

# Union Calendar No. 545

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

# H. R. 4341

**[Report No. 114–704, Part I]**

To amend the Small Business Act to improve transparency and clarity for small businesses, to clarify the role of small business advocates, to increase opportunities for competition in subcontracting, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2016

Mr. CHABOT (for himself and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committees on Armed Services, Oversight and Government Reform, and Veterans' Affairs, 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

JULY 25, 2016

Reported from the Committee on Small Business with an amendment

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

JULY 25, 2016

The Committees on Armed Services, Oversight and Government Reform, and Veterans' Affairs discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on January 7, 2016]

# **A BILL**

To amend the Small Business Act to improve transparency and clarity for small businesses, to clarify the role of small business advocates, to increase opportunities for competition in subcontracting, 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        (a) *SHORT TITLE.*—*This Act may be cited as the “De-*  
 5        *fending America’s Small Contractors Act of 2016”.*

6        (b) *TABLE OF CONTENTS.*—*The table of contents for*  
 7        *this Act is as follows:*

*Sec. 1. Short title.*

**TITLE I—IMPROVING TRANSPARENCY AND CLARITY FOR SMALL  
BUSINESSES**

*Sec. 101. Plain language rewrite of requirements for small business procurements.*

*Sec. 102. Improving reporting on small business goals.*

*Sec. 103. Transparency in small business goals.*

*Sec. 104. Uniformity in procurement terminology.*

**TITLE II—CLARIFYING THE ROLES OF SMALL BUSINESS  
ADVOCATES**

*Sec. 201. Scope of review by procurement center representatives.*

*Sec. 202. Responsibilities of Commercial Market Representatives.*

*Sec. 203. Duties of the Office of Small and Disadvantaged Business Utilization.*

*Sec. 204. Improving contractor compliance.*

*Sec. 205. Responsibilities of Business Opportunity Specialists.*

**TITLE III—STRENGTHENING OPPORTUNITIES FOR COMPETITION IN  
SUBCONTRACTING**

*Sec. 301. Good faith in subcontracting.*

*Sec. 302. Pilot program to provide opportunities for qualified subcontractors to  
obtain past performance ratings.*

**TITLE IV—MENTOR-PROTEGE PROGRAMS**

*Sec. 401. Amendments to the Mentor-Protege Program of the Department of De-  
fense.*

*Sec. 402. Improving cooperation between the mentor-protege programs of the  
Small Business Administration and the Department of Defense.*

**TITLE V—MISCELLANEOUS**

*Sec. 501. Improving education on small business regulations.*

*Sec. 502. Protecting task order competition.*

*Sec. 503. Improvements to size standards for small agricultural producers.*

*Sec. 504. Uniformity in service-disabled veteran definitions.*

*Sec. 505. GAO review of the Office of Government Contracting and Business De-  
velopment of the Small Business Administration.*

*Sec. 506. Required reports pertaining to capital planning and investment control.*  
*Sec. 507. GAO review of surety bonds.*

1 ***TITLE I—IMPROVING TRANS-***  
 2 ***PARENCY AND CLARITY FOR***  
 3 ***SMALL BUSINESSES***

4 ***SEC. 101. PLAIN LANGUAGE REWRITE OF REQUIREMENTS***  
 5 ***FOR SMALL BUSINESS PROCUREMENTS.***

6 *Section 15(a) of the Small Business Act (15 U.S.C.*  
 7 *644(a)) is amended to read as follows:*

8 *“(a) SMALL BUSINESS PROCUREMENTS.—*

9 *“(1) IN GENERAL.—For purposes of this Act,*  
 10 *small business concerns shall receive any award or*  
 11 *contract if such award or contract is, in the deter-*  
 12 *mination of the Administrator and the contracting*  
 13 *agency, in the interest of—*

14 *“(A) maintaining or mobilizing the full*  
 15 *productive capacity of the United States;*

16 *“(B) war or national defense programs; or*

17 *“(C) assuring that a fair proportion of the*  
 18 *total purchase and contracts for goods and serv-*  
 19 *ices of the Government in each industry category*  
 20 *(as described under paragraph (2)) are awarded*  
 21 *to small business concerns.*

22 *“(2) INDUSTRY CATEGORY DEFINED.—*

23 *“(A) IN GENERAL.—In this subsection, the*  
 24 *term ‘industry category’ means a discrete group*

1       *of similar goods and services, as determined by*  
2       *the Administrator in accordance with the North*  
3       *American Industry Classification System codes*  
4       *used to establish small business size standards,*  
5       *except that the Administrator shall limit an in-*  
6       *dustry category to a greater extent than provided*  
7       *under the North American Industry Classifica-*  
8       *tion codes if the Administrator receives evidence*  
9       *indicating that further segmentation of the in-*  
10      *dustry category is warranted—*

11               *“(i) due to special capital equipment*  
12              *needs;*

13               *“(ii) due to special labor requirements;*

14               *“(iii) due to special geographic re-*  
15              *quirements, except as provided in subpara-*  
16              *graph (B);*

17               *“(iv) due to unique Federal buying*  
18              *patterns or requirements; or*

19               *“(v) to recognize a new industry.*

20               *“(B) EXCEPTION FOR GEOGRAPHIC RE-*  
21              *QUIREMENTS.—The Administrator may not fur-*  
22              *ther segment an industry category based on geo-*  
23              *graphic requirements unless—*

24               *“(i) the Government typically des-*  
25              *ignates the geographic area where work for*

1                   *contracts for goods or services is to be per-*  
2                   *formed;*

3                   “(ii) *Government purchases comprise*  
4                   *the major portion of the entire domestic*  
5                   *market for such goods or services; and*

6                   “(iii) *it is unreasonable to expect com-*  
7                   *petition from business concerns located out-*  
8                   *side of the general geographic area due to*  
9                   *the fixed location of facilities, high mobili-*  
10                  *zation costs, or similar economic factors.*

11                  “(3) *DETERMINATIONS WITH RESPECT TO*  
12                  *AWARDS OR CONTRACTS.—Determinations made pur-*  
13                  *suant to paragraph (1) may be made for individual*  
14                  *awards or contracts, any part of an award or con-*  
15                  *tract or task order, or for classes of awards or con-*  
16                  *tracts or task orders.*

17                  “(4) *INCREASING PRIME CONTRACTING OPPORTU-*  
18                  *NITIES FOR SMALL BUSINESS CONCERNS.—*

19                  “(A) *DESCRIPTION OF COVERED PROPOSED*  
20                  *PROCUREMENTS.—The requirements of this*  
21                  *paragraph shall apply to a proposed procure-*  
22                  *ment that includes in its statement of work goods*  
23                  *or services currently being supplied or performed*  
24                  *by a small business concern and, as determined*  
25                  *by the Administrator—*

1 “(i) is in a quantity or of an estimated  
2 dollar value which makes the participation  
3 of a small business concern as a prime con-  
4 tractor unlikely;

5 “(ii) in the case of a proposed procure-  
6 ment for construction, if such proposed pro-  
7 curement seeks to bundle or consolidate dis-  
8 crete construction projects; or

9 “(iii) is a solicitation that involves an  
10 unnecessary or unjustified bundling of con-  
11 tract requirements.

