

Summary: H.R. 1873, Small Business Fairness in Contracting Act

Markup: Tuesday, April 24 at 2 p.m. in Rayburn 2360

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I. Contract Bundling Definition

The bill will clarify the definition of contract bundling to ensure that additional contracts are reviewed for their impact on small companies. The definition will be modified to include construction and other new work that includes small businesses.

II. Third Party Arbitration

The bill will allow for the Office of Federal Procurement Policy within the Office of Management and Budget to review agency procurement decisions related to small businesses. OFPP would be able to mitigate a dispute between SBA and the buying agency regarding small business procurement actions.

III. Appeals

Standing for appeals would be expanded to businesses and trade organizations that are negatively impacted by agency procurement decisions. This would permit the SBA to appeal to the buying agency regarding procurement actions that are not in the interest of small businesses.

IV. Small Business Contracting Goal

The bill will increase the government-wide small business goal to 30 percent. It would also extend the requirement to apply to overseas contracts. Moreover, it will provide that SBA must negotiate agency-specific goals with agencies on an annual basis, and will require that the statutory goal be the minimum. Lastly, this bill will require that companies that fit into multiple categories only be counted towards a maximum of two categories for purposes of an agency's goal achievements.

V. Small Business Set-Aside Parameters

This bill will raise the upper limit of the small business set-aside amount to the simplified acquisition threshold. Furthermore, the small business set-aside requirement will apply to all GSA schedule contracts.

VI. Subcontracting

This bill will require prime contractors to report small business subcontracting (at all tiers) as a percentage of the total dollar amount of the contract award. It will also provide bonus credits to those prime contractors that achieve their subcontracting goals. The names of contractors that do not accomplish their subcontracting goals will be placed on a registry to be maintained by SBA.

VII. National Database

This bill will require the SBA to contact, within 30 days, any small business that enters its data into the Central Contractor Registry (or its successor).

VIII. Protest Notification

This bill will require SBA to work with federal agencies to ensure that businesses that failed to prevail in a size protest are flagged as such in the Central Contract Registry (or its successor). Additionally, the annual report of small business goal accomplishments shall be qualified as "estimated" until any data integrity issues have been resolved. Lastly, the SBA's Office of Advocacy shall annually report to Congress on the number and dollar value of large business contract awards improperly coded as small business awards.