

112TH CONGRESS
2^D SESSION

H. R. 3851

To amend the Small Business Act with respect to Offices of Small and Disadvantaged Business Utilization, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 2012

Mr. GRAVES of Missouri introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committee on Oversight and Government Reform, 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 amend the Small Business Act with respect to Offices of Small and Disadvantaged Business Utilization, 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 “Small Business Advo-
5 cate Act of 2012”.

1 **SEC. 2. OFFICES OF SMALL AND DISADVANTAGED BUSI-**
2 **NESS UTILIZATION.**

3 (a) APPOINTMENT AND POSITION OF DIRECTOR.—
4 Section 15(k)(2) of the Small Business Act (15 U.S.C.
5 644(k)(2)) is amended by striking “such agency,” and in-
6 serting “such agency to a position that is a Senior Execu-
7 tive Service position (as such term is defined under section
8 3132(a) of title 5, United States Code), except that, for
9 any agency in which the positions of Chief Acquisition Of-
10 ficer and senior procurement executive (as such terms are
11 defined under section 44(a) of this Act) are not Senior
12 Executive Service positions, the Director of Small and Dis-
13 advantaged Business Utilization may be appointed to a
14 position compensated at not less than the minimum rate
15 of basic pay payable for grade GS–15 of the General
16 Schedule under section 5332 of such title (including com-
17 parability payments under section 5304 of such title);”.

18 (b) PERFORMANCE APPRAISALS.—Section 15(k)(3)
19 of such Act (15 U.S.C. 644(k)(3)) is amended—

20 (1) by striking “be responsible only to, and re-
21 port directly to, the head” and inserting “shall be
22 responsible only to (including with respect to per-
23 formance appraisals), and report directly and exclu-
24 sively to, the head”; and

25 (2) by striking “be responsible only to, and re-
26 port directly to, such Secretary” and inserting “be

1 responsible only to (including with respect to per-
2 formance appraisals), and report directly and exclu-
3 sively to, such Secretary”.

4 (c) SMALL BUSINESS TECHNICAL ADVISERS.—Sec-
5 tion 15(k)(8)(B) of such Act (15 U.S.C. 644(k)(8)(B)) is
6 amended by striking “and 15 of this Act,” and inserting
7 “, 15, and 44 of this Act;”.

8 (d) ADDITIONAL REQUIREMENTS.—Section 15(k) of
9 such Act (15 U.S.C. 644(k)) is amended by inserting after
10 paragraph (10) the following:

11 “(11) shall review and advise such agency on
12 any decision to convert an activity performed by a
13 small business concern to an activity performed by
14 a Federal employee;

15 “(12) shall provide to the Chief Acquisition Of-
16 ficer and senior procurement executive of such agen-
17 cy advice and comments on acquisition strategies,
18 market research, and justifications related to section
19 44 of this Act;

20 “(13) may provide training to small business
21 concerns and contract specialists, except that such
22 training may only be provided to the extent that the
23 training does not interfere with the Director car-
24 rying out other responsibilities under this subsection;

1 “(14) shall carry out exclusively the duties enu-
2 merated in this Act, and shall, while the Director,
3 not hold any other title, position, or responsibility,
4 except as necessary to carry out responsibilities
5 under this subsection; and

6 “(15) shall submit, each fiscal year, to the
7 Committee on Small Business of the House of Rep-
8 resentatives and the Committee on Small Business
9 and Entrepreneurship of the Senate a report de-
10 scribing—

11 “(A) the training provided by the Director
12 under paragraph (13) in the most recently com-
13 pleted fiscal year;

14 “(B) the percentage of the budget of the
15 Director used for such training in the most re-
16 cently completed fiscal year; and

17 “(C) the percentage of the budget of the
18 Director used for travel in the most recently
19 completed fiscal year.”.