12 “(B) NOTICE TO PROCUREMENT CENTER  
13 REPRESENTATIVES.—With respect to proposed  
14 procurements described in subparagraph (A), at  
15 least 30 days before issuing a solicitation and  
16 concurrent with other processing steps required  
17 before issuing the solicitation, the contracting  
18 agency shall provide a copy of the proposed pro-  
19 curement to the procurement center representa-  
20 tive of the contracting agency (as described in  
21 subsection (l)) along with a statement explain-  
22 ing—

23 “(i) why the proposed procurement  
24 cannot be divided into reasonably small lots  
25 (not less than economic production runs) to

1            *permit offers on quantities less than the*  
2            *total requirement;*

3            *“(ii) why delivery schedules cannot be*  
4            *established on a realistic basis that will en-*  
5            *courage the participation of small business*  
6            *concerns in a manner consistent with the*  
7            *actual requirements of the Government;*

8            *“(iii) why the proposed procurement*  
9            *cannot be offered to increase the likelihood*  
10           *of the participation of small business con-*  
11           *cerns;*

12           *“(iv) in the case of a proposed procure-*  
13           *ment for construction, why the proposed*  
14           *procurement cannot be offered as separate*  
15           *discrete projects; or*

16           *“(v) why the agency has determined*  
17           *that the bundling of contract requirements*  
18           *is necessary and justified.*

19           *“(C) ALTERNATIVES TO INCREASE PRIME*  
20           *CONTRACTING OPPORTUNITIES FOR SMALL BUSI-*  
21           *NESS CONCERNS.—If the procurement center rep-*  
22           *resentative believes that the proposed procure-*  
23           *ment will make the participation of small busi-*  
24           *ness concerns as prime contractors unlikely, the*  
25           *procurement center representative, within 15*



1        *days after receiving the statement described in*  
2        *subparagraph (B), shall recommend to the con-*  
3        *tracting agency alternative procurement methods*  
4        *for increasing prime contracting opportunities*  
5        *for small business concerns.*

6                *“(D) FAILURE TO AGREE ON AN ALTER-*  
7        *NATIVE PROCUREMENT METHOD.—If the procure-*  
8        *ment center representative and the contracting*  
9        *agency fail to agree on an alternative procure-*  
10       *ment method, the Administrator shall submit the*  
11       *matter to the head of the appropriate department*  
12       *or agency for a determination.*

13               *“(5) CONTRACTS FOR SALE OF GOVERNMENT*  
14       *PROPERTY.—With respect to a contract for the sale of*  
15       *Government property, small business concerns shall*  
16       *receive any such contract if, in the determination of*  
17       *the Administrator and the disposal agency, the award*  
18       *of such contract is in the interest of assuring that a*  
19       *fair proportion of the total sales of Government prop-*  
20       *erty be made to small business concerns.*

21               *“(6) SALE OF ELECTRICAL POWER OR OTHER*  
22       *PROPERTY.—Nothing in this subsection shall be con-*  
23       *strued to change any preferences or priorities estab-*  
24       *lished by law with respect to the sale of electrical*  
25       *power or other property by the Federal Government.*

1           “(7) *COSTS EXCEEDING FAIR MARKET PRICE.*—  
 2       *A contract may not be awarded under this subsection*  
 3       *if the cost of the contract to the awarding agency ex-*  
 4       *ceeds a fair market price.”.*

5   **SEC. 102. IMPROVING REPORTING ON SMALL BUSINESS**

6                   **GOALS.**

7       *Section 15(h)(2)(E) of the Small Business Act (15*  
 8   *U.S.C. 644(h)(2)(E)) is amended—*

9           *(1) in clause (i)—*

10                   *(A) in subclause (III), by striking “and” at*  
 11                   *the end; and*

12                   *(B) by adding at the end the following new*  
 13                   *subclauses:*

14                           *“(V) that were purchased by an-*  
 15                           *other entity after the initial contract*  
 16                           *was awarded and as a result of the*  
 17                           *purchase, would no longer be deemed to*  
 18                           *be small business concerns for purposes*  
 19                           *of the initial contract; and*

20                           *“(VI) that were awarded using a*  
 21                           *procurement method that restricted*  
 22                           *competition to small business concerns*  
 23                           *owned and controlled by service-dis-*  
 24                           *abled veterans, qualified HUBZone*  
 25                           *small business concerns, small business*

1                   *concerns owned and controlled by so-*  
2                   *cially and economically disadvantaged*  
3                   *individuals, small business concerns*  
4                   *owned and controlled by women, or a*  
5                   *subset of any such concerns;”;*

6                   *(2) in clause (ii)—*

7                   *(A) in subclause (IV), by striking “and” at*  
8                   *the end; and*

9                   *(B) by adding at the end the following new*  
10                  *subclauses:*

11                               *“(VI) that were purchased by an-*  
12                               *other entity after the initial contract*  
13                               *was awarded and as a result of the*  
14                               *purchase, would no longer be deemed to*  
15                               *be small business concerns owned and*  
16                               *controlled by service-disabled veterans*  
17                               *for purposes of the initial contract;*  
18                               *and*

19                               *“(VII) that were awarded using a*  
20                               *procurement method that restricted*  
21                               *competition to qualified HUBZone*  
22                               *small business concerns, small business*  
23                               *concerns owned and controlled by so-*  
24                               *cially and economically disadvantaged*  
25                               *individuals, small business concerns*

1                   *owned and controlled by women, or a*  
2                   *subset of any such concerns;”;*

3           (3) *in clause (iii)—*

4                   (A) *in subclause (V), by striking “and” at*  
5                   *the end; and*

6                   (B) *by adding at the end the following new*  
7                   *subclauses:*

8                               *“(VII) that were purchased by an-*  
9                               *other entity after the initial contract*  
10                              *was awarded and as a result of the*  
11                              *purchase, would no longer be deemed to*  
12                              *be qualified HUBZone small business*  
13                              *concerns for purposes of the initial*  
14                              *contract; and*

15                             *“(VIII) that were awarded using*  
16                             *a procurement method that restricted*  
17                             *competition to small business concerns*  
18                             *owned and controlled by service-dis-*  
19                             *abled veterans, small business concerns*  
20                             *owned and controlled by socially and*  
21                             *economically disadvantaged individ-*  
22                             *uals, small business concerns owned*  
23                             *and controlled by women, or a subset*  
24                             *of any such concerns;”;*

25           (4) *in clause (iv)—*

1           (A) in subclause (V), by striking “and” at  
2           the end; and

3           (B) by adding at the end the following new  
4           subclauses:

5                       “(VII) that were purchased by an-  
6                       other entity after the initial contract  
7                       was awarded and as a result of the  
8                       purchase, would no longer be deemed to  
9                       be small business concerns owned and  
10                      controlled by socially and economically  
11                      disadvantaged individuals for purposes  
12                      of the initial contract; and

13                     “(VIII) that were awarded using  
14                     a procurement method that restricted  
15                     competition to small business concerns  
16                     owned and controlled by service-dis-  
17                     abled veterans, qualified HUBZone  
18                     small business concerns, small business  
19                     concerns owned and controlled by  
20                     women, or a subset of any such con-  
21                     cerns;”;

22           (5) in clause (v)—

23                     (A) in subclause (IV), by striking “and” at  
24                     the end;

1           (B) in subclause (V), by inserting “and” at  
2           the end; and

3           (C) by adding at the end the following new  
4           subclause:

5                       “(VI) that were purchased by an-  
6                       other entity after the initial contract  
7                       was awarded and as a result of the  
8                       purchase, would no longer be deemed to  
9                       be small business concerns owned by  
10                      an Indian tribe other than an Alaska  
11                      Native Corporation for purposes of the  
12                      initial contract;”;

13           (6) in clause (vi)—

14                (A) in subclause (IV), by striking “and” at  
15                the end; and

16                (B) by adding at the end the following new  
17                subclause:

18                       “(VI) that were purchased by an-  
19                       other entity after the initial contract  
20                       was awarded and as a result of the  
21                       purchase, would no longer be deemed to  
22                       be small business concerns owned by a  
23                       Native Hawaiian Organization for  
24                       purposes of the initial contract;”;

25           (7) in clause (vii)—

1           (A) in subclause (IV), by striking “and” at  
2           the end; and

3           (B) by adding at the end the following new  
4           subclause:

5                       “(VI) that were purchased by an-  
6                       other entity after the initial contract  
7                       was awarded and as a result of the  
8                       purchase, would no longer be deemed to  
9                       be small business concerns owned by  
10                      an Alaska Native Corporation for pur-  
11                      poses of the initial contract; and”; and

12           (8) in clause (viii)—

13                (A) in subclause (VII), by striking “and” at  
14                the end;

15                (B) in subclause (VIII), by striking “and”  
16                at the end; and

17                (C) by adding at the end the following new  
18                subclauses:

19                       “(IX) that were purchased by an-  
20                       other entity after the initial contract  
21                       was awarded and as a result of the  
22                       purchase, would no longer be deemed to  
23                       be small business concerns owned and  
24                       controlled by women for purposes of the  
25                       initial contract; and

1                   “(X) that were awarded using a  
 2                   procurement method that restricted  
 3                   competition to small business concerns  
 4                   owned and controlled by service-dis-  
 5                   abled veterans, qualified HUBZone  
 6                   small business concerns, small business  
 7                   concerns owned and controlled by so-  
 8                   cially and economically disadvantaged  
 9                   individuals, or a subset of any such  
 10                  concerns; and”.

