

111TH CONGRESS
1ST SESSION

H. R. 4134

To require companies submitting offers to the Government for Federal contracts to include subcontracting agreements with the offers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2009

Mr. CLAY (for himself, Ms. CLARKE, Mr. GRIJALVA, Mrs. CHRISTENSEN, Ms. BORDALLO, Ms. NORTON, Ms. CORRINE BROWN of Florida, and Mr. DAVIS of Illinois) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Armed Services, 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

A BILL

To require companies submitting offers to the Government for Federal contracts to include subcontracting agreements with the offers, 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 “Subcontractor Fair-
5 ness Act of 2009”.

1 **SEC. 2. REQUIREMENT FOR SUBCONTRACTING AGREE-**
2 **MENTS TO BE INCLUDED WITH OFFERS FOR**
3 **GOVERNMENT CONTRACTS.**

4 (a) CIVILIAN AGENCY CONTRACTS.—Title III of the
5 Federal Property and Administrative Services Act of 1949
6 is amended by inserting after section 303M the following
7 new section:

8 **“SEC. 303N. REQUIREMENT FOR SUBCONTRACTING AGREE-**
9 **MENTS.**

10 “(a) IN GENERAL.—Each solicitation for competitive
11 proposals for the procurement of property or services in
12 an amount greater than \$550,000, or for construction in
13 an amount greater than \$1,000,000, made by an executive
14 agency shall provide that any offeror submitting a pro-
15 posal in response to the solicitation shall enter into a sub-
16 contracting agreement that meets the requirements of
17 subsection (b) for each subcontract expected to be award-
18 ed by the offeror in the performance of the contract.

19 “(b) SUBCONTRACTING AGREEMENT REQUIRE-
20 MENTS.—Each subcontracting agreement required by sub-
21 section (a) shall—

22 “(1) provide that, if the offeror is awarded the
23 prime contract by the executive agency, the subcon-
24 tracting agreement will become a valid subcontract
25 between the offeror and the subcontractor upon
26 award of the prime contract; and

1 “(2) include the following with respect to the
2 subcontract concerned:

3 “(A) The identity of the subcontractor.

4 “(B) The scope of work to be performed
5 under the subcontract.

6 “(C) The dollar amount of the subcontract.

7 “(c) COPY OF AGREEMENT.—A copy of each subcon-
8 tracting agreement required by subsection (a) shall be in-
9 cluded in any competitive proposal submitted in response
10 to a solicitation described in that subsection.”.

11 (b) DEFENSE CONTRACTS.—

12 (1) IN GENERAL.—Chapter 137 of title 10,
13 United States Code, is amended by inserting after
14 section 2305a the following new section:

15 **“§ 2305b. Requirement for subcontracting agreements**

16 “(a) IN GENERAL.—Each solicitation for competitive
17 proposals for the procurement of property or services in
18 an amount greater than \$550,000, or for construction in
19 an amount greater than \$1,000,000, made by the head
20 of an agency shall provide that any offeror submitting a
21 proposal in response to the solicitation shall enter into a
22 subcontracting agreement that meets the requirements of
23 subsection (b) for each subcontract expected to be award-
24 ed by the offeror in the performance of the contract.

1 “(b) SUBCONTRACTING AGREEMENT REQUIRE-
2 MENTS.—Each subcontracting agreement required by sub-
3 section (a) shall—

4 “(1) provide that, if the offeror is awarded the
5 prime contract by the agency, the subcontracting
6 agreement will become a valid subcontract between
7 the offeror and the subcontractor upon award of the
8 prime contract; and

9 “(2) include the following with respect to the
10 subcontract concerned:

11 “(A) The identity of the subcontractor.

12 “(B) The scope of work to be performed
13 under the subcontract.

14 “(C) The dollar amount of the subcontract.

15 “(c) COPY OF AGREEMENT.—A copy of each subcon-
16 tracting agreement required by subsection (a) shall be in-
17 cluded in any competitive proposal submitted in response
18 to a solicitation described in that subsection.”.

19 (2) CLERICAL AMENDMENT.—The table of sec-
20 tions at the beginning of such chapter is amended
21 by adding at the end the following new item:

“2305b. Requirement for subcontracting agreements.”.

22 (c) EFFECTIVE DATE.—Section 303N of the Federal
23 Property and Administrative Services Act of 1949 and
24 section 2305b of title 10, United States Code, as added
25 by subsections (a) and (b), respectively, shall apply with

- 1 respect to contracts entered into after the date occurring
- 2 60 days after the date of the enactment of this Act.

○