

107TH CONGRESS  
1ST SESSION

# H. R. 1324

To require Federal agencies to follow certain procedures with respect to the bundling of procurement contract requirements, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2001

Ms. VELÁZQUEZ (for herself, Mr. MANZULLO, Mr. HALL of Ohio, Mr. BOEHNER, Mr. BRADY of Pennsylvania, Mr. HOBSON, Mr. UDALL of New Mexico, Mr. BARTLETT of Maryland, Mr. GONZALEZ, Mrs. JONES of Ohio, Mr. UDALL of Colorado, Mr. DAVIS of Illinois, Mrs. NAPOLITANO, Mr. PHELPS, Mrs. CHRISTENSEN, Mr. LANGEVIN, Mr. PASCRELL, Ms. MILLENDER-MCDONALD, Mr. BAIRD, and Mr. WYNN) introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To require Federal agencies to follow certain procedures with respect to the bundling of procurement contract requirements, 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 “Small Business Con-  
5 tract Equity Act of 2001”.

1 **SEC. 2. PROCEDURES FOR BUNDLING CONTRACTS.**

2 (a) PROCEDURES FOR BUNDLING OF CONTRACTS.—

3 Notwithstanding any other law, the following procedures  
4 shall apply to a solicitation that is issued by an executive  
5 department or agency for the procurement of goods or  
6 services and that the Administrator of the Small Business  
7 Administration determines would result in the displace-  
8 ment of any small-business concern:

9 (1) SUBMISSION OF DRAFT SOLICITATION.—

10 The head of the department or agency shall forward,  
11 at least 20 days prior to the publication of any solici-  
12 tation for goods or services in Commerce Business  
13 Daily (or its electronic successor), a draft of such  
14 solicitation to the Administrator of the Small Busi-  
15 ness Administration, for determination by the Ad-  
16 ministrator whether the draft solicitation would re-  
17 sult in a bundled contract.

18 (2) DETERMINATION.—Not later than 10 days  
19 after the date of receipt of the draft solicitation, the  
20 Administrator shall make the determination de-  
21 scribed in paragraph (1) and submit such deter-  
22 mination to the head of the department or agency.  
23 If the Administrator concludes that the draft solici-  
24 tation would result in a bundled contract, the head  
25 of the department or agency may not publish the so-  
26 licitation until the department or agency head un-

1       dertakes market research for the proposed solicita-  
2       tion as described in section 15(e) of the Small Busi-  
3       ness Act (15 U.S.C. 644(e)) and the regulations pro-  
4       mulgated thereunder on December 27, 1999.

5           (3) STUDY.—Not later than 45 days after the  
6       date that the Administrator has made the deter-  
7       mination under paragraph (2), the head of the de-  
8       partment or agency shall submit to the Adminis-  
9       trator a study to support the proposed bundled con-  
10      tract which demonstrates measurable savings as set  
11      forth in the regulations implementing the Small  
12      Business Reauthorization Act of 1997 (Public Law  
13      105–135; 111 Stat. 2592) (including the amend-  
14      ments made by that Act), and that the quality of the  
15      goods or services to be procured under the draft so-  
16      licitation are equal in quality to the goods or services  
17      currently obtained by the head of the department or  
18      agency.

19           (4) REVIEW OF STUDY.—Not later than 10  
20      days after the submission of the study, the Adminis-  
21      trator shall determine whether the study meets the  
22      standards set forth in the Small Business Reauthor-  
23      ization Act of 1997 (including the amendments  
24      made by that Act) and the regulations promulgated  
25      thereunder on December 27, 1999. The Adminis-

1 trator shall specify in writing any deficiencies in the  
2 study and proposed changes to the draft solicitation  
3 (including, but not limited to, the reduction in size  
4 or scope of the draft solicitation) so as to comply  
5 with the requirements in such Act and regulations.  
6 If the head of the agency does not concur in a deter-  
7 mination of the Administrator under this paragraph,  
8 the head of the agency may appeal the determina-  
9 tion to the Director of the Office of Management  
10 and Budget, who shall either grant or deny the ap-  
11 peal within 5 days. Any determination by the Direc-  
12 tor shall be final. The Director may delegate his du-  
13 ties set forth in this paragraph to a subordinate offi-  
14 cial within the Office of Management and Budget  
15 appointed by the President with the advice and con-  
16 sent of the Senate.

17 (5) PUBLICATION OF SOLICITATION.—If the  
18 Administrator determines that the study meets the  
19 standards set forth in the Small Business Reauthor-  
20 ization Act of 1997 and the regulations promulgated  
21 thereunder, and that the goals described in section  
22 15(g)(2) of the Small Business Act (15 U.S.C.  
23 644(g)(2)) for the fiscal year prior to the fiscal year  
24 in which the draft solicitation was forwarded to the  
25 Administrator under paragraph (1) have been met,

1 the head of the department or agency may publish  
2 the solicitation in Commerce Business Daily (or its  
3 electronic successor).

4 (6) REVISION OF SOLICITATION.—If the Admin-  
5 istrator determines that the study does not meet  
6 such standards, the head of the department or agen-  
7 cy shall revise the solicitation and perform a new  
8 study pursuant to the procedures set forth in para-  
9 graphs (1) through (3).

10 (b) WAIVER.—

11 (1) IN GENERAL.—The requirements of sub-  
12 section (a) may be waived by the Administrator if  
13 the Administrator determines that an unusual or un-  
14 expected exigency justifies a waiver.