11 **SEC. 103. TRANSPARENCY IN SMALL BUSINESS GOALS.**

12           Section 15(g) of the Small Business Act is amended  
 13 by adding at the end the following new paragraph:

14                   “(4) DETERMINATIONS OF THE TOTAL VALUE OF  
 15           CONTRACT AWARDS.—For purposes of the goals estab-  
 16           lished under paragraphs (1) and (2), the total value  
 17           of contract awards for a fiscal year may not be deter-  
 18           mined in a manner that excludes the value of a con-  
 19           tract based on—

20                   “(A) where the contract is awarded;

21                   “(B) where the contract is performed;

22                   “(C) whether the contract is mandated by  
 23           Federal law to be performed by an entity other  
 24           than a small business concern;



1           “(D) whether funding for the contract is  
 2           made available in an appropriations Act, if the  
 3           contract is subject to the requirements of chapter  
 4           33 of title 41, United States Code, or chapter  
 5           137 of title 10, United States Code, and the Fed-  
 6           eral Acquisition Regulation; or

7           “(E) whether the contract is otherwise sub-  
 8           ject to the Federal Acquisition Regulation.”.

9   **SEC. 104. UNIFORMITY IN PROCUREMENT TERMINOLOGY.**

10       (a) *IN GENERAL.*—Section 15(j)(1) of the Small Busi-  
 11       ness Act (15 U.S.C. 644(j)(1)) is amended by striking  
 12       “greater than \$2,500 but not greater than \$100,000” and  
 13       inserting “greater than the micro-purchase threshold, but  
 14       not greater than the simplified acquisition threshold”.

15       (b) *TECHNICAL AMENDMENT.*—Section 3(m) of the  
 16       Small Business Act (15 U.S.C. 632(m)) is amended to read  
 17       as follows:

18       “(m) *DEFINITIONS PERTAINING TO CONTRACTING.*—  
 19       In this Act:

20           “(1) *PRIME CONTRACT.*—The term ‘prime con-  
 21       tract’ has the meaning given such term in section  
 22       8701(4) of title 41, United States Code.

23           “(2) *PRIME CONTRACTOR.*—The term ‘prime con-  
 24       tractor’ has the meaning given such term in section  
 25       8701(5) of title 41, United States Code.

1           “(3) *SIMPLIFIED ACQUISITION THRESHOLD.*—  
 2           *The term ‘simplified acquisition threshold’ has the*  
 3           *meaning given such term in section 134 of title 41,*  
 4           *United States Code.*

5           “(4) *MICRO-PURCHASE THRESHOLD.*—*The term*  
 6           *‘micro-purchase threshold’ has the meaning given such*  
 7           *term in section 1902(a) of title 41, United States*  
 8           *Code.*

9           “(5) *TOTAL PURCHASE AND CONTRACTS FOR*  
 10          *PROPERTY AND SERVICES.*—*The term ‘total purchases*  
 11          *and contracts for property and services’ shall mean*  
 12          *total number and total dollar amount of contracts*  
 13          *and orders for property and services.’.*

14       ***TITLE       II—CLARIFYING       THE***  
 15       ***ROLES OF SMALL BUSINESS***  
 16       ***ADVOCATES***

17       ***SEC. 201. SCOPE OF REVIEW BY PROCUREMENT CENTER***  
 18       ***REPRESENTATIVES.***

19       *Section 15(l) of the Small Business Act (15 U.S.C.*  
 20       *644(l)) is amended by adding at the end the following:*

21           “(9) *SCOPE OF REVIEW.*—*The Administrator*  
 22           *shall not limit the scope of review by the Procurement*  
 23           *Center Representative for any solicitation of a con-*  
 24           *tract or task order without regard to whether the con-*  
 25           *tract or task order or part of the contract or task*

Section 4(h) of the Small Business Act (as added by  
section 865 of the National Defense Authorization Act for  
Fiscal Year 2016 (Public Law 114–92)) is amended—

(2) in paragraph (2), by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively (and conforming the margins accordingly);

20 “(ii) APPLICATION.—The requirements  
21 of clause (i) shall be included in any initial  
22 job posting for the position of a commercial  
23 market representative and shall apply to  
24 any person appointed as a commercial

1                    *market representative after November 25,*  
2                    *2015.”;*

3                    *(4) in clause (i) (as so redesignated), by striking*  
4                    *“paragraph (1)” and inserting “subparagraph (A)”;*

5                    *(5) by redesignating paragraphs (1) and (2) as*  
6                    *subparagraphs (A) and (B), respectively (and con-*  
7                    *forming the margins accordingly);*

8                    *(6) in subparagraph (A) (as so redesignated), by*  
9                    *striking “paragraph (2)” and inserting “subpara-*  
10                   *graph (B)”;* *and*

11                   *(7) by inserting before subparagraph (A) (as so*  
12                   *redesignated) the following:*

13                   *“(1) DUTIES.—The principal duties of a Com-*  
14                   *mercial Market Representative employed by the Ad-*  
15                   *ministrator and reporting to the senior official ap-*  
16                   *pointed by the Administrator with responsibilities*  
17                   *under sections 8, 15, 31, and 36 (or the designee of*  
18                   *such official) shall be to advance the policies estab-*  
19                   *lished in section 8(d)(1) relating to subcontracting.*  
20                   *Such duties shall include—*

21                   *“(A) helping prime contractors to find*  
22                   *small business concerns that are capable of per-*  
23                   *forming subcontracts;*

1           “(B) for contractors awarded contracts con-  
2           taining the clause described in section 8(d)(3),  
3           providing—

4                   “(i) counseling on the contractor’s re-  
5                   sponsibility to maximize subcontracting op-  
6                   portunities for small business concerns;

7                   “(ii) instruction on methods and tools  
8                   to identify potential subcontractors that are  
9                   small business concerns; and

10                  “(iii) assistance to increase awards to  
11                  subcontractors that are small business con-  
12                  cerns through visits, training, and reviews  
13                  of past performance;

14                  “(C) providing counseling on how a small  
15                  business concern may promote its capacity to  
16                  contractors awarded contracts containing the  
17                  clause described in section 8(d)(3); and

18                  “(D) conducting periodic reviews of con-  
19                  tractors awarded contracts containing the clause  
20                  described in section 8(d)(3) to assess compliance  
21                  with subcontracting plans required under section  
22                  8(d)(6).

23                  “(2) CERTIFICATION REQUIREMENTS.—”.

1 **SEC. 203. DUTIES OF THE OFFICE OF SMALL AND DIS-**  
 2 **ADVANTAGED BUSINESS UTILIZATION.**

3 *Section 15(k) of the Small Business Act (15 U.S.C.*  
 4 *644(k)), as amended by section 870 of the National Defense*  
 5 *Authorization Act for Fiscal Year 2016 (Public Law 114–*  
 6 *92), is amended—*

7 *(1) by striking “section 8, 15 or 44” and insert-*  
 8 *ing “section 8, 15, 31, 36, or 44”;*

9 *(2) by striking “sections 8 and 15” each place*  
 10 *such term appears and inserting “sections 8, 15, 31,*  
 11 *36, and 44”;*

12 *(3) in paragraph (10), by striking “section 8(a)”*  
 13 *and inserting “section 8, 15, 31, or 36”;*

14 *(4) by redesignating paragraphs (15), (16), and*  
 15 *(17) as paragraphs (16), (17), and (18), respectively;*

16 *(5) by inserting after paragraph (14) the fol-*  
 17 *lowing new paragraph:*

18 *“(15) shall review purchases made by the agency*  
 19 *greater than the micro-purchase threshold, and less*  
 20 *than the simplified acquisition threshold to ensure*  
 21 *that the purchases have been made in compliance*  
 22 *with the provisions of this Act and have been properly*  
 23 *recorded in the Federal Procurement Data System, if*  
 24 *the method of payment is a purchase card issued by*  
 25 *the Department of Defense pursuant to section 2784*  
 26 *of title 10, United States Code, or by the head of an*

1       *executive agency pursuant to section 1909 of title 41,*  
 2       *United States Code;”*; and

3               *(6) in paragraph (17) (as so redesignated)—*

4                       *(A) in subparagraph (B), by striking “and”*  
 5       *at the end;*

6                       *(B) in subparagraph (C), by striking the*  
 7       *period at the end and inserting “; and”; and*

