

## Union Calendar No.

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6369

[Report No. 115-]

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.

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### IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2018

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

JULY --, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on July 13, 2018]

# **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 2018”.*

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

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

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

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

1                   “(iii) the anticipated award price of  
2                   the contract will not exceed—

3                   “(I) \$7,000,000, in the case of a  
4                   contract opportunity assigned a stand-  
5                   ard industrial classification code for  
6                   manufacturing; or

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

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

12                  (b) *SMALL BUSINESS CONCERN OWNED AND CON-*  
13 *TROLLED BY SERVICE-DISABLED VETERANS.*—*Subsection*  
14 *(a) of section 36 of the Small Business Act (15 U.S.C. 657f)*  
15 *is amended to read as follows:*

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

20                  “(1) such concern is determined to be a respon-  
21                  sible contractor with respect to performance of such  
22                  contract opportunity;

23                  “(2) the contracting officer does not have a rea-  
24                  sonable expectation that two or more small business  
25                  concerns owned and controlled by service-disabled vet-

1 *erans will submit offers for the contracting oppor-*  
2 *tunity;*

3 *“(3) the anticipated award price of the contract*  
4 *will not exceed—*

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

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

10 *“(4) in the estimation of the contracting officer,*  
11 *the contract award can be made at a fair and reason-*  
12 *able price;*

13 *“(5) the contracting officer has notified the Ad-*  
14 *ministration of the intent to make such award and*  
15 *requested that the Administration determine the con-*  
16 *cern’s eligibility for award; and*

17 *“(6) the Administration has determined that*  
18 *such concern is eligible for award.”.*

19 *(c) CERTAIN SMALL BUSINESS CONCERNS OWNED AND*  
20 *CONTROLLED BY WOMEN.—Section 8(m) of the Small Busi-*  
21 *ness Act (15 U.S.C. 637(m)) is amended—*

22 *(1) by amending paragraph (7) to read as fol-*  
23 *lows:*

24 *“(7) AUTHORITY FOR SOLE SOURCE CONTRACTS*  
25 *FOR ECONOMICALLY DISADVANTAGED SMALL BUSI-*

1        *NESS CONCERNS OWNED AND CONTROLLED BY*  
2        *WOMEN.—A contracting officer may award a sole*  
3        *source contract under this subsection to any small*  
4        *business concern owned and controlled by women de-*  
5        *scribed in paragraph (2)(A) and certified under para-*  
6        *graph (2)(E) if—*

7                *“(A) such concern is determined to be a re-*  
8                *sponsible contractor with respect to performance*  
9                *of the contract opportunity;*

10               *“(B) the contracting officer does not have a*  
11               *reasonable expectation that two or more busi-*  
12               *nesses described in paragraph (2)(A) will submit*  
13               *offers;*

14               *“(C) the anticipated award price of the con-*  
15               *tract will not exceed—*

16                        *“(i) \$7,000,000, in the case of a con-*  
17                        *tract opportunity assigned a standard in-*  
18                        *dustrial classification code for manufac-*  
19                        *turing; or*

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

22                *“(D) in the estimation of the contracting of-*  
23                *ficer, the contract award can be made at a fair*  
24                *and reasonable price;*

1           “(E) the contracting officer has notified the  
2           Administration of the intent to make such award  
3           and requested that the Administration determine  
4           the concern’s eligibility for award; and

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

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

9           “(8) *AUTHORITY FOR SOLE SOURCE CONTRACTS*  
10          *FOR SMALL BUSINESS CONCERNS OWNED AND CON-*  
11          *TROLLED BY WOMEN IN SUBSTANTIALLY UNDERREP-*  
12          *RESENTED INDUSTRIES.—A contracting officer may*  
13          *award a sole source contract under this subsection to*  
14          *any small business concern owned and controlled by*  
15          *women certified under paragraph (2)(E) that is in an*  
16          *industry in which small business concerns owned and*  
17          *controlled by women are substantially underrep-*  
18          *resented (as determined by the Administrator under*  
19          *paragraph (3)) if—*

20                 “(A) such concern is determined to be a re-  
21                 sponsible contractor with respect to performance  
22                 of the contract opportunity;

23                 “(B) the contracting officer does not have a  
24                 reasonable expectation that two or more busi-

