

112TH CONGRESS
1ST SESSION

S. 370

To require contractors to notify small business concerns that have been included in offers relating to contracts let by Federal agencies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2011

Mr. CASEY introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To require contractors to notify small business concerns that have been included in offers relating to contracts let by Federal agencies, 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. SUBCONTRACTOR NOTIFICATIONS.**

4 Section 8(d) of the Small Business Act (15 U.S.C.
5 637(d)) is amended by adding at the end the following:

6 “(13) NOTIFICATION REQUIREMENT.—

7 “(A) IN GENERAL.—An offeror with respect to
8 a contract let by a Federal agency that is to be
9 awarded pursuant to the negotiated method of pro-

1 curement that intends to identify a small business
2 concern as a potential subcontractor in the offer re-
3 lating to the contract shall—

4 “(i) notify the small business concern that
5 the offeror intends to identify the small busi-
6 ness concern as a potential subcontractor in the
7 offer; and

8 “(ii) include with the offer a written ac-
9 knowledgment by the small business concern
10 that the small business concern has received the
11 notice required under clause (i).

12 “(B) PENALTIES.—If an offeror fails to notify
13 a small business concern under subparagraph (A)(i),
14 the head of the Federal agency that let the contract
15 described in subparagraph (A) shall—

16 “(i) for the first such failure by the offer-
17 or, fine the offeror, in an amount equal to 20
18 percent of the value of the contract;

19 “(ii) for the second such failure by the of-
20 feror—

21 “(I) fine the offeror, in an amount
22 equal to 50 percent of the value of the con-
23 tract; and

1 “(II) debar the offeror from con-
2 tracting with the United States for a pe-
3 riod of 1 year; and

4 “(iii) for the third such failure by the of-
5 feror, debar the offeror from contracting with
6 the United States.

7 “(14) REPORTING BY SUBCONTRACTORS.—The Ad-
8 ministrators shall establish a reporting mechanism that al-
9 lows a subcontractor to report fraudulent activity by a
10 contractor with respect to a subcontracting plan submitted
11 to a procurement authority under paragraph (4)(B).”.

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