8                       *(C) by adding at the end the following new*  
 9       *subparagraph:*

10                      *“(D) any failure of the agency to comply*  
 11       *with section 8, 15, 31, or 36.”.*

12   **SEC. 204. IMPROVING CONTRACTOR COMPLIANCE.**

13       *(a) REQUIREMENTS FOR THE OFFICE OF SMALL AND*  
 14       *DISADVANTAGED BUSINESS UTILIZATION.—Section 15(k)*  
 15       *of the Small Business Act (15 U.S.C. 644(k)(8)), as amend-*  
 16       *ed by section 203, is further amended—*

17                      *(1) by redesignating paragraphs (16), (17), and*  
 18       *(18) as paragraphs (17), (18), and (19), respectively;*  
 19       *and*

20                      *(2) by inserting after paragraph (15) the fol-*  
 21       *lowing new paragraph:*

22                      *“(16) shall provide assistance to a small business*  
 23       *concern awarded a contract or subcontract under this*  
 24       *Act or under title 10 or title 41, United States Code,*  
 25       *in finding resources for education and training on*

1        *compliance with contracting regulations (including*  
 2        *the Federal Acquisition Regulation) after award of*  
 3        *such a contract or subcontract.”.*

4        *(b) REQUIREMENTS UNDER THE MENTOR-PROTEGE*  
 5        *PROGRAM OF THE DEPARTMENT OF DEFENSE.—Section*  
 6        *831(e)(1) of the National Defense Authorization Act for Fis-*  
 7        *cal Year 1991 (Public Law 101–510; 104 Stat. 1607; 10*  
 8        *U.S.C. 2302 note) is amended—*

9                *(1) in subparagraph (B), by striking “and” at*  
 10        *the end;*

11                *(2) in subparagraph (C), by striking the period*  
 12        *at the end and inserting “; and”; and*

13                *(3) by inserting at the end the following new*  
 14        *subparagraph:*

15                *“(D) the assistance the mentor firm will*  
 16                *provide to the protege firm in understanding*  
 17                *contract regulations of the Federal Government*  
 18                *and the Department of Defense (including the*  
 19                *Federal Acquisition Regulation and the Defense*  
 20                *Federal Acquisition Regulation Supplement)*  
 21                *after award of a subcontract under this section,*  
 22                *if applicable.”.*

23        *(c) RESOURCES FOR SMALL BUSINESS CONCERNS.—*  
 24        *Section 15 of the Small Business Act (15 U.S.C. 644) is*  
 25        *amended by adding at the end the following new subsection:*



1       “(t) *POST-AWARD COMPLIANCE RESOURCES.*—The  
 2 Administrator shall provide to small business development  
 3 centers and entities participating in the Procurement Tech-  
 4 nical Assistance Cooperative Agreement Program under  
 5 chapter 142 of title 10, United States Code, and shall make  
 6 available on the website of the Administration, a list of re-  
 7 sources for small business concerns seeking education and  
 8 assistance on compliance with contracting regulations (in-  
 9 cluding the Federal Acquisition Regulation) after award of  
 10 a contract or subcontract.”.

11       (d) *REQUIREMENTS FOR PROCUREMENT CENTER REP-*  
 12 *RESENTATIVES.*—Section 15(l)(2) of the Small Business Act  
 13 (15 U.S.C. 644(l)(2)) is amended—

14               (1) by redesignating subparagraph (I) as sub-  
 15 paragraph (J);

16               (2) in subparagraph (H), by striking “and” at  
 17 the end; and

18               (3) by inserting after subparagraph (H) the fol-  
 19 lowing new subparagraph:

20               “(I) assist small business concerns with  
 21 finding resources for education and training on  
 22 compliance with contracting regulations (includ-  
 23 ing the Federal Acquisition Regulation) after  
 24 award of a contract or subcontract; and”.

1       (e) *REQUIREMENTS UNDER THE MENTOR-PROTEGE*  
 2 *PROGRAM OF THE SMALL BUSINESS ADMINISTRATION.*—  
 3 *Section 45(b)(3) of the Small Business Act (15 U.S.C.*  
 4 *657r(b)(3)) is amended by adding at the end the following*  
 5 *new subparagraph:*

6               “(K) *The extent to which assistance with*  
 7 *compliance with the requirements of contracting*  
 8 *with the Federal Government after award of a*  
 9 *contract or subcontract under this section.”.*

10 **SEC. 205. RESPONSIBILITIES OF BUSINESS OPPORTUNITY**  
 11 **SPECIALISTS.**

12       *Section 4(g) of the Small Business Act (as added by*  
 13 *section 865 of the National Defense Authorization Act for*  
 14 *Fiscal Year 2016 (Public Law 114–92)) is amended—*

15               (1) *in the subsection heading, by striking “CER-*  
 16 *TIFICATION REQUIREMENTS FOR”;*

17               (2) *in paragraph (2), by redesignating subpara-*  
 18 *graphs (A) and (B) as clauses (i) and (ii), respec-*  
 19 *tively (and conforming the margins accordingly);*

20               (3) *by amending clause (ii) (as so redesignated)*  
 21 *to read as follows:*

22               “(ii) *APPLICATION.—The requirements*  
 23 *of clause (i) shall be included in any initial*  
 24 *job posting for the position of a Business*  
 25 *Opportunity Specialist and shall apply to*

1                   any person appointed as a Business Oppor-  
 2                   tunity Specialist after January 3, 2013.”;

3                   (4) in clause (i) (as so redesignated), by striking  
 4                   “paragraph (1)” and inserting “subparagraph (A)”

5                   (5) by redesignating paragraphs (1) and (2) as  
 6                   subparagraphs (A) and (B), respectively (and con-  
 7                   forming the margins accordingly);

8                   (6) in subparagraph (A) (as so redesignated), by  
 9                   striking “paragraph (2)” and inserting “subpara-  
 10                  graph (B)”;

11                  (7) by inserting before subparagraph (A) (as so  
 12                  redesignated) the following:

13                  “(1) DUTIES.—The exclusive duties of a Business  
 14                  Opportunity Specialist employed by the Adminis-  
 15                  trator and reporting to the senior official appointed  
 16                  by the Administrator with responsibilities under sec-  
 17                  tions 8, 15, 31, and 36 (or the designee of such offi-  
 18                  cial) shall be to implement sections 7, 8, and 45 and  
 19                  to complete other duties related to contracting pro-  
 20                  grams under this Act. Such duties shall include—

21                         “(A) with respect to small business concerns  
 22                         eligible to receive contracts and subcontracts pur-  
 23                         suant to section 8(a)—

24                                 “(i) providing guidance, counseling,  
 25                                 and referrals for assistance with technical,

1           *management, financial, or other matters*  
2           *that will improve the competitive viability*  
3           *of such concerns;*

4           “(ii) *identifying causes of success or*  
5           *failure of such concerns;*

6           “(iii) *providing comprehensive assess-*  
7           *ments of such concerns, including identi-*  
8           *fying the strengths and weaknesses of such*  
9           *concerns;*

10          “(iv) *monitoring and documenting*  
11          *compliance with the requirements of sec-*  
12          *tions 7 and 8 and any regulations imple-*  
13          *menting those sections;*

14          “(v) *explaining the requirements of sec-*  
15          *tions 7, 8, 15, 31, 36 and 45; and*

16          “(vi) *advising on compliance with con-*  
17          *tracting regulations (including the Federal*  
18          *Acquisition Regulation) after award of such*  
19          *a contract or subcontract;*

20          “(B) *reviewing and monitoring compliance*  
21          *with mentor-protege agreements under section*  
22          *45;*

23          “(C) *representing the interests of the Ad-*  
24          *ministrator and small business concerns in the*  
25          *award, modification, and administration of con-*

1            *tracts and subcontracts awarded pursuant to sec-*  
 2            *tion 8(a); and*

3            *“(D) reporting fraud or abuse under section*  
 4            *7, 8, 15, 31, 36 or 45 or any regulations imple-*  
 5            *menting such sections.*

6            *“(2) CERTIFICATION REQUIREMENTS.—”.*

7    ***TITLE III—STRENGTHENING OP-***  
 8        ***PORTUNITIES FOR COMPETI-***  
 9        ***TION IN SUBCONTRACTING***

