

## Union Calendar No. 525

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

# H. R. 3980

[Report No. 112-722]

To amend the Small Business Act with respect to procurement center representatives and acquisition planning, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2012

Ms. HERRERA BEUTLER (for herself and Mr. SCHRADER) introduced the following bill; which was referred to the Committee on Small Business

DECEMBER 21, 2012

Additional sponsors: Mr. GRAVES of Missouri, Mr. MULVANEY, Mr. CHABOT, Mr. WALSH of Illinois, Mr. WEST, Mr. HANNA, Mr. SCHILLING, Mr. TIP-TON, Mrs. ELLMERS, and Mr. MCKEON

DECEMBER 21, 2012

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 February 8, 2012]

# **A BILL**

To amend the Small Business Act with respect to procurement center representatives and acquisition planning, 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*  
 5 *“Small Business Opportunity Act of 2012”.*

6 (b) *TABLE OF CONTENTS.*—

*Sec. 1. Short title; table of contents.*

*TITLE I—PROCUREMENT CENTER REPRESENTATIVES*

*Sec. 101. Procurement center representatives.*

*Sec. 102. Small Business Act contracting requirements training.*

*TITLE II—ACQUISITION PLANNING*

*Sec. 201. Acquisition planning.*

7 **TITLE I—PROCUREMENT**  
 8 **CENTER REPRESENTATIVES**

9 **SEC. 101. PROCUREMENT CENTER REPRESENTATIVES.**

10 (a) *IN GENERAL.*—*Section 15(l) of the Small Business*  
 11 *Act (15 U.S.C. 644(l)) is amended by striking the subsection*  
 12 *enumerator and inserting the following:*

13 *“(l) PROCUREMENT CENTER REPRESENTATIVES.—”.*

14 (b) *ASSIGNMENT AND ROLE.*—*Paragraph (1) of section*  
 15 *15(l) of such Act (15 U.S.C. 644(l)) is amended to read*  
 16 *as follows:*

17 *“(1) ASSIGNMENT AND ROLE.—The Adminis-*  
 18 *trator shall assign to each major procurement center*  
 19 *a procurement center representative with such assist-*  
 20 *ance as may be appropriate.”.*

1       (c) *ACTIVITIES.*—Section 15(l)(2) of such Act (15  
2 U.S.C. 644(l)(2)) is amended—

3           (1) in the matter preceding subparagraph (A) by  
4 striking “(2) In addition to carrying out the respon-  
5 sibilities assigned by the Administration, a breakout”  
6 and inserting the following:

7           “(2) *ACTIVITIES.*—A”;

8           (2) by striking subparagraph (A) and inserting  
9 the following:

10           “(A) attend any provisioning conference or  
11 similar evaluation session during which a deter-  
12 mination may be made with respect to the pro-  
13 curement method to be used to satisfy a require-  
14 ment, review any acquisition plan with respect  
15 to a requirement, and make recommendations re-  
16 garding procurement method determinations and  
17 acquisition plans;”;

18           (3) in subparagraph (B)—

19           (A) by striking “(B) review, at any time,  
20 restrictions on competition” and inserting the  
21 following:

22           “(B) review, at any time, barriers to small  
23 business participation in Federal contracting”;

24           (B) by striking “items” and inserting  
25 “goods and services”; and

1                   (C) by striking “limitations” and inserting  
2                   “barriers”;

3                   (4) in subparagraph (C) by striking “(C) review  
4                   restrictions on competition” and inserting the fol-  
5                   lowing:

6                   “(C) review barriers to small business par-  
7                   ticipation in Federal contracting”;

8                   (5) by striking subparagraph (D) and inserting  
9                   the following:

10                   “(D) review any bundled or consolidated so-  
11                   licitation or contract in accordance with this  
12                   Act;”;

13                   (6) in subparagraph (E) by striking “(E) have  
14                   access to” and inserting the following:

15                   “(E) have access to”; and

16                   (7) by striking subparagraphs (F) and (G) and  
17                   inserting the following:

18                   “(F) receive, from personnel responsible for  
19                   reviewing unsolicited proposals, copies of unso-  
20                   solicited proposals from small business concerns  
21                   and any information on outcomes relating to  
22                   such proposals;

23                   “(G) participate in any session or planning  
24                   process and review any documents with respect  
25                   to a decision to convert an activity performed by

1           *a small business concern to an activity per-*  
2           *formed by a Federal employee;*

