

104TH CONGRESS
1ST SESSION

H. R. 503

To require all providers of telecommunications services to establish and carry out plans for procurement from businesses owned by minorities and women, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 1995

Mrs. COLLINS of Illinois introduced the following bill; which was referred to the Committee on Commerce

A BILL

To require all providers of telecommunications services to establish and carry out plans for procurement from businesses owned by minorities and women, 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; FINDINGS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Telecommunications Economic Opportunity Act of
6 1995”.

7 (b) **FINDINGS.**—The Congress finds the following:

1 (1) It is in the public interest for business en-
2 terprises owned by minorities and women to partici-
3 pate in procurement contracts of all providers of
4 telecommunications services.

5 (2) The opportunity for full participation in our
6 free enterprise system by business enterprises that
7 are owned by minorities and women is essential if
8 this Nation is to attain social and economic equality
9 for those businesses and improve the functioning of
10 the national economy.

11 (3) It is in this Nation's interest to expedi-
12 tiously improve the economically disadvantaged posi-
13 tion of business enterprises that are owned by mi-
14 norities and women.

15 (4) The position of these businesses can be im-
16 proved through the development by the providers of
17 telecommunications services of substantial long-
18 range and annual goals, which are supported by
19 training and technical assistance, for the purchase,
20 to the maximum practicable extent, of technology,
21 equipment, supplies, services, material and construc-
22 tion from minority business enterprises.

23 (5) Procurement policies which include partici-
24 pation of business enterprises that are owned by mi-
25 norities and women also benefit the communication

1 industry and its consumers by encouraging the ex-
2 pansion of the numbers of suppliers for procure-
3 ment, thereby encouraging competition among sup-
4 pliers and promoting economic efficiency in the proc-
5 ess.

6 **SEC. 2. PURPOSE.**

7 The purposes of this Act are—

8 (1) to encourage and foster greater economic
9 opportunity for business enterprises that are owned
10 by minorities and women;

11 (2) to promote competition among suppliers to
12 providers of telecommunications services and their
13 affiliates to enhance economic efficiency in the pro-
14 curement of telephone corporation contracts and
15 contracts of their State commission-regulated sub-
16 sidiaries and affiliates;

17 (3) to clarify and expand a program for the
18 procurement by State and federally-regulated tele-
19 phone companies of technology, equipment, supplies,
20 services, materials and construction work from busi-
21 ness enterprises that are owned by minorities and
22 women; and

23 (4) to ensure that a fair proportion of the total
24 purchases, contracts, and subcontracts for supplies,
25 commodities, technology, property, and services of-

1 fered by the providers of telecommunications services
2 and their affiliates are awarded to minority and
3 women business enterprises.

4 **SEC. 3. ANNUAL PLAN SUBMISSION.**

5 (a) ANNUAL PLANS REQUIRED.—

6 (1) IN GENERAL.—The Commission shall re-
7 quire each provider of telecommunications services
8 to submit annually a detailed and verifiable plan for
9 increasing its procurement from business enterprises
10 that are owned by minorities or women in all cat-
11 egories of procurement in which minorities are under
12 represented.

13 (2) CONTENTS OF PLANS.—The annual plans
14 required by paragraph (1) shall include (but not be
15 limited to) short- and long-term progressive goals
16 and timetables, technical assistance, and training
17 and shall, in addition to goals for direct contracting
18 opportunities, include methods for encouraging both
19 prime contractors and grantees to engage business
20 enterprises that are owned by minorities and women
21 in subcontracts in all categories in which minorities
22 are under represented.

23 (3) IMPLEMENTATION REPORT.—Each provider
24 of telecommunications services shall furnish an an-
25 nual report to the Commission regarding the imple-

1 mentation of programs established pursuant to this
2 Act in such form as the Commission shall require,
3 and at such time as the Commission shall annually
4 designate.

5 (4) REPORT TO CONGRESS.—The Commission
6 shall provide an annual report to Congress, begin-
7 ning in January 1996, on the progress of activities
8 undertaken by each provider of telecommunications
9 services regarding the implementation of activities
10 pursuant to this Act to develop business enterprises
11 that are owned by minorities or women. The report
12 shall evaluate the accomplishments under this Act
13 and shall recommend a program for enhancing the
14 policy declared in this Act, together with such rec-
15 ommendations for legislation as it deems necessary
16 or desirable to further that policy.

17 (b) REGULATIONS AND CRITERIA FOR DETERMINING
18 ELIGIBILITY OF MINORITY BUSINESS ENTERPRISES FOR
19 PROCUREMENT CONTRACTS.—

20 (1) IN GENERAL.—The Commission shall estab-
21 lish regulations for implementing programs pursuant
22 to this Act that will govern providers of tele-
23 communications services and their affiliates.