10 ***SEC. 301. GOOD FAITH IN SUBCONTRACTING.***

11        *(a) TRANSPARENCY IN SUBCONTRACTING GOALS.—*  
 12        *Section 8(d)(9) of the Small Business Act (15 U.S.C.*  
 13        *637(d)(9)) is amended—*

14            *(1) by striking “(9) The failure” and inserting*  
 15        *the following:*

16            *“(9) MATERIAL BREACH.—The failure”;*

17            *(2) in subparagraph (A), by striking “or” at the*  
 18        *end;*

19            *(3) in subparagraph (B), by inserting “or” at*  
 20        *the end; and*

21            *(4) by inserting after subparagraph (B) the fol-*  
 22        *lowing:*

23            *“(C) assurances provided under paragraph*  
 24        *(6)(E),”.*

1       (b) *AUTHORITY OF THE ADMINISTRATOR OF THE*  
 2 *SMALL BUSINESS ADMINISTRATION.*—Section 8(d)(11) of  
 3 *the Small Business Act (15 U.S.C. 637(d)(11))* is amend-  
 4 *ed—*

5           (1) *by striking “(11) In the case of” and insert-*  
 6 *ing the following:*

7           “(11) *AUTHORITY OF ADMINISTRATOR.*—*In the*  
 8 *case of”*; and

9           (2) *in subparagraph (B), by striking “, which*  
 10 *shall be advisory in nature,”.*

11       (c) *REVIEW AND ACCEPTANCE OF SUBCONTRACTING*  
 12 *PLANS.*—Section 8(d) of the *Small Business Act (15 U.S.C.*  
 13 *637(d))* is amended by adding at the end the following:

14           “(17) *REVIEW AND ACCEPTANCE OF SUBCON-*  
 15 *TRACTING PLANS.*—

16           “(A) *DEFINITION.*—*In this paragraph, the*  
 17 *term ‘covered small business concerns’ means—*

18                   “(i) *small business concerns;*

19                   “(ii) *qualified HUBZone small busi-*  
 20 *ness concerns;*

21                   “(iii) *small business concerns owned*  
 22 *and controlled by veterans;*

23                   “(iv) *small business concerns owned*  
 24 *and controlled by service-disabled veterans;*

1           “(v) *small business concerns owned*  
 2           *and controlled by socially and economically*  
 3           *disadvantaged individuals, as defined in*  
 4           *paragraph (3)(C); and*

5           “(vi) *small business concerns owned*  
 6           *and controlled by women.*

7           “(B) *DELAYED ACCEPTANCE OF PLAN.—Except*  
 8           *as provided in subparagraph (E), if a pro-*  
 9           *curement center representative or commercial*  
 10           *market representative determines that a subcon-*  
 11           *tracting plan required under paragraph (4) or*  
 12           *(5) fails to provide the maximum practicable op-*  
 13           *portunity for covered small business concerns to*  
 14           *participate in the performance of the contract to*  
 15           *which the plan applies, the representative may*  
 16           *delay acceptance of the plan in accordance with*  
 17           *subparagraph (C).*

18           “(C) *PROCESS FOR DELAYED ACCEPT-*  
 19           *ANCE.—*

20           “(i) *IN GENERAL.—Except as provided*  
 21           *in clause (ii), a procurement center rep-*  
 22           *resentative or commercial market represent-*  
 23           *ative who makes a determination under*  
 24           *subparagraph (B) with respect to a subcon-*  
 25           *tracting plan may delay acceptance of the*

1           *plan for a 30-day period by providing writ-*  
2           *ten notice of the determination to the head*  
3           *of the procuring activity of the contracting*  
4           *agency that includes recommendations for*  
5           *altering the plan to provide the maximum*  
6           *practicable opportunity described in that*  
7           *subparagraph.*

8                     “(ii) *EXCEPTION.—In the case of the*  
9           *Department of Defense—*

10                    “(I) *a procurement center rep-*  
11           *resentative or commercial market rep-*  
12           *resentative who makes a determination*  
13           *under subparagraph (B) with respect*  
14           *to a subcontracting plan may delay ac-*  
15           *ceptance of the plan for a 15-day pe-*  
16           *riod by providing written notice of the*  
17           *determination to appropriate personnel*  
18           *of the Department of Defense that in-*  
19           *cludes recommendations for altering*  
20           *the plan to provide the maximum*  
21           *practicable opportunity described in*  
22           *that subparagraph; and*

23                    “(II) *the authority of a procure-*  
24           *ment center representative or commer-*  
25           *cial market representative to delay ac-*



1                    *ceptance of a subcontracting plan as*  
2                    *provided in subparagraph (B) does not*  
3                    *include the authority to delay the*  
4                    *award or performance of the contract*  
5                    *concerned.*

6                    “(D) *DISAGREEMENTS.*—If a procurement  
7                    *center representative or commercial market rep-*  
8                    *resentative delays the acceptance of a subcon-*  
9                    *tracting plan under subparagraph (C) and does*  
10                   *not reach agreement with the head of the pro-*  
11                   *curing activity of the contracting agency to alter*  
12                   *the plan to provide the maximum practicable op-*  
13                   *portunity described in subparagraph (B) not*  
14                   *later than 30 days after the date on which writ-*  
15                   *ten notice was provided, the disagreement shall*  
16                   *be submitted to the head of the contracting agen-*  
17                   *cy by the Administrator for a final determina-*  
18                   *tion.*

19                   “(E) *EXCEPTION.*—A procurement center  
20                   *representative or commercial market representa-*  
21                   *tive may not delay the acceptance of a subcon-*  
22                   *tracting plan if the head of the contracting agen-*  
23                   *cy certifies that the need of the agency for the*  
24                   *supplies or services is of such an unusual and*  
25                   *compelling urgency that the United States would*

1           *be seriously injured unless the agency is per-*  
 2           *mitted to accept the subcontracting plan.”.*

3           (d) *GOOD FAITH COMPLIANCE.*—*Not later than 270*  
 4 *days after the date of enactment of this Act, the Adminis-*  
 5 *trator of the Small Business Administration shall issue reg-*  
 6 *ulations providing examples of activities that would be con-*  
 7 *sidered a failure to make a good faith effort to comply with*  
 8 *the requirements imposed on an entity (other than a small*  
 9 *business concern as defined under section 3 of the Small*  
 10 *Business Act (15 U.S.C. 632)) that is awarded a prime con-*  
 11 *tract containing the clauses required under paragraph (4)*  
 12 *or (5) of section 8(d) of the Small Business Act (15 U.S.C.*  
 13 *637(d)).*

14 **SEC. 302. PILOT PROGRAM TO PROVIDE OPPORTUNITIES**  
 15 **FOR QUALIFIED SUBCONTRACTORS TO OB-**  
 16 **TAIN PAST PERFORMANCE RATINGS.**

17           *Section 8(d) of the Small Business Act (15 U.S.C.*  
 18 *637(d)), as amended by section 301, is further amended by*  
 19 *adding at the end the following new paragraph:*

20           “(18) *PILOT PROGRAM PROVIDING PAST PER-*  
 21 *FORMANCE RATINGS FOR OTHER SMALL BUSINESS*  
 22 *SUBCONTRACTORS.*—

23           “(A) *ESTABLISHMENT.*—*The Administrator*  
 24 *shall establish a pilot program for a small busi-*  
 25 *ness concern performing as a first tier subcon-*

1        *tractor for a covered contract (as defined in*  
2        *paragraph 13(A)) to request a past performance*  
3        *rating in the system used by the Federal Govern-*  
4        *ment to monitor or record contractor past per-*  
5        *formance.*

6                *“(B) APPLICATION.—A small business con-*  
7        *cern described in subparagraph (A) shall submit*  
8        *an application to the appropriate official for a*  
9        *past performance rating. Such application shall*  
10       *include written evidence of the past performance*  
11       *factors for which the small business concern seeks*  
12       *a rating and a suggested rating.*

13               *“(C) DETERMINATION.—The appropriate of-*  
14       *ficial shall submit the application from the small*  
15       *business concern to the contracting officer (or a*  
16       *designee of such officer) for the covered contract*  
17       *and to the prime contractor for review. The con-*  
18       *tracting officer (or designee) and the prime con-*  
19       *tractor shall, not later than 30 days after receipt*  
20       *of the application, submit to the appropriate of-*  
21       *ficial a response regarding the application.*