3           “(H) *have electronic access to any acquisi-*  
4           *tion plan developed or in development with re-*  
5           *spect to a procurement activity;*

6           “(I) *be an advocate for the maximum prac-*  
7           *ticable utilization of small business concerns in*  
8           *Federal contracting, including by advocating*  
9           *against the bundling of contract requirements*  
10          *when not justified; and*

11          “(J) *carry out any other responsibility as-*  
12          *signed by the Administrator.”.*

13          (d) *APPEALS.—Section 15(l)(3) of such Act (15 U.S.C.*  
14          *644(l)(3)) is amended by striking “(3) A breakout procure-*  
15          *ment center representative” and inserting the following:*

16                 “(3) *APPEALS.—A procurement center represent-*  
17                 *ative”.*

18          (e) *NOTIFICATION AND INCLUSION.—Paragraph (4) of*  
19          *section 15(l) of such Act (15 U.S.C. 644(l)) is amended to*  
20          *read as follows:*

21                 “(4) *NOTIFICATION AND INCLUSION.—A procure-*  
22                 *ment center representative shall be notified of and in-*  
23                 *cluded in all applicable acquisition planning proc-*  
24                 *esses.”.*

1           (f) *POSITION REQUIREMENTS.*—Section 15(l)(5) of  
2 such Act (15 U.S.C. 644(l)(5)) is amended—

3           (1) by striking the paragraph enumerator and  
4 inserting the following:

5           “(5) *POSITION REQUIREMENTS.*—”;

6           (2) by striking subparagraphs (A) and (B) and  
7 inserting the following:

8           “(A) *IN GENERAL.*—A procurement center  
9 representative assigned under this subsection  
10 shall—

11           “(i) be a full-time employee of the Ad-  
12 ministration;

13           “(ii) be fully qualified, technically  
14 trained, and familiar with the goods and  
15 services procured by the major procurement  
16 center to which that representative is as-  
17 signed; and

18           “(iii) have a Level III Federal Acquisi-  
19 tion Certification in Contracting (or any  
20 successor certification) or the equivalent De-  
21 partment of Defense certification, except  
22 that any person serving in such a position  
23 on the date of enactment of this clause may  
24 continue to serve in that position for a pe-

1                   riod of 5 years without the required certifi-  
2                   cation.”; and

3                   (3) in subparagraph (C) by striking “(C) The  
4                   Administration shall establish personnel positions for  
5                   breakout procurement representatives and advisers as-  
6                   signed pursuant to” and inserting the following:

7                   “(B) COMPENSATION.—The Administrator  
8                   shall establish personnel positions for procure-  
9                   ment center representatives assigned under”.

10                  (g) MAJOR PROCUREMENT CENTER DEFINED.—Sec-  
11                  tion 15(l)(6) of such Act (15 U.S.C. 644(l)(6)) is amend-  
12                  ed—

13                  (1) by striking “(6) For purposes” and inserting  
14                  the following:

15                  “(6) MAJOR PROCUREMENT CENTER DEFINED.—  
16                  For purposes”; and

17                  (2) by striking “other than commercial items  
18                  and which has the potential to incur significant sav-  
19                  ings as the result of the placement of a breakout pro-  
20                  curement center representative” and inserting “goods  
21                  or services, including goods or services that are com-  
22                  mercially available”.

23                  (h) TRAINING.—Section 15(l)(7) of such Act (15 U.S.C.  
24                  644(l)(7)) is amended—



1           (1) *by striking the paragraph enumerator and*  
2 *inserting the following:*

3           “(7) *TRAINING.—*”;

4           (2) *by striking subparagraph (A) and inserting*  
5 *the following:*

6           “(A) *AUTHORIZATION.—At such times as*  
7 *the Administrator deems appropriate, a procure-*  
8 *ment center representative shall provide training*  
9 *for contracting officers, other appropriate per-*  
10 *sonnel of the procurement center to which such*  
11 *representative is assigned, and small businesses*  
12 *groups seeking to do business with such procure-*  
13 *ment center. Such training shall acquaint the*  
14 *participants with the provisions of this sub-*  
15 *section and shall instruct the participants in*  
16 *methods designed to further the purposes of this*  
17 *subsection.*

18           “(B) *LIMITATION.—A procurement center*  
19 *representative may provide training under sub-*  
20 *paragraph (A) only to the extent that the train-*  
21 *ing does not interfere with the representative car-*  
22 *rying out other activities under this subsection.”;*

23           *and*

24           (3) *in subparagraph (B)—*

1                   (A) by striking “(B) The breakout procure-  
 2                   ment center representative” and inserting the fol-  
 3                   lowing:

4                   “(8) ANNUAL BRIEFING AND REPORT.—A pro-  
 5                   curement center representative”; and

6                   (B) by striking “sixty” and inserting “60”.