15 (2) APPEAL.—The head of an agency may ap-  
16 peal any waiver request to the Director of the Office  
17 of Management and Budget, who shall either grant  
18 or deny the appeal within 5 days. Any determination  
19 by the Director shall be final. The Director may del-  
20 egate the duties set forth in this paragraph to a sub-  
21 ordinate official within the Office of Management  
22 and Budget appointed by the President with the ad-  
23 vice and consent of the Senate.

24 (c) DEFINITIONS.—In this section, the term—

1           (1) “bundled contract” means any contract, ir-  
2           respective of benefit or dollar value, that displaces  
3           two or more small-business concerns; and

4           (2) “small-business concern” has the meaning  
5           given that term in section 3(a) of the Small Busi-  
6           ness Act (15 U.S.C. 632(a)).

7           (d) REGULATIONS.—The Administrator shall promul-  
8           gate regulations to implement this section according to the  
9           following procedures:

10           (1) Not later than 30 days after the date of en-  
11           actment of this Act, the Administrator shall publish,  
12           for notice and comment, proposed rules to imple-  
13           ment this section.

14           (2) The Administrator shall receive comments  
15           on the proposed rules for 45 days. At the close of  
16           the comment period, the Administrator shall consult  
17           with the department or agency head on the promul-  
18           gation of final rules.

19           (3) If no final rule has been published within  
20           120 days after the effective date of this Act, the reg-  
21           ulations published in proposed form pursuant to  
22           paragraph (1) shall become final.

1 **SEC. 3. DEFINITIONS RELATED TO BUNDLING OF CON-**  
2 **TRACT REQUIREMENTS.**

3 Section 3(o) of the Small Business Act (15 U.S.C.  
4 632(o)) is amended—

5 (1) in paragraph (1), by inserting “, regardless  
6 of the terminology that the contracting agency uses  
7 to refer to such a contract and regardless of whether  
8 such agency has conducted a study of the effects of  
9 the solicitation for the contract on civilian or mili-  
10 tary personnel of the United States” before the pe-  
11 riod at the end; and

12 (2) in paragraph (2)—

13 (A) by striking “The term” and inserting  
14 “Regardless of the terminology that the con-  
15 tracting agency uses to refer to such a consoli-  
16 dation, the term”; and

17 (B) by inserting “or multiple contracts, or  
18 the creation of any new procurement require-  
19 ment that permits such consolidation,” after  
20 “solicitation of offers for a single contract”.

21 **SEC. 4. PROHIBITION ON BUNDLING OF CONTRACT RE-**  
22 **QUIREMENTS BY AGENCIES THAT FAIL TO**  
23 **MEET CERTAIN SMALL BUSINESS PROCURE-**  
24 **MENT PARTICIPATION GOALS.**

25 (a) PROHIBITION ON BUNDLING OF CONTRACT RE-  
26 QUIREMENTS.—

1           (1) IN GENERAL.—Section 15(e) of the Small  
2 Business Act (15 U.S.C. 644(e)) is amended by add-  
3 ing at the end the following:

4           “(5) RESTRICTION ON BUNDLING OF CONTRACT  
5 REQUIREMENTS.—

6           “(A) IN GENERAL.—If a report submitted  
7 under subsection (h)(2) includes a finding that  
8 an agency failed, in any fiscal year covered by  
9 the report, to attain any goal described in sub-  
10 paragraph (B), the agency may not award a  
11 contract that is determined by the Adminis-  
12 trator to be a bundled contract under section 2  
13 or solicit offers for a bundled contract for the  
14 duration of the fiscal year beginning on the  
15 first October 1 after the submission of the re-  
16 port.

17           “(B) GOALS TO BE MET.—For the pur-  
18 poses of subparagraph (A), an agency shall be  
19 required to meet the each goal described in sub-  
20 section (g)(2) that relates to any of the fol-  
21 lowing:

22                   “(i) small business concerns generally;

23                   “(ii) small business concerns owned  
24 and controlled by socially and economically  
25 disadvantaged individuals; and



1                   “(iii) small business concerns owned  
2                   and controlled by women.”.

3                   (2) APPLICABILITY.—The amendment made by  
4                   paragraph (1) shall apply only to—

5                   (A) solicitations of offers to contract issued  
6                   on or after October 1, 2001; and

7                   (B) contracts awarded pursuant to such  
8                   solicitations.

9                   (b) DEADLINES RELATING TO DETERMINATION OF  
10                  GOAL ATTAINMENT.—Section 15(h) of the Small Business  
11                  Act (15 U.S.C. 644(h)) is amended—

12                  (1) in paragraph (2) in the first sentence, by  
13                  inserting “by not later than December 31 of each  
14                  year” before the period at the end; and

15                  (2) by adding at the end the following:

16                  “(4) By not later than September 15 of each year,  
17                  the Administrator of General Services shall transmit to  
18                  the Administration a preliminary report, for the period be-  
19                  ginning on October 1 and ending on August 31 of the pre-  
20                  vious year, containing data and information, obtained  
21                  from the Federal Procurement Data System, dem-  
22                  onstrating the extent to which each agency met each goal  
23                  set forth in subsection (g)(2). Not later than October 15  
24                  of each year, the Administrator of General Services shall

- 1 transmit to the Administration a final report containing
- 2 such data for the previous year.”.

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