22               *“(i) AGREEMENT ON RATING.—If the*  
23       *contracting officer (or designee) and the*  
24       *prime contractor agree on a past perform-*  
25       *ance rating, or if either the contracting offi-*

1            *cer (or designee) or the prime contractor*  
2            *fail to respond and the responding indi-*  
3            *vidual agrees with the rating of the appli-*  
4            *cant small business concern, the appro-*  
5            *priate official shall enter the agreed-upon*  
6            *past performance rating in the system de-*  
7            *scribed in subparagraph (A).*

8            *“(ii) DISAGREEMENT ON RATING.—If*  
9            *the contracting officer (or designee) and the*  
10           *prime contractor fail to respond within 30*  
11           *days or if they disagree about the rating, or*  
12           *if either the contracting officer (or designee)*  
13           *or the prime contractor fail to respond and*  
14           *the responding individual disagrees with the*  
15           *rating of the applicant small business con-*  
16           *cern, the contracting officer (or designee) or*  
17           *the prime contractor shall submit a notice*  
18           *contesting the application to appropriate of-*  
19           *ficial. The appropriate official shall follow*  
20           *the requirements of subparagraph (D).*

21           *“(D) PROCEDURE FOR RATING.—Not later*  
22           *than 14 calendar days after receipt of a notice*  
23           *under subparagraph (C)(ii), the appropriate offi-*  
24           *cial shall submit such notice to the applicant*  
25           *small business concern. Such concern may sub-*

1        *mit comments, rebuttals, or additional informa-*  
2        *tion relating to the past performance of such*  
3        *concern not later 14 calendar days after receipt*  
4        *of such notice. The appropriate official shall*  
5        *enter the into the system described in subpara-*  
6        *graph (A) a rating that is neither favorable nor*  
7        *unfavorable along with the initial application*  
8        *from the small business concern, the responses of*  
9        *the contracting officer (or designee) and the*  
10       *prime contractor, and any additional informa-*  
11       *tion provided by the small business concern.*

12        *“(E) USE OF INFORMATION.—A small busi-*  
13        *ness subcontractor may use a past performance*  
14        *rating given under this paragraph to establish*  
15        *its past performance for a prime contract.*

16        *“(F) DURATION.—The pilot program estab-*  
17        *lished under this paragraph shall terminate 3*  
18        *years after the date on which the first small*  
19        *business concern receives a past performance rat-*  
20        *ing for performance as a first tier subcontractor.*

21        *“(G) REPORT.—The Comptroller General of*  
22        *the United States shall begin an assessment of*  
23        *the pilot program 1 year after the establishment*  
24        *of such program. Not later than 6 months after*  
25        *beginning such assessment, the Comptroller Gen-*

1        *eral shall submit a report to the Committee on*  
2        *Small Business and Entrepreneurship of the*  
3        *Senate and the Committee on Small Business of*  
4        *the House of Representatives, which shall in-*  
5        *clude—*

6                *“(i) the number of small business con-*  
7                *cerns that have received past performance*  
8                *ratings under the pilot program;*

9                *“(ii) the number of applications in*  
10               *which the contracting officer (or designee)*  
11               *or the prime contractor contested the appli-*  
12               *cation of the small business concern;*

13               *“(iii) any suggestions or recommenda-*  
14               *tions the Comptroller General or the small*  
15               *business concerns participating in the pro-*  
16               *gram have to address disputes between the*  
17               *small business concern, the contracting offi-*  
18               *cer (or designee), and the prime contractor*  
19               *on past performance ratings; and*

20               *“(iv) any suggestions or recommenda-*  
21               *tion the Comptroller General has to improve*  
22               *the operation of the pilot program.*

23               *“(H) APPROPRIATE OFFICIAL DEFINED.—In*  
24               *this paragraph, the term ‘appropriate official’*  
25               *means a Commercial Market Representative or*

1           *other individual designated by the senior official*  
 2           *appointed by the Administrator with responsibil-*  
 3           *ities under sections 8, 15, 31, and 36.”.*

4           ***TITLE IV—MENTOR-PROTEGE***  
 5           ***PROGRAMS***

6   ***SEC. 401. AMENDMENTS TO THE MENTOR-PROTEGE PRO-***  
 7           ***GRAM OF THE DEPARTMENT OF DEFENSE.***

8           *Section 831 of the National Defense Authorization Act*  
 9   *for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1607;*  
 10 *10 U.S.C. 2302 note) is amended—*

11           *(1) in subsection (d)—*

12                   *(A) by amending paragraph (1) to read as*  
 13           *follows:*

14                   *“(1) prior to the approval of that agreement, the*  
 15           *Administrator of the Small Business Administration*  
 16           *had made no finding of affiliation between the mentor*  
 17           *firm and the protege firm;”;*

18                   *(B) by redesignating paragraph (2) as*  
 19           *paragraph (3); and*

20                   *(C) by inserting after paragraph (1) the fol-*  
 21           *lowing new paragraph:*

22                   *“(2)(A) the Administrator of the Small Business*  
 23           *Administration does not have a current finding of af-*  
 24           *filiation between the mentor firm and protege firm; or*

1           “(B) the Secretary, after considering the regula-  
 2           tions promulgated by the Administrator of the Small  
 3           Business Administration regarding affiliation—

4                     “(i) does not have reason to believe that the  
 5           mentor firm affiliated with the protege firm; or

6                     “(ii) has received a formal determination of  
 7           no affiliation between the mentor firm and pro-  
 8           tege firm from the Administrator after having  
 9           submitted a question of affiliation to the Admin-  
 10          istrator; and”;

11          (2) in subsection (n), by amending paragraph  
 12          (9) to read as follows:

13                     “(9) The term ‘affiliation’, with respect to a rela-  
 14          tionship between a mentor firm and a protege firm,  
 15          means a relationship described under section 121.103  
 16          of title 13, Code of Federal Regulations (or any suc-  
 17          cessor regulation).”; and

18          (3) in subsection (f)(6)—

19                     (A) in subparagraph (B), by striking “or”  
 20          at the end;

21                     (B) in subparagraph (C), by striking the  
 22          period at the end and inserting “; or”; and

23                     (C) by adding at the end the following:



1                   “(D) women’s business centers described in  
 2                   section 29 of the Small Business Act (15 U.S.C.  
 3                   656).”.

4 **SEC. 402. IMPROVING COOPERATION BETWEEN THE MEN-**  
 5 **TOR-PROTEGE PROGRAMS OF THE SMALL**  
 6 **BUSINESS ADMINISTRATION AND THE DE-**  
 7 **PARTMENT OF DEFENSE.**

8                   Section 45(b)(4) of the Small Business Act (15 U.S.C.  
 9                   657r(b)(4)) is amended by striking subparagraph (A) and  
 10                  redesignating subparagraphs (B) and (C) as subparagraphs  
 11                  (A) and (B), respectively.

12                  **TITLE V—MISCELLANEOUS**

13 **SEC. 501. IMPROVING EDUCATION ON SMALL BUSINESS**  
 14 **REGULATIONS.**

15                  Section 15 of the Small Business Act (15 U.S.C. 644),  
 16                  as amended by section 204(c), is further amended by adding  
 17                  at the end the following new subsection:

18                  “(u) **REGULATORY CHANGES AND TRAINING MATE-**  
 19                  **RIALS.**—Not less than annually, the Administrator shall  
 20                  provide to the Defense Acquisition University (established  
 21                  under section 1746 of title 10, United States Code), the Fed-  
 22                  eral Acquisition Institute (established under section 1201  
 23                  of title 41, United States Code), the individual responsible  
 24                  for mandatory training and education of the acquisition  
 25                  workforce of each agency (described under section

1 1703(f)(1)(C) of title 41, United States Code), small busi-  
 2 ness development centers, and entities participating in the  
 3 Procurement Technical Assistance Cooperative Agreement  
 4 Program under chapter 142 of title 10, United States  
 5 Code—

6 “(1) a list of all changes made in the prior year  
 7 to regulations promulgated—

8 “(A) by the Administrator that affect Fed-  
 9 eral acquisition; and

10 “(B) by the Federal Acquisition Council  
 11 that implement changes to this Act; and

12 “(2) any materials the Administrator has devel-  
 13 oped to explain, train, or assist Federal agencies or  
 14 departments or small business concerns to comply  
 15 with the regulations specified in paragraph (1).”.

