds that—

5 (1) since the passage of the Budget Control Act
6 of 2011 (Public Law 112–25; 125 Stat. 240), many
7 Federal agencies have started favoring longer-term

1 Federal contracts, including multiple award con-
2 tracts, over direct individual awards;

3 (2) these multiple award contracts have grown
4 to more than one-fifth of Federal contract spending,
5 with the fastest growing multiple award contracts
6 surpassing \$100,000,000 in obligations for the first
7 time between 2013 and 2014;

8 (3) in fiscal year 2017, 17 of the 20 largest
9 Federal contract opportunities are multiple award
10 contracts;

11 (4) while Federal agencies may choose to use
12 any or all of the various socio-economic groups on a
13 multiple award contract, the Small Business Admin-
14 istration only examines socio-economic performance
15 through the small business procurement scorecard
16 and does not examine potential opportunities by
17 those groups; and

18 (5) Congress and the Department of Justice
19 have been clear that no individual socio-economic
20 group shall be given preference over another.

21 **SEC. 2. DEFINITIONS.**

22 In this Act—

23 (1) the term “Administrator” means the Ad-
24 ministrator of the Small Business Administration;

1 (2) the term “covered small business concerns”
 2 means—

3 (A) HUBZone small business concerns;

4 (B) small business concerns owned and
 5 controlled by service-disabled veterans;

6 (C) small business concerns owned and
 7 controlled by women; and

8 (D) socially and economically disadvan-
 9 tagged small business concerns, as defined in
 10 section 8(a)(4)(A) of the Small Business Act
 11 (15 U.S.C. 637(a)(4)(A)), receiving assistance
 12 under such section 8(a); and

13 (3) the terms “HUBZone small business con-
 14 cern”, “small business concern”, “small business
 15 concern owned and controlled by service-disabled
 16 veterans”, and “small business concern owned and
 17 controlled by women” have the meanings given those
 18 terms in section 3 of the Small Business Act (15
 19 U.S.C. 632).

20 **SEC. 3. REPORT.**

21 (a) IN GENERAL.—Not later than 180 days after the
 22 date of enactment of this Act, the Administrator shall sub-
 23 mit to the Committee on Small Business and Entrepre-
 24 neurship of the Senate and the Committee on Small Busi-

1 ness of the House of Representatives a report that in-
2 cludes—

3 (1) a determination as to whether small busi-
4 ness concerns and each category of covered small
5 business concerns described in subparagraphs (A)
6 through (D) of section 3(2) are being utilized in a
7 significant portion of the Federal market on multiple
8 award contracts, including—

9 (A) whether awards are being reserved for
10 one or more of those categories; and

11 (B) whether each such category is being
12 given the opportunity to perform on multiple
13 award contracts;

14 (2) a determination as to whether performance
15 requirements for multiple award contracts, as in ef-
16 fect on the day before the date of enactment of this
17 Act, are feasible and appropriate for small business
18 concerns; and

19 (3) any additional information as the Adminis-
20 trator may determine necessary.

21 (b) REQUIREMENT.—In making the determinations
22 required under subsection (a), the Administrator shall use
23 information from multiple award contracts—

24 (1) with varied assigned North American Indus-
25 try Classification System codes; and

- 1 (2) that were awarded by not less than eight
- 2 Federal agencies.

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