

105TH CONGRESS
2^D SESSION

H. R. 3701

To amend the Small Business Act to provide a penalty for the failure by a Federal contractor to subcontract with small businesses as described in its subcontracting plan, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 1998

Mr. WYNN introduced the following bill; which was referred to the Committee on Small Business

A BILL

To amend the Small Business Act to provide a penalty for the failure by a Federal contractor to subcontract with small businesses as described in its subcontracting plan, 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 “Subcontractor Protec-
5 tion Act”.

1 **SEC. 2. IMPLEMENTATION OF SUBCONTRACTING PLANS.**

2 Section 8(d) of the Small Business Act (15 U.S.C.
3 637(d)) is amended by adding at the end the following
4 new paragraphs:

5 “(12) In the case of any contract containing a sub-
6 contracting plan included pursuant to paragraph (4) or
7 (5), the following provisions apply:

8 “(A) The executive agency awarding the con-
9 tract shall include in the contract a clause providing
10 for the withholding of not less than (i) \$5,000 in the
11 case of a contract in the amount of \$100,000 or
12 less, (ii) 3 percent of the contract amount in the
13 case of a contract in an amount of more than
14 \$100,000 and less than \$5,000,000, and (iii) 5 per-
15 cent of the contract amount in the case of a contract
16 in an amount of \$5,000,000 or more, if the contrac-
17 tor does not achieve the percentage goal for the utili-
18 zation of small business concerns owned and con-
19 trolled by socially and economically disadvantaged
20 individuals as set forth in the subcontracting plan.

21 “(B) The executive agency awarding the con-
22 tract shall require the contractor to provide written
23 justification to the agency whenever the contractor,
24 in performing the contract, does not enter into a
25 subcontract with, or substitutes another subconfrac-

1 tor for, a specific small business identified in the
2 subcontracting plan.

3 “(13) The Administration shall establish a telephone
4 line or other electronic means of communication through
5 which any small business identified in a subcontracting
6 plan by an offeror or bidder may communicate to the Ad-
7 ministration any concerns regarding major deviations by
8 prime contractors from the use of small businesses as sub-
9 contractors under the prime contract as described in sub-
10 contracting plans.”.

11 **SEC. 3. REQUIREMENT TO CONSIDER USE OF SMALL BUSI-**
12 **NESS CONCERNS OWNED AND CONTROLLED**
13 **BY SOCIALLY AND ECONOMICALLY DIS-**
14 **ADVANTAGED INDIVIDUALS WHEN CONSID-**
15 **ERING PAST COMPLIANCE WITH SUB-**
16 **CONTRACTING PLANS.**

17 Section 8(d) of the Small Business Act (15 U.S.C.
18 637(d)) is amended in the second sentence of paragraphs
19 (4)(C) and (5)(B) by inserting after “other such sub-
20 contracting plans” each place it appears the following:
21 “, especially compliance with the goal set forth in such
22 plans for the utilization of small business concerns owned
23 and controlled by socially and economically disadvantaged
24 individuals,”.

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