16 **SEC. 502. PROTECTING TASK ORDER COMPETITION.**

17 Section 4106(f) of title 41, United States Code, is  
 18 amended by striking paragraph (3).

19 **SEC. 503. IMPROVEMENTS TO SIZE STANDARDS FOR SMALL**  
 20 **AGRICULTURAL PRODUCERS.**

21 (a) **AMENDMENT TO DEFINITION OF AGRICULTURAL**  
 22 **ENTERPRISES.**—Paragraph (1) of section 18(b) of the  
 23 Small Business Act (15 U.S.C. 647(b)(1)) is amended by  
 24 striking “businesses” and inserting “small business con-  
 25 cerns”.

1       (b) *EQUAL TREATMENT OF SMALL FARMS.*—Para-  
 2 graph (1) of section 3(a) of the Small Business Act (15  
 3 U.S.C. 632(a)(1)) is amended by striking “operation: Pro-  
 4 vided,” and all that follows through the period at the end  
 5 and inserting “operation.”.

6       (c) *UPDATED SIZE STANDARDS.*—

7           (1) *IN GENERAL.*—Not later than 18 months  
 8 after the date of enactment of this section, the Admin-  
 9 istrator of the Small Business Administration shall,  
 10 by rule, establish size standards in accordance with  
 11 section 3 of the Small Business Act (15 U.S.C. 632)  
 12 for agricultural enterprises (as such term is defined  
 13 in section 18(b)(1) of such Act).

14          (2) *REVIEW.*—Size standards established under  
 15 subsection (a) are subject to the rolling review proce-  
 16 dures established under section 1344(a) of the Small  
 17 Business Jobs Act of 2010 (15 U.S.C. 632 note).

18 **SEC. 504. UNIFORMITY IN SERVICE-DISABLED VETERAN**

19 **DEFINITIONS.**

20       (a) *SMALL BUSINESS DEFINITION OF SMALL BUSI-*  
 21 *NESS CONCERN CONSOLIDATED.*—Section 3(q) of the Small  
 22 Business Act (15 U.S.C. 632(q)) is amended—

23           (1) by amending paragraph (2) to read as fol-  
 24 lows:

1           “(2) *SMALL BUSINESS CONCERN OWNED AND*  
2           *CONTROLLED BY SERVICE-DISABLED VETERANS.—The*  
3           *term ‘small business concern owned and controlled by*  
4           *service-disabled veterans’ means any of the following:*

5                   “(A) *A small business concern—*

6                           “(i) *not less than 51 percent of which*  
7                           *is owned by one or more service-disabled*  
8                           *veterans or, in the case of any publicly*  
9                           *owned business, not less than 51 percent of*  
10                          *the stock (not including any stock owned by*  
11                          *an ESOP) of which is owned by one or*  
12                          *more service-disabled veterans; and*

13                          “(ii) *the management and daily busi-*  
14                          *ness operations of which are controlled by*  
15                          *one or more service-disabled veterans or, in*  
16                          *the case of a veteran with permanent and*  
17                          *severe disability, the spouse or permanent*  
18                          *caregiver of such veteran.*

19                   “(B) *A small business concern—*

20                           “(i) *not less than 51 percent of which*  
21                           *is owned by one or more service-disabled*  
22                           *veterans with a disability that is rated by*  
23                           *the Secretary of Veterans Affairs as a per-*  
24                           *manent and total disability who are unable*

1           *to manage the daily business operations of*  
2           *such concern; or*

3           “(ii) *in the case of a publicly owned*  
4           *business, not less than 51 percent of the*  
5           *stock (not including any stock owned by an*  
6           *ESOP) of which is owned by one or more*  
7           *such veterans.*

8           “(C)(i) *During the time period described in*  
9           *clause (ii), a small business concern that was a*  
10          *small business concern described in subpara-*  
11          *graph (A) or (B) immediately prior to the death*  
12          *of a service-disabled veteran who was the owner*  
13          *of the concern, the death of whom causes the con-*  
14          *cern to be less than 51 percent owned by one or*  
15          *more service-disabled veterans, if—*

16          “(I) *the surviving spouse of the de-*  
17          *ceased veteran acquires such veteran’s own-*  
18          *ership interest in such concern;*

19          “(II) *such veteran had a service-con-*  
20          *ected disability (as defined in section*  
21          *101(16) of title 38, United States Code)*  
22          *rated as 100 percent disabling under the*  
23          *laws administered by the Secretary of Vet-*  
24          *erans Affairs or such veteran died as a re-*  
25          *sult of a service-connected disability; and*

1           “(III) immediately prior to the death  
2           of such veteran, and during the period de-  
3           scribed in clause (ii), the small business  
4           concern is included in the database de-  
5           scribed in section 8127(f) of title 38, United  
6           States Code.

7           “(ii) The time period described in this  
8           clause is the time period beginning on the date  
9           of the veteran’s death and ending on the earlier  
10          of—

11           “(I) the date on which the surviving  
12          spouse remarries;

13           “(II) the date on which the surviving  
14          spouse relinquishes an ownership interest in  
15          the small business concern; or

16           “(III) the date that is 10 years after  
17          the date of the death of the veteran.”; and

18          (2) by adding at the end the following new para-  
19          graphs:

20           “(6) ESOP.—The term ‘ESOP’ has the meaning  
21          given the term ‘employee stock ownership plan’ in sec-  
22          tion 4975(e)(7) of the Internal Revenue Code of 1986  
23          (26 U.S.C. 4975(e)(7)).

1           “(7) *SURVIVING SPOUSE*.—The term ‘surviving  
2       spouse’ has the meaning given such term in section  
3       101(3) of title 38, United States Code.”.

4       (b) *VETERANS AFFAIRS DEFINITION OF SMALL BUSI-*  
5 *NESS CONCERN CONSOLIDATED*.—

6           (1) *IN GENERAL*.—Section 8127 of title 38,  
7       United States Code, is amended—

8                 (A) by striking subsection (h) and redesign-  
9       nating subsections (i) through (l) as subsections  
10      (h) through (k), respectively; and

11                (B) in subsection (k), as so redesignated—

12                   (i) by amending paragraph (2) to read  
13                   as follows:

14               “(2) The term ‘small business concern owned and  
15       controlled by veterans’ has the meaning given that  
16       term under section 3(q)(3) of the Small Business Act  
17       (15 U.S.C. 632(q)(3)).”; and

18                   (ii) by adding at the end the following  
19       new paragraph:

20               “(3) The term ‘small business concern owned and  
21       controlled by veterans with service-connected disabili-  
22       ties’ has the meaning given the term ‘small business  
23       concern owned and controlled by service-disabled vet-  
24       erans’ under section 3(q)(2) of the Small Business Act  
25       (15 U.S.C. 632(q)(2)).”.

1           (2) *CONFORMING AMENDMENTS.*—*Such section is*  
 2     *further amended—*

3                 (A) *in subsection (b), by inserting “or a*  
 4                 *small business concern owned and controlled by*  
 5                 *veterans with service-connected disabilities” after*  
 6                 *“a small business concern owned and controlled*  
 7                 *by veterans”;*

8                 (B) *in subsection (c), by inserting “or a*  
 9                 *small business concern owned and controlled by*  
 10                 *veterans with service-connected disabilities” after*  
 11                 *“a small business concern owned and controlled*  
 12                 *by veterans”;*

13                (C) *in subsection (d) by inserting “or small*  
 14                *business concerns owned and controlled by vet-*  
 15                *erans with service-connected disabilities” after*  
 16                *“small business concerns owned and controlled*  
 17                *by veterans” both places it appears; and*

18                (D) *in subsection (f)(1), by inserting “,*  
 19                *small business concerns owned and controlled by*  
 20                *veterans with service-connected disabilities,”*  
 21                *after “small business concerns owned and con-*  
 22                *trolled by veterans”.*

23           (c) *TECHNICAL CORRECTION.*—*Section 8(d)(3) of the*  
 24     *Small Business Act (15 U.S.C. 637(d)(3)), is amended by*  
 25     *adding at the end the following new subparagraph:*



1           “(H) *In this contract, the term ‘small business*  
 2           *concern owned and controlled by service-disabled vet-*  
 3           *erans’ has the meaning given that term in section*  
 4           *3(q).’.*”