20 (e) TECHNICAL AMENDMENTS.—Section 15(k) of
21 such Act (15 U.S.C. 644(k)), as amended by subsection
22 (d), is further amended—

23 (1) in the matter preceding paragraph (1) by
24 striking “who shall” and inserting “who”;

25 (2) in paragraph (1)—

1 (A) by striking “be known” and inserting
2 “shall be known”; and

3 (B) by striking “such agency,” and insert-
4 ing “such agency;”;

5 (3) in paragraph (2) by striking “be appointed
6 by” and inserting “shall be appointed by”;

7 (4) in paragraph (3)—

8 (A) by striking “director” and inserting
9 “Director”; and

10 (B) by striking “Secretary’s designee,” and
11 inserting “Secretary’s designee;”;

12 (5) in paragraph (4)—

13 (A) by striking “be responsible” and in-
14 serting “shall be responsible”; and

15 (B) by striking “such agency,” and insert-
16 ing “such agency;”;

17 (6) in paragraph (5) by striking “identify pro-
18 posed” and inserting “shall identify proposed”;

19 (7) in paragraph (6) by striking “assist small”
20 and inserting “shall assist small”;

21 (8) in paragraph (7)—

22 (A) by striking “have supervisory” and in-
23 serting “shall have supervisory”; and

24 (B) by striking “this Act,” and inserting
25 “this Act;”;

1 (9) in paragraph (8)—

2 (A) by striking “assign a” and inserting
3 “shall assign a”; and

4 (B) by striking “the activity, and” and in-
5 serting “the activity; and”;

6 (10) in paragraph (9)—

7 (A) by striking “cooperate, and” and in-
8 serting “shall cooperate, and”; and

9 (B) by striking “subsection, and” and in-
10 serting “subsection;”; and

11 (11) in paragraph (10)—

12 (A) by striking “make recommendations”
13 and inserting “shall make recommendations”;

14 (B) by striking “subsection (a), or section”
15 and inserting “subsection (a), section”;

16 (C) by striking “Act or section 2323” and
17 inserting “Act, or section 2323”;

18 (D) by striking “Code. Such recommenda-
19 tions shall” and inserting “Code, which shall”;
20 and

21 (E) by striking “contract file.” and insert-
22 ing “contract file;”.

1 **SEC. 3. SMALL BUSINESS PROCUREMENT ADVISORY COUN-**
2 **CIL.**

3 (a) DUTIES.—Section 7104(b) of the Federal Acqui-
4 sition Streamlining Act of 1994 (15 U.S.C. 644 note) is
5 amended—

6 (1) in paragraph 1 by striking “and” at the
7 end;

8 (2) in paragraph 2 by striking “authorities.”
9 and inserting “authorities;”; and

10 (3) by adding at the end the following:

11 “(3) to conduct reviews of each Office of Small
12 and Disadvantaged Business Utilization established
13 under section 15(k) of the Small Business Act (15
14 U.S.C. 644(k)) to determine the compliance of each
15 Office with requirements under such section;

16 “(4) to identify best practices for maximizing
17 small business utilization in Federal contracting that
18 may be implemented by Federal agencies having pro-
19 curement powers; and

20 “(5) to submit, annually, to the Committee on
21 Small Business of the House of Representatives and
22 the Committee on Small Business and Entrepre-
23 neurship of the Senate a report describing—

24 “(A) the comments submitted under para-
25 graph (2) during the 1-year period ending on

1 the date on which the report is submitted, in-
2 cluding any outcomes related to the comments;

3 “(B) the results of reviews conducted
4 under paragraph (3) during such 1-year period;
5 and

6 “(C) best practices identified under para-
7 graph (4) during such 1-year period.”.

8 (b) MEMBERSHIP.—Section 7104(c) of such Act (15
9 U.S.C. 644 note) is amended by striking “(established
10 under section 15(k) of the Small Business Act (15 U.S.C.
11 644(k))”.

12 (c) CHAIRMAN.—Section 7104(d) of such Act (15
13 U.S.C. 644 note) is amended by inserting after “Small
14 Business Administration” the following: “(or the designee
15 of the Administrator)”.

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