

106TH CONGRESS
1ST SESSION

S. 1151

To amend the Office of Federal Procurement Policy Act to streamline the application of cost accounting standards.

IN THE SENATE OF THE UNITED STATES

MAY 27, 1999

Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. WARNER, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To amend the Office of Federal Procurement Policy Act to streamline the application of cost accounting standards.

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 “Cost Accounting
5 Standards Amendments of 1999”.

6 **SEC. 2. STREAMLINED APPLICABILITY OF COST ACCOUNT-**
7 **ING STANDARDS.**

8 (a) **APPLICABILITY.**—Paragraph (2) of section 26(f)
9 of the Office of Federal Procurement Policy Act (41
10 U.S.C. 422(f)(2)) is amended—

1 (1) by redesignating subparagraph (C) as sub-
2 paragraph (D);

3 (2) by striking subparagraph (B) and inserting
4 the following:

5 “(B) The cost accounting standards shall not apply
6 to a contractor or subcontractor for a fiscal year (or other
7 one-year period used for cost accounting by the contractor
8 or subcontractor) if the total value of all of the contracts
9 and subcontracts covered by the cost accounting standards
10 that were entered into by the contractor or subcontractor,
11 respectively, in the previous fiscal year (or other one-year
12 cost accounting period) was less than \$50,000,000.

13 “(C) Subparagraph (A) does not apply to the fol-
14 lowing contracts or subcontracts for the purpose of deter-
15 mining whether the contractor or subcontractor is subject
16 to the cost accounting standards:

17 “(i) Contracts or subcontracts for the acquisi-
18 tion of commercial items.

19 “(ii) Contracts or subcontracts where the price
20 negotiated is based on prices set by law or regula-
21 tion.

22 “(iii) Firm, fixed-price contracts or sub-
23 contracts awarded on the basis of adequate price
24 competition without submission of certified cost or
25 pricing data.

1 “(iv) Contracts or subcontracts with a value
2 that is less than \$5,000,000.”.

3 (b) WAIVER.—Such section is further amended by
4 adding at the end the following:

5 “(5)(A) The head of an executive agency may waive
6 the applicability of cost accounting standards for a con-
7 tract or subcontract with a value less than \$10,000,000
8 if that official determines in writing that—

9 “(i) the contractor or subcontractor is primarily
10 engaged in the sale of commercial items; and

11 “(ii) the contractor or subcontractor would not
12 otherwise be subject to the cost accounting stand-
13 ards.

14 “(B) The head of an executive agency may also waive
15 the applicability of cost accounting standards for a con-
16 tract or subcontract under extraordinary circumstances
17 when necessary to meet the needs of the agency. A deter-
18 mination to waive the applicability of cost accounting
19 standards under this subparagraph shall be set forth in
20 writing and shall include a statement of the circumstances
21 justifying the waiver.

22 “(C) The head of an executive agency may not dele-
23 gate the authority under subparagraph (A) or (B) to any
24 official in the executive agency below the senior policy-
25 making level in the executive agency.

1 “(D) The Federal Acquisition Regulation shall in-
2 clude the following:

3 “(i) Criteria for selecting an official to be dele-
4 gated authority to grant waivers under subpara-
5 graph (A) or (B).

6 “(ii) The specific circumstances under which
7 such a waiver may be granted.

8 “(E) The head of each executive agency shall report
9 the waivers granted under subparagraphs (A) and (B) for
10 that agency to the Board on an annual basis.”.

11 (c) CONSTRUCTION REGARDING CERTAIN NOT-FOR-
12 PROFIT ENTITIES.—The amendments made by this sec-
13 tion shall not be construed as modifying or superseding,
14 nor as intended to impair or restrict, the applicability of
15 the cost accounting standards to—

16 (1) any educational institution or federally
17 funded research and development center that is as-
18 sociated with an educational institution in accord-
19 ance with Office of Management and Budget Cir-
20 cular A–21, as in effect on January 1, 1999; or

21 (2) any contract with a nonprofit entity that
22 provides research and development and related prod-
23 ucts or services to the Department of Defense.

1 **SEC. 3. EFFECTIVE DATE.**

2 This Act and the amendments made by this Act shall
3 take effect 180 days after the date of enactment of this
4 Act.