5           (d) *REGULATIONS RELATING TO DATABASE OF THE*  
 6           *SECRETARY OF VETERANS AFFAIRS.—*

7           (1) *REQUIREMENT TO USE CERTAIN SMALL BUSI-*  
 8           *NESS ADMINISTRATION REGULATIONS.—Section*  
 9           *8127(f)(4) of title 38, United States Code, is amended*  
 10          *by striking “verified” and inserting “verified, using*  
 11          *regulations issued by the Administrator of the Small*  
 12          *Business Administration with respect to the status of*  
 13          *the concern as a small business concern and the own-*  
 14          *ership and control of such concern,’.*”

15          (2) *PROHIBITION ON SECRETARY OF VETERANS*  
 16          *AFFAIRS ISSUING CERTAIN REGULATIONS.—Section*  
 17          *8127(f) of title 38, United States Code, is amended by*  
 18          *adding at the end the following new paragraph:*

19          “(7) *The Secretary may not issue regulations related*  
 20          *to the status of a concern as a small business concern and*  
 21          *the ownership and control of such small business concern.’.*”

22          (e) *DELAYED EFFECTIVE DATE.—The amendments*  
 23          *made by subsections (a), (b), (c), and (d) shall take effect*  
 24          *on the date on which the Administrator of the Small Busi-*  
 25          *ness Administration and the Secretary of Veterans Affairs*

1 *jointly issue regulations implementing such sections. Such*  
 2 *date shall be not later than 18 months after the date of en-*  
 3 *actment of this Act.*

4 *(f) APPEALS OF INCLUSION IN DATABASE.—*

5 *(1) IN GENERAL.—Section 8127(f) of title 38,*  
 6 *United States Code, as amended by section 504(d)(2),*  
 7 *is further amended by adding at the end the following*  
 8 *new paragraph:*

9 *“(8)(A) If the Secretary does not verify a concern for*  
 10 *inclusion in the database under this subsection based on*  
 11 *the status of the concern as a small business concern or the*  
 12 *ownership or control of the concern, the concern may appeal*  
 13 *the denial of verification to the Office of Hearings and Ap-*  
 14 *peals of the Small Business Administration (as established*  
 15 *under section 5(i) of the Small Business Act). The decision*  
 16 *of the Office of Hearings and Appeals shall be considered*  
 17 *a final agency action.*

18 *“(B)(i) If an interested party challenges the inclusion*  
 19 *in the database of a small business concern owned and con-*  
 20 *trolled by veterans or a small business concern owned and*  
 21 *controlled by veterans with service-connected disabilities*  
 22 *based on the status of the concern as a small business con-*  
 23 *cern or the ownership or control of the concern, the challenge*  
 24 *shall be heard by the Office of Hearings and Appeals of*  
 25 *the Small Business Administration as described in sub-*

1 paragraph (A). The decision of the Office of Hearings and  
 2 Appeals shall be considered final agency action.

3 “(ii) In this subparagraph, the term ‘interested party’  
 4 means—

5 “(I) the Secretary; and

6 “(II) in the case of a small business concern that  
 7 is awarded a contract, the contracting officer of the  
 8 Department or another small business concern that  
 9 submitted an offer for the contract that was awarded  
 10 to the small business concern that submitted an offer  
 11 under clause (i).

12 “(C) For each fiscal year, the Secretary shall reim-  
 13 burse the Administrator of the Small Business Administra-  
 14 tion in an amount necessary to cover any cost incurred by  
 15 the Office of Hearings and Appeals of the Small Business  
 16 Administration for actions taken by the Office under this  
 17 paragraph. The Administrator is authorized to accept such  
 18 reimbursement. The amount of any such reimbursement  
 19 shall be determined jointly by the Secretary and the Admin-  
 20 istrator and shall be provided from fees collected by the Sec-  
 21 retary under multiple-award schedule contracts. Any dis-  
 22 agreement about the amount shall be resolved by the Direc-  
 23 tor of the Office of Management and Budget.”.

24 (2) *EFFECTIVE DATE.*—Paragraph (8) of sub-  
 25 section (f) of title 38, United States Code, as added

1        *by paragraph (1), shall apply with respect to a*  
2        *verification decision made by the Secretary of Vet-*  
3        *erans Affairs on or after the date of the enactment of*  
4        *this Act.*

5        **SEC. 505. GAO REVIEW OF THE OFFICE OF GOVERNMENT**  
6                                **CONTRACTING AND BUSINESS DEVELOPMENT**  
7                                **OF THE SMALL BUSINESS ADMINISTRATION.**

8        *(a) STUDY.—Not later than 60 days after the date of*  
9        *the enactment of this Act, the Comptroller General of the*  
10       *United States shall initiate a review of the Office of Govern-*  
11       *ment Contracting and Business Development of the Small*  
12       *Business Administration. Such review shall examine—*

13                *(1) the extent to which the personnel of the Small*  
14        *Business Administration who carry out procurement*  
15        *and business development programs report to the Of-*  
16        *fice of Government Contracting and Business Devel-*  
17        *opment;*

18                *(2) whether greater efficiency and consistency in*  
19        *the certification process of procurement and business*  
20        *development programs could be achieved by creating*  
21        *a single organizational unit of employees to process*  
22        *all certifications required by procurement and busi-*  
23        *ness development programs;*

24                *(3) whether greater efficiency and efficacy in the*  
25        *performance of procurement and business development*

1        *programs could be achieved by improving the align-*  
 2        *ment of the field personnel assigned to such programs;*

3            *(4) how the Office of Government Contracting*  
 4        *and Business Development could improve its staffing*  
 5        *of regulatory drafting functions and its coordination*  
 6        *with the Federal Acquisition Regulatory Council to*  
 7        *ensure timely rulemaking by the Small Business Ad-*  
 8        *ministration; and*

9            *(5) any other areas in which the Comptroller*  
 10       *General determines that the Small Business Adminis-*  
 11       *tration could improve its performance with respect to*  
 12       *procurement and business development programs.*

13        *(b) REPORT.—Not later than 1 year after initiating*  
 14       *the review required by paragraph (1), the Comptroller Gen-*  
 15       *eral shall submit a report including the results of the re-*  
 16       *view, along with any recommendations for improvements*  
 17       *or other suggestions with respect to procurement and busi-*  
 18       *ness development programs, to the Committee on Small*  
 19       *Business of the House of Representatives and the Committee*  
 20       *on Small Business and Entrepreneurship of the Senate.*

21        *(c) PROCUREMENT AND BUSINESS DEVELOPMENT*  
 22       *PROGRAM DEFINED.—In this Act, the term “procurement*  
 23       *and business development program” means a program re-*  
 24       *lated to procurement or business development established*

1 *under section 7, 8, 15, 31, 36, 44, 45, or 46 of the Small*  
2 *Business Act (15 U.S.C. 631 et seq.).*

3 **SEC. 506. REQUIRED REPORTS PERTAINING TO CAPITAL**  
4 **PLANNING AND INVESTMENT CONTROL.**

5 *The information described in 11302(c)(3)(B)(ii) of*  
6 *title 40, United States Code, shall be submitted to the Sen-*  
7 *ate Committee on Small Business and Entrepreneurship*  
8 *and the Committee on Small Business of the House of Rep-*  
9 *resentatives within 10 days of transmittal to the Director.*

10 **SEC. 507. GAO REVIEW OF SURETY BONDS.**

11 *Not later than 60 days after the date of the enactment*  
12 *of this Act, the Comptroller General of the United States*  
13 *shall initiate a review of surety bonds as they apply to fed-*  
14 *eral small business procurement contracts. The review shall*  
15 *examine how frequently bonding requirements are waived*  
16 *by federal agencies, an explanation of the standard and*  
17 *process for waiving the requirements, an explanation of the*  
18 *review process for such waivers, and in cases when bond*  
19 *requirements are waived, how results compare to instances*  
20 *where requirements are not waived, and the process that*  
21 *whistleblowers go through when instances of fraud related*  
22 *to surety bonds are reported.*



Union Calendar No. 545

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**H. R. 4341**

[Report No. 114-704, Part I]

**A BILL**

To amend the Small Business Act to improve transparency and clarity for small businesses, to clarify the role of small business advocates, to increase opportunities for competition in subcontracting, and for other purposes.

JULY 25, 2016

Reported from the Committee on Small Business with an amendment

JULY 25, 2016

The Committees on Armed Services, Oversight and Government Reform, and Veterans' Affairs discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed