

116TH CONGRESS  
1ST SESSION

# S. 1434

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IN THE HOUSE OF REPRESENTATIVES

DECEMBER 23, 2019

Referred to the Committee on Oversight and Reform

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## AN ACT

To prohibit the use of reverse auctions for design and construction services procurements, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Construction Con-  
3 sensus Procurement Improvement Act of 2019”.

4 **SEC. 2. PROHIBITION ON USE OF A REVERSE AUCTION FOR**  
5 **THE AWARD OF A CONTRACT FOR DESIGN**  
6 **AND CONSTRUCTION SERVICES.**

7 (a) FINDING.—Congress finds that, in contrast to a  
8 traditional auction in which the buyers bid up the price,  
9 sellers bid down the price in a reverse auction.

10 (b) PROHIBITION.—Not later than 180 days after the  
11 date of the enactment of this Act, the Federal Acquisition  
12 Regulation shall be amended to prohibit the use of reverse  
13 auctions for awarding contracts for design and construc-  
14 tion services.

15 (c) DEFINITIONS.—In this section:

16 (1) The term “design and construction serv-  
17 ices” means—

18 (A) site planning and landscape design;

19 (B) architectural and engineering services  
20 (as defined in section 1102 of title 40, United  
21 States Code);

22 (C) interior design;

23 (D) performance of substantial construc-  
24 tion work for facility, infrastructure, and envi-  
25 ronmental restoration projects;

1 (E) delivery and supply of construction  
2 materials to construction sites; or

3 (F) construction or substantial alteration  
4 of public buildings or public works.

5 (2) The term “reverse auction” means, with re-  
6 spect to any procurement by an executive agency—

7 (A) a real-time auction conducted through  
8 an electronic medium among 2 or more offerors  
9 who compete by submitting bids for a supply or  
10 service contract, or a delivery order, task order,  
11 or purchase order under the contract, with the  
12 ability to submit revised lower bids at any time  
13 before the closing of the auction; and

14 (B) the award of the contract, delivery  
15 order, task order, or purchase order to the of-  
16 feror is solely based on the price obtained  
17 through the auction process.

Passed the Senate December 19, 2019.

Attest:

JULIE E. ADAMS,  
*Secretary.*