

118TH CONGRESS
2D SESSION

H. R. 10563

To ensure efficiency and fairness in Federal subcontracting, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 31, 2024

Ms. LEE of Pennsylvania introduced the following bill; which was referred to the Committee on Oversight and Accountability, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure efficiency and fairness in Federal 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 This Act may be cited as the “Ensuring Efficiency
5 and Fairness in Federal Subcontracting Act of 2024”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Homeland Security
5 and Governmental Affairs of the Senate; and

6 (B) the Committee on Oversight and Ac-
7 countability of the House of Representatives.

8 (2) EXECUTIVE AGENCY.—The term “executive
9 agency” has the meaning given the term in section
10 133 of title 41, United States Code.

11 **SEC. 3. COMPTROLLER GENERAL REPORT ON SMALL BUSI-**
12 **NESS UTILIZATION IN FEDERAL CON-**
13 **TRACTING.**

14 Not later than 180 days after the date of the enact-
15 ment of this Act, the Comptroller General of the United
16 States shall submit to the appropriate congressional com-
17 mittees the results of a study on how small business utili-
18 zation by prime contractors can be better monitored on
19 the largest and longest Federal contracts, including In-
20 definite Delivery, Indefinite Quantity (IDIQ) contracts
21 and Government-wide Acquisition Contracts (GWACs),
22 with any further relevant contract types to be determined
23 by the Comptroller General.

1 **SEC. 4. REQUIREMENT TO NOTIFY SUBCONTRACTORS OF**
2 **CONTRACT STATUS.**

3 Not later than 18 months after the date of the enact-
4 ment of this Act, the Federal Acquisition Regulatory
5 Council shall revise the Federal Acquisition Regulation—

6 (1) to require prime contractors on Federal
7 contracts to provide to a subcontractor named in a
8 subcontracting plan of the prime contractor, within
9 30 days of a request from such subcontractor, notifi-
10 cation of the status of the contract, including infor-
11 mation such as whether the prime contractor has re-
12 ceived any task orders or executed other work under
13 the contract;

14 (2) to provide a means by which a subcon-
15 tractor who has made a request described in para-
16 graph (1) and not received a response within 30
17 days to report the request and delayed response to
18 the contracting officer;

19 (3) to require a contracting officer receiving a
20 notification described in paragraph (2) to document
21 the incident and consider the information in the
22 small business subcontracting factor of the perform-
23 ance assessment for the prime contractor; and

24 (4) to require offerors for a task or delivery
25 order on a contract for which a subcontracting plan
26 is required to provide information in the proposal

1 about how the offeror’s proposed small business uti-
2 lization for the task or delivery order aligns with the
3 overall contract’s small business subcontracting plan.

4 **SEC. 5. STUDY ON STRENGTHENING ENFORCEMENT PROVI-**
5 **SIONS DESIGNED TO PROTECT SUBCONTRAC-**
6 **TORS.**

7 The Attorney General, in consultation with the Ad-
8 ministrators of General Services, the Administrator of the
9 Small Business Administration, and the Administrator for
10 Federal Procurement Policy, shall conduct a study on
11 ways to strengthen enforcement mechanisms for compli-
12 ance with subcontracting plans in accordance with section
13 19.705–7 of title 48, Code of Federal Regulations, includ-
14 ing exploring the need for an alternative complaint route
15 for subcontractors that have experienced serious issues as
16 a result of the prime contractor or a subcontractor at any
17 tier under the contract failing to make a good faith effort,
18 as outlined in such section and section 125.3 of title 13,
19 Code of Federal Regulations.

1 **SEC. 6. COMPTROLLER GENERAL STUDY ON UTILIZATION**
2 **OF CONTRACTOR PERFORMANCE ASSESS-**
3 **MENT REPORTING SYSTEM (CPARS) DATA TO**
4 **ASSESS RELATIONSHIPS BETWEEN PRIME**
5 **AND SUBCONTRACTORS.**

6 (a) IN GENERAL.—Not later than 180 days after the
7 date of the enactment of this Act, the Comptroller General
8 of the United States shall submit to the appropriate con-
9 gressional committees the results of a study on how
10 CPARS could be utilized as a means of gauging relation-
11 ships between prime and subcontractors.

