

116TH CONGRESS  
1ST SESSION

# H. R. 190

To amend the Small Business Act to eliminate the inclusion of option years in the award price for sole source contracts, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. MARSHALL (for himself and Mr. SCHNEIDER) introduced the following bill; which was referred to the Committee on Small Business

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## A BILL

To amend the Small Business Act to eliminate the inclusion of option years in the award price for sole source contracts, 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 “Expanding Contracting  
5 Opportunities for Small Businesses Act of 2019”.

6 **SEC. 2. AMENDMENTS TO CONTRACTING AUTHORITY FOR**  
7 **CERTAIN SMALL BUSINESS CONCERNS.**

8 (a) QUALIFIED HUBZONE SMALL BUSINESS CON-  
9 CERN.—Subparagraph (A) of section 31(b)(2) of the

1 Small Business Act (15 U.S.C. 657a(b)(2)) is amended  
2 to read as follows:

3 “(A) SOLE SOURCE CONTRACTS.—A con-  
4 tracting officer may award sole source contracts  
5 under this section to any qualified HUBZone  
6 small business concern, if—

7 “(i) the qualified HUBZone small  
8 business concern is determined to be a re-  
9 sponsible contractor with respect to per-  
10 formance of such contract opportunity;

11 “(ii) the contracting officer does not  
12 have a reasonable expectation that two or  
13 more qualified HUBZone small business  
14 concerns will submit offers for the con-  
15 tracting opportunity;

16 “(iii) the anticipated award price of  
17 the contract will not exceed—

18 “(I) \$7,000,000, in the case of a  
19 contract opportunity assigned a stand-  
20 ard industrial classification code for  
21 manufacturing; or

22 “(II) \$4,000,000, in the case of  
23 all other contract opportunities; and

1                   “(iv) in the estimation of the con-  
2                   tracting officer, the contract award can be  
3                   made at a fair and reasonable price.”.

4           (b) SMALL BUSINESS CONCERN OWNED AND CON-  
5 TROLLED BY SERVICE-DISABLED VETERANS.—Sub-  
6 section (a) of section 36 of the Small Business Act (15  
7 U.S.C. 657f) is amended to read as follows:

8           “(a) SOLE SOURCE CONTRACTS.—In accordance with  
9 this section, a contracting officer may award a sole source  
10 contract to any small business concern owned and con-  
11 trolled by service-disabled veterans if—

12                   “(1) such concern is determined to be a respon-  
13                   sible contractor with respect to performance of such  
14                   contract opportunity;

15                   “(2) the contracting officer does not have a rea-  
16                   sonable expectation that two or more small business  
17                   concerns owned and controlled by service-disabled  
18                   veterans will submit offers for the contracting oppor-  
19                   tunity;

20                   “(3) the anticipated award price of the contract  
21                   will not exceed—

22                                   “(A) \$7,000,000, in the case of a contract  
23                   opportunity assigned a standard industrial clas-  
24                   sification code for manufacturing; or

1           “(B) \$4,000,000, in the case of any other  
2           contract opportunity;

3           “(4) in the estimation of the contracting officer,  
4           the contract award can be made at a fair and rea-  
5           sonable price;

6           “(5) the contracting officer has notified the Ad-  
7           ministration of the intent to make such award and  
8           requested that the Administration determine the  
9           concern’s eligibility for award; and

10           “(6) the Administration has determined that  
11           such concern is eligible for award.”.

12           (c) CERTAIN SMALL BUSINESS CONCERNS OWNED  
13           AND CONTROLLED BY WOMEN.—Section 8(m) of the  
14           Small Business Act (15 U.S.C. 637(m)) is amended—

15           (1) by amending paragraph (7) to read as fol-  
16           lows:

17           “(7) AUTHORITY FOR SOLE SOURCE CON-  
18           TRACTS FOR ECONOMICALLY DISADVANTAGED  
19           SMALL BUSINESS CONCERNS OWNED AND CON-  
20           TROLLED BY WOMEN.—A contracting officer may  
21           award a sole source contract under this subsection  
22           to any small business concern owned and controlled  
23           by women described in paragraph (2)(A) and cer-  
24           tified under paragraph (2)(E) if—

1           “(A) such concern is determined to be a  
2 responsible contractor with respect to perform-  
3 ance of the contract opportunity;

4           “(B) the contracting officer does not have  
5 a reasonable expectation that two or more busi-  
6 nesses described in paragraph (2)(A) will sub-  
7 mit offers;

8           “(C) the anticipated award price of the  
9 contract will not exceed—

10           “(i) \$7,000,000, in the case of a con-  
11 tract opportunity assigned a standard in-  
12 dustrial classification code for manufac-  
13 turing; or

14           “(ii) \$4,000,000, in the case of any  
15 other contract opportunity;

16           “(D) in the estimation of the contracting  
17 officer, the contract award can be made at a  
18 fair and reasonable price;

19           “(E) the contracting officer has notified  
20 the Administration of the intent to make such  
21 award and requested that the Administration  
22 determine the concern’s eligibility for award;  
23 and

24           “(F) the Administration has determined  
25 that such concern is eligible for award.”; and

1           (2) by amending paragraph (8) to read as fol-  
2           lows:

3           “(8) AUTHORITY FOR SOLE SOURCE CON-  
4           TRACTS FOR SMALL BUSINESS CONCERNS OWNED  
5           AND CONTROLLED BY WOMEN IN SUBSTANTIALLY  
6           UNDERREPRESENTED INDUSTRIES.—A contracting  
7           officer may award a sole source contract under this  
8           subsection to any small business concern owned and  
9           controlled by women certified under paragraph  
10          (2)(E) that is in an industry in which small business  
11          concerns owned and controlled by women are sub-  
12          stantially underrepresented (as determined by the  
13          Administrator under paragraph (3)) if—