7   **SEC. 102. SMALL BUSINESS ACT CONTRACTING REQUIRE-**  
 8                   **MENTS TRAINING.**

9                   (a) *ESTABLISHMENT.*—Not later than 1 year after the  
 10                  date of enactment of this Act, the Defense Acquisition Uni-  
 11                  versity and the Federal Acquisition Institute shall each pro-  
 12                  vide a course on contracting requirements under the Small  
 13                  Business Act, including the requirements for small business  
 14                  concerns owned and controlled by service-disabled veterans,  
 15                  qualified HUBZone small business concerns, small business  
 16                  concerns owned and controlled by socially and economically  
 17                  disadvantaged individuals, and small business concerns  
 18                  owned and controlled by women.

19                  (b) *COURSE REQUIRED.*—To have a Federal Acquisi-  
 20                  tion Certification in Contracting (or any successor certifi-  
 21                  cation) or the equivalent Department of Defense certifi-  
 22                  cation an individual shall be required to complete the course  
 23                  established under subsection (a).

24                  (c) *REQUIREMENT THAT BUSINESS OPPORTUNITY*  
 25                  *SPECIALISTS BE CERTIFIED.*—Section 7(j)(10)(D)(i) of the

1 *Small Business Act (15 U.S.C. 636(j)(10)(D)(i)) is amend-*  
2 *ed by inserting after “to assist such Program Participant.”*  
3 *the following: “The Business Opportunity Specialist shall*  
4 *have a Level I Federal Acquisition Certification in Con-*  
5 *tracting (or any successor certification) or the equivalent*  
6 *Department of Defense certification, except that a Business*  
7 *Opportunity Specialist serving at the time of the date of*  
8 *enactment of the Small Business Opportunity Act of 2012*  
9 *may continue to serve as a Business Opportunity Specialist*  
10 *for a period of 5 years beginning on that date of enactment*  
11 *without such a certification.”.*

12 *(d) GAO REPORT.—Not later than 365 days after the*  
13 *date of enactment of this Act, the Comptroller General of*  
14 *the United States shall conduct a study and submit a report*  
15 *to the Committee on Small Business of the House of Rep-*  
16 *resentatives and the Committee on Small Business and En-*  
17 *trepreneurship of the Senate on the relationship between the*  
18 *size and quality of the acquisition workforce and the Fed-*  
19 *eral government’s ability to maximize the utilization of*  
20 *small businesses in Federal procurement. The report shall*  
21 *specifically address the following:*

22 *(1) The extent to which training on small busi-*  
23 *ness contracting laws affects a contracting officer’s de-*  
24 *termination to use one of the contracting authorities*  
25 *provided in the Small Business Act.*

1           (2) *The relationship between a robust Federal ac-*  
2 *quisition workforce and small business success in ob-*  
3 *taining Federal contracting opportunities.*

4           (3) *The effect on economic growth if small busi-*  
5 *nesses experienced a significant reduction in small*  
6 *business procurement activities.*

7           (4) *The effect of the anticipated acceleration of*  
8 *retirements by the acquisition workforce on small*  
9 *business procurement opportunities.*

## 10           **TITLE II—ACQUISITION** 11           **PLANNING**

### 12   **SEC. 201. ACQUISITION PLANNING.**

13           *Section 15(e)(1) of the Small Business Act (15 U.S.C.*  
14 *644(e)(1)) is amended—*

15           (1) *by striking “the various agencies” and in-*  
16 *serting “a Federal department or agency”; and*

17           (2) *by striking the period and inserting “and*  
18 *each such Federal department or agency shall—*

19                   *“(A) enumerate opportunities for the par-*  
20 *ticipation of small business concerns during all*  
21 *acquisition planning processes and in all acqui-*  
22 *sition plans;*

23                   *“(B) invite the participation of the appro-*  
24 *priate Director of Small and Disadvantaged*  
25 *Business Utilization in all acquisition planning*

1            *processes and provide that Director access to all*  
2            *acquisition plans in development; and*

3            *“(C) invite the participation of the appro-*  
4            *priate procurement center representative in all*  
5            *acquisition planning processes and provide that*  
6            *representative access to all acquisition plans in*  
7            *development.”.*

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

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