12 (b) ELEMENTS.—The study required under sub-
13 section (a) shall focus on the following matters:

14 (1) An examination of how adverse experiences
15 of subcontractors are or are not translated into
16 lower CPARS scores.

17 (2) An assessment of whether lower CPARS
18 scores impact the ability of prime contractors to se-
19 cure Federal contracts and options in source selec-
20 tion, including an examination of the weighting of
21 the subcontracting score relative to other compo-
22 nents of the CPARS.

23 (3) An assessment of whether the timing of
24 scoring within contracts is such that it incentivizes
25 the best possible small business utilization and inter-
26 action between prime and subcontractors.

1 **SEC. 7. PENALTIES FOR FAILURE TO MEET SMALL BUSI-**
2 **NESS UTILIZATION GOALS.**

3 Not later than 18 months after the date of the enact-
4 ment of this Act, the Federal Acquisition Regulatory
5 Council shall revise the Federal Acquisition Regulation to
6 allow agencies to incorporate into their incentive contracts
7 with prime contractors a condition that—

8 (1) if the rate of small business utilization for
9 the contract is less than 50 percent of the utilization
10 level prescribed in the subcontracting plan, the
11 prime contractor shall not be eligible to receive a
12 performance-based incentive fee with respect to the
13 contract; and

14 (2) if the rate of small business utilization at
15 any stage of an incentive contract is less than 75
16 percent of the utilization level prescribed for such
17 stage in the subcontracting plan, the prime con-
18 tractor may receive a warning letter from the con-
19 tracting officer for the contract noting the shortfall
20 and potential loss of incentive fees.

21 **SEC. 8. OUTREACH TO SMALL BUSINESS CONTRACTORS.**

22 Not later than 180 days after the date of the enact-
23 ment of this Act, the Director of the Office of Manage-
24 ment and Budget shall issue guidance to the heads of ex-
25 ecutive agencies on measures they should take to improve
26 small business outreach and improve awareness of subcon-

1 tracting opportunities, including webinars, online engage-
 2 ments, and other innovative methods of outreach, and
 3 hosting at least two general outreach sessions per year for
 4 potential small business contractors and one outreach ses-
 5 sion per year for each of the following groups:

6 (1) Small business concerns owned and con-
 7 trolled by veterans and small business concerns
 8 owned and controlled by service-disabled veterans
 9 (as those terms are defined in section 3(q) of the
 10 Small Business Act (15 U.S.C. 632(q))).

11 (2) Qualified HUBZone small business concerns
 12 (as defined in section 3(p) of such Act (15 U.S.C.
 13 632(p))).

14 (3) Socially and economically disadvantaged
 15 small business concerns (as defined in section
 16 8(a)(4)(A) of such Act (15 U.S.C. 637(a)(4)(A))).

17 (4) Small business concerns owned and con-
 18 trolled by women (as defined in section 3(n) of such
 19 Act (15 U.S.C. 632(n))).

20 **SEC. 9. IMPROVEMENTS TO THE ELECTRONIC SUBCON-**
 21 **TRACTING REPORTING SYSTEM.**

22 (a) IN GENERAL.—Not later than one year after the
 23 date of the enactment of this Act, the Administrator of
 24 General Services shall develop and include as part of the
 25 General Services Administration’s strategic information

1 resources management plan required under section
2 3506(b)(2) of title 44, United States Code, a plan to mod-
3 ernize the Electronic Subcontracting Reporting System
4 (eSRS).

5 (b) ELEMENTS.—The modernization plan required
6 under subsection (a) shall include—

7 (1) steps that the General Services Administra-
8 tion intends to make toward updating and modern-
9 izing eSRS;

10 (2) an assessment of the capacity of the agency
11 to operate and maintain an updated system;

12 (3) the estimated cost and sources of funding
13 required to execute this plan; and

14 (4) a description of the additional resources and
15 staffing that is necessary to carrying out the plan.

16 (c) SUBMISSION TO CONGRESS.—Not later than 30
17 days after the date on which the General Services Admin-
18 istration’s strategic information resources management
19 plan is updated pursuant to subsection (a), the Adminis-
20 trator of General Services shall submit the plan to mod-
21 ernize eSRS described in such subsection.

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