1            *nesses in an industry that has received a waiver*  
2            *under paragraph (3) will submit offers;*

3            *“(C) the anticipated award price of the con-*  
4            *tract will not exceed—*

5            *“(i) \$7,000,000, in the case of a con-*  
6            *tract opportunity assigned a standard in-*  
7            *dustrial classification code for manufac-*  
8            *turing; or*

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

11           *“(D) in the estimation of the contracting of-*  
12           *ficer, the contract award can be made at a fair*  
13           *and reasonable price;*

14           *“(E) the contracting officer has notified the*  
15           *Administration of the intent to make such award*  
16           *and requested that the Administration determine*  
17           *the concern’s eligibility for award; and*

18           *“(F) the Administration has determined*  
19           *that such concern is eligible for award.”.*

20           *(d) ELIMINATION OF THE INCLUSION OF OPTION*  
21           *YEARS IN THE AWARD PRICE FOR CONTRACTS.—Section*  
22           *8 of the Small Business Act (15 U.S.C. 637) is amended*  
23           *by striking “(including options)” each place such term ap-*  
24           *pears.*



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

2 *The Administrator of the Small Business Administra-*  
3 *tion shall notify the Committee on Small Business of the*  
4 *House of Representatives and the Committee on Small*  
5 *Business and Entrepreneurship of the Senate when the Ad-*  
6 *ministrator has implemented each of the following:*

7 (1) *A program to certify small business concerns*  
8 *owned and controlled by women.*

9 (2) *A program to certify small business concerns*  
10 *owned and controlled by service-disabled veterans.*

11 **SEC. 4. GAO REPORT.**

12 (a) *STUDY.*—*With respect to the Small Business Ad-*  
13 *ministration's procurement programs for women-owned*  
14 *small business concerns and for small business concerns*  
15 *owned and controlled by service-disabled veterans, the*  
16 *Comptroller General of the United States shall conduct an*  
17 *evaluation of the policies and practices used by the Admin-*  
18 *istration and other Federal agencies to provide assurance*  
19 *that contracting officers are properly classifying sole source*  
20 *awards under those programs in the Federal Procurement*  
21 *Data System and that sole source contracts awarded under*  
22 *those programs are being awarded to eligible concerns.*

23 (b) *REPORT.*—*No later than 18 months after the Small*  
24 *Business Administration implements the certification pro-*  
25 *grams described under section 3, the Comptroller General*  
26 *shall issue a report to the Committee on Small Business*

1 *of the House of Representatives and the Committee on*  
2 *Small Business and Entrepreneurship of the Senate con-*  
3 *taining the findings made in carrying out the study re-*  
4 *quired under subsection (a).*

5 *(c) SBA CONSIDERATION OF GAO REPORT.—*

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

12 *(2) REPORT TO CONGRESS.—After the review de-*  
13 *scribed under paragraph (1), the Administrator shall*  
14 *issue a report to the Congress—*

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

18 *(B) describing the actions taken by the Ad-*  
19 *ministrator to resolve such concerns or imple-*  
20 *ment such recommendations.*

1 **SEC. 5. REMOVAL OF ELIGIBILITY DETERMINATION UPON**  
2 **IMPLEMENTATION OF CERTIFICATION PRO-**  
3 **GRAMS.**

4 *Effective upon the notification described under section*  
5 *3, the Small Business Act (15 U.S.C. 631 et seq.) is amend-*  
6 *ed—*

7 *(1) in section 8(m)—*

8 *(A) in paragraph (7)—*

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 pe-*  
13 *riod; and*

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

16 *(B) in paragraph (8)—*

17 *(i) in subparagraph (C), by adding*  
18 *“and” at the end;*

19 *(ii) in subparagraph (D), by striking*  
20 *the semicolon at the end and inserting a pe-*  
21 *riod; and*

22 *(iii) by striking subparagraphs (E)*  
23 *and (F); and*

24 *(2) in section 36(a)—*

25 *(A) in paragraph (3), by adding “and” at*  
26 *the end;*

- 1                    *(B) in paragraph (4), by striking the semi-*
- 2                    *colon at the end and inserting a period; and*
- 3                    *(C) by striking paragraphs (5) and (6).*