24 (2) VERIFYING CRITERIA.—The Commission
25 shall develop and publish regulations setting forth

1 criteria for verifying and determining the eligibility
2 of business enterprises that are owned by minorities
3 or women for procurement contracts.

4 (3) OUTREACH.—The Commission’s regulations
5 shall require each provider of telecommunications
6 services and its affiliates to develop and to imple-
7 ment an outreach program to inform and recruit
8 business enterprises that are owned by minorities or
9 women to apply for procurement contracts under
10 this Act.

11 (4) ENFORCEMENT.—The Commission shall es-
12 tablish and promulgate such regulations necessary to
13 enforce the provisions of this Act.

14 (c) WAIVER AUTHORITY.—The requirements of this
15 section may be waived, in whole or in part, by the Commis-
16 sion with respect to a particular contract or subcontract
17 in accordance with guidelines set forth in regulations
18 which the Commission shall prescribe when it determines
19 that the application of such regulations prove to result in
20 undue hardship or unreasonable expense to a provider of
21 telecommunications services.

22 **SEC. 4. SANCTIONS AND REMEDIES.**

23 (a) FALSE REPRESENTATION OF BUSINESSES; SANC-
24 TIONS.—

1 (1) IN GENERAL.—Any person or corporation,
2 through its directors, officers, or agent, which falsely
3 represents the business as a business enterprise that
4 is owned by minorities or women in the procurement
5 or attempt to procure contracts from telephone oper-
6 ating companies and their affiliates pursuant to this
7 article, shall be punished by a fine of not more than
8 \$5,000, or by imprisonment for a period not to ex-
9 ceed 5 years of its directors, officers, or agents re-
10 sponsible for the false statements, or by both fine
11 and imprisonment.

12 (2) HOLDING COMPANIES.—Any provider of
13 telecommunications services which falsely represents
14 its annual report to the Commission or its imple-
15 mentation of its programs pursuant to this section
16 shall be subject to a fine of \$100,000 and be subject
17 to a penalty of up to 5 years restriction from partici-
18 pation in lines of business activities provided for in
19 this Act.

20 (b) INDEPENDENT CAUSE OF ACTION, REMEDIES,
21 AND ATTORNEY FEES.—

22 (1) DISCRIMINATION PROHIBITED.—No other-
23 wise qualified business enterprise that is owned by
24 minorities or women shall solely, by reason of its ra-
25 cial, ethnic, or gender composition be excluded from

1 the participation in, be denied the benefits of, or be
2 subjected to discrimination in procuring contracts
3 from telephone utilities.

4 (2) CIVIL ACTIONS AUTHORIZED.—Whenever a
5 qualified business enterprise that is owned by mi-
6 norities or women has reasonable cause to believe
7 that a provider of telecommunications services or its
8 affiliate is engaged in a pattern or practice of resist-
9 ance to the full compliance of any provision of this
10 Act, the business enterprise may bring a civil action
11 in the appropriate district court of the United States
12 against the provider of telecommunications services
13 or its affiliate requesting such monetary or injunc-
14 tive relief, or both, as deemed necessary to ensure
15 the full benefits of this Act.

16 (3) ATTORNEYS' FEES AND COSTS.—In any ac-
17 tion or proceeding to enforce or charge of a violation
18 of a provision of this Act, the court, in its discretion,
19 may allow the prevailing party reasonable attorneys'
20 fees and costs.

21 **SEC. 5. DEFINITIONS.**

22 For the purpose of this Act, the following definitions
23 apply:

24 (1) The term “business enterprise owned by mi-
25 norities or women” means—

1 (A) a business enterprise that is at least
2 51 percent owned by a person or persons who
3 are minority persons or women; or

4 (B) in the case of any publicly owned busi-
5 ness, at least 51 percent of the stock of which
6 is owned by one or more persons who are mi-
7 nority persons or women, and whose manage-
8 ment and daily business operations are con-
9 trolled by one or more of those persons.

10 (2) The term “minority person” means persons
11 who are Black Americans, Hispanic Americans, Na-
12 tive Americans, Asian Americans, and Pacific Amer-
13 icans.

14 (3) The term “control” means exercising the
15 power to make financial and policy decisions.

16 (4) The term “operate” means the active in-
17 volvement in the day-to-day management of the
18 business and not merely being officers or directors.

19 (5) The term “Commission” means the Federal
20 Communications Commission.

21 (6) The term “telecommunications service”
22 means the offering, on a common carrier basis, of
23 telecommunications facilities, or of telecommuni-

- 1 cations by means of such facilities. Such term does
- 2 not include an information service.