14                 “(A) such concern is determined to be a  
15                 responsible contractor with respect to perform-  
16                 ance of the contract opportunity;

17                 “(B) the contracting officer does not have  
18                 a reasonable expectation that two or more busi-  
19                 nesses in an industry that has received a waiver  
20                 under paragraph (3) will submit offers;

21                 “(C) the anticipated award price of the  
22                 contract will not exceed—

23                         “(i) \$7,000,000, in the case of a con-  
24                         tract opportunity assigned a standard in-

1 industrial classification code for manufac-  
2 turing; or

3 “(ii) \$4,000,000, in the case of any  
4 other contract opportunity;

5 “(D) in the estimation of the contracting  
6 officer, the contract award can be made at a  
7 fair and reasonable price;

8 “(E) the contracting officer has notified  
9 the Administration of the intent to make such  
10 award and requested that the Administration  
11 determine the concern’s eligibility for award;  
12 and

13 “(F) the Administration has determined  
14 that such concern is eligible for award.”.

15 (d) **ELIMINATION OF THE INCLUSION OF OPTION**  
16 **YEARS IN THE AWARD PRICE FOR CONTRACTS.**—Section  
17 8 of the Small Business Act (15 U.S.C. 637) is amended  
18 by striking “(including options)” each place such term ap-  
19 pears.

20 **SEC. 3. SBA CERTIFICATION PROGRAM NOTIFICATION.**

21 (a) **IN GENERAL.**—The Administrator of the Small  
22 Business Administration shall notify the Committee on  
23 Small Business of the House of Representatives and the  
24 Committee on Small Business and Entrepreneurship of

1 the Senate when the Administrator has implemented each  
2 of the following:

3 (1) A program to certify small business con-  
4 cerns owned and controlled by women (as defined in  
5 section 8(m) of the Small Business Act (15 U.S.C.  
6 637(m))).

7 (2) A program to certify small business con-  
8 cerns owned and controlled by service-disabled vet-  
9 erans (as defined in section 3(q)(1) of the Small  
10 Business Act (15 U.S.C. 632(q))).

11 (b) ADDITIONAL NOTICE.—The Administrator of the  
12 Small Business Administration shall submit a copy of a  
13 notification required under subsection (a) to the Law Re-  
14 vision Counsel of the House of Representatives so that the  
15 Law Revision Counsel may execute the amendments re-  
16 quired under section 4.

17 **SEC. 4. REMOVAL OF ELIGIBILITY DETERMINATION UPON**  
18 **IMPLEMENTATION OF CERTIFICATION PRO-**  
19 **GRAMS.**

20 Effective upon the notification described under sec-  
21 tion 3, the Small Business Act (15 U.S.C. 631 et seq.)  
22 is amended—

23 (1) in section 8(m)—

24 (A) in paragraph (7)—



1 (i) in subparagraph (C), by adding  
2 “and” at the end;

3 (ii) in subparagraph (D), by striking  
4 the semicolon at the end and inserting a  
5 period; and

6 (iii) by striking subparagraphs (E)  
7 and (F); and  
8 (B) in paragraph (8)—

9 (i) in subparagraph (C), by adding  
10 “and” at the end;

11 (ii) in subparagraph (D), by striking  
12 the semicolon at the end and inserting a  
13 period; and

14 (iii) by striking subparagraphs (E)  
15 and (F); and  
16 (2) in section 36(a)—

17 (A) in paragraph (3), by adding “and” at  
18 the end;

19 (B) in paragraph (4), by striking the semi-  
20 colon at the end and inserting a period; and

21 (C) by striking paragraphs (5) and (6).

22 **SEC. 5. GAO REPORT.**

23 (a) STUDY.—With respect to the procurement pro-  
24 grams of the Small Business Administration for small  
25 business concerns owned and controlled by women (as de-

1 fined in section 8(m) of the Small Business Act (15 U.S.C.  
2 637(m))) and for small business concerns owned and con-  
3 trolled by service-disabled veterans (as defined in section  
4 3(q)(1) of the Small Business Act (15 U.S.C. 632(q))),  
5 the Comptroller General of the United States shall con-  
6 duct an evaluation of the policies and practices used by  
7 the Administration and other Federal agencies to provide  
8 assurances that contracting officers are properly classify-  
9 ing sole source awards under those programs in the Fed-  
10 eral Procurement Data System and that sole source con-  
11 tracts awarded under those programs are being awarded  
12 to eligible concerns.

13 (b) REPORT.—Not later than 18 months after the  
14 Small Business Administration implements the certifi-  
15 cation programs described under section 3, the Comp-  
16 troller General shall issue a report to the Committee on  
17 Small Business of the House of Representatives and the  
18 Committee on Small Business and Entrepreneurship of  
19 the Senate containing the findings made in carrying out  
20 the study required under subsection (a).

21 (c) SBA CONSIDERATION OF GAO REPORT.—

22 (1) IN GENERAL.—The Administrator of the  
23 Small Business Administration shall review the re-  
24 port issued under subsection (b) and take such ac-  
25 tions as the Administrator may determine appro-

1        piate to address any concerns raised in such report  
2        and any recommendations contained in such report.

3            (2) REPORT TO CONGRESS.—After the review  
4        described under paragraph (1), the Administrator  
5        shall issue a report to Congress—

6            (A) stating that no additional actions were  
7        necessary to address any concerns or rec-  
8        ommendations contained in the report; or

9            (B) describing the actions taken by the  
10       Administrator to resolve such concerns or im-  
11       plement such recommendations.

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