

118TH CONGRESS
2D SESSION

H. R. 9832

To make improvements to Federal contracting practices for disadvantaged small businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2024

Mr. IVEY (for himself, Mr. HORSFORD, and Mrs. BEATTY) introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committee on Oversight and Accountability, 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 make improvements to Federal contracting practices for disadvantaged small businesses, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Create Opportunities and Networks for Talented, Ready,
6 and Able Contractors To Succeed Act of 2024” or the
7 “CONTRACTS Act of 2024”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Database on contract awards to disadvantaged small businesses.
- Sec. 4. Outreach and recruitment to expand participation of disadvantaged small businesses in Federal contracting.
- Sec. 5. Determination of the date of commencement of participation in the 8(a) program.
- Sec. 6. Inclusion of concerns owned by HBCU business entities in definition of socially and economically disadvantaged small business concern.
- Sec. 7. Agency OSDBU technical assistance.
- Sec. 8. Federal disadvantaged small business task force.
- Sec. 9. Requirements relating to prompt payment, progress payments, and performance-based payments.
- Sec. 10. Reports on subcontractor engagement.
- Sec. 11. Modifications to subcontracting plans to enhance opportunities for small business concerns owned and controlled by socially and economically disadvantaged individuals.
- Sec. 12. Diversity and inclusion reporting requirements for covered contractors.
- Sec. 13. Chief Counsel for Advocacy report to Congress.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) 8(a) PROGRAM.—The term “8(a) Program”
 6 means the program described under section 8(a) of
 7 the Small Business Act (15 U.S.C. 637(a)).

8 (2) ADMINISTRATION; ADMINISTRATOR.—The
 9 terms “Administration” and “Administrator” mean
 10 the Small Business Administration and the Adminis-
 11 trator thereof, respectively.

12 (3) AGENCY OSDBU.—The term “Agency
 13 OSDBU” means the Office of Small and Disadvan-
 14 tagged Business Utilization (established pursuant to
 15 section 15(k) of the Small Business Act (15 U.S.C.
 16 644(k))) of a Federal agency.

1 (4) DEMOGRAPHIC CLASSIFICATIONS.—The
2 term “demographic classifications” means classifica-
3 tions by race, gender, veteran status, or ethnicity.

4 (5) DISADVANTAGED SMALL BUSINESS.—The
5 term “disadvantaged small business” means—

6 (A) a socially and economically disadvan-
7 tagged small business concern, as defined in sec-
8 tion 8(a)(4)(A) of the Small Business Act (15
9 U.S.C. 637(a)(4)(A));

10 (B) a small business concern owned and
11 controlled by socially and economically dis-
12 advantaged individuals, as defined in section
13 8(d)(3)(C) of the Small Business Act (15
14 U.S.C. 637(d)(3)(C)); or

15 (C) a small business concern owned and
16 controlled by a socially and economically dis-
17 advantaged individual covered under section
18 47113 of title 49, United States Code.

19 (6) MBDA UNDER SECRETARY.—The term
20 “MBDA Under Secretary” means the Under Sec-
21 retary of Commerce for Minority Business Develop-
22 ment of the Minority Business Development Agency
23 (established under section 100002 of the Minority
24 Business Development Act of 2021 (15 U.S.C.
25 9501)).

1 (7) SMALL BUSINESS CONCERN.—The term
 2 “small business concern” has the meaning given
 3 under section 3 of the Small Business Act (15
 4 U.S.C. 632).

5 (8) SMALL BUSINESS DEVELOPMENT CEN-
 6 TER.—The term “small business development cen-
 7 ter” has the meaning given in section 3 of the Small
 8 Business Act (15 U.S.C. 632).

9 **SEC. 3. DATABASE ON CONTRACT AWARDS TO DISADVAN-**
 10 **TAGED SMALL BUSINESSES.**

11 (a) DATABASE REQUIRED.—The head of each Agen-
 12 cy OSDBU shall establish and maintain a public online
 13 database that identifies each contract awarded by the Fed-
 14 eral agency under the 8(a) Program. Such database shall
 15 include the following:

16 (1) The aggregate number and dollar value of
 17 contracts awarded to socially and economically dis-
 18 advantaged small business concern (as defined in
 19 section 8(a)(4)(A) of the Small Business Act (15
 20 U.S.C. 637(a)(4)(A))) during the 3-year period pre-
 21 ceding the date of the enactment of Public Law 95–
 22 507, disaggregated by race and ethnic group.

23 (2) The aggregate number and dollar value of
 24 contracts awarded to disadvantaged small businesses
 25 pursuant to Public Law 95–507 during the 10-year

1 period preceding the date of the enactment of this
2 Act, disaggregated by race and ethnic group.

3 (3) Data on offers for Federal contracts sub-
4 mitted by a disadvantaged small business which has
5 previously been awarded a Federal contract or sub-
6 contract with the assistance of an Agency OSDDBU
7 during such 10-year period.

8 (b) FACTUAL AND HISTORICAL RECORD OF IN-
9 STANCES OF DISCRIMINATION AGAINST DISADVANTAGED
10 SMALL BUSINESSES.—

11 (1) RECORD REQUIRED.—The Administrator
12 shall establish a program under which the Adminis-
13 trator shall direct Federal departments and agen-
14 cies, in coordination with institutions of higher edu-
15 cation and other research organizations, to develop
16 and periodically update a factual and historical
17 record of instances of discrimination against dis-
18 advantaged small businesses desiring award of a
19 Federal contract or subcontract from such Federal
20 department or agency.

21 (2) ELEMENTS.—The record described in para-
22 graph (1) shall include the following:

23 (A) Operational barriers that disadvan-
24 tagged small businesses have historically experi-

1 enced in Federal contracting and subcon-
2 tracting.

3 (B) Qualitative and quantitative trends in
4 Federal contracting with disadvantaged small
5 businesses, disaggregated by North American
6 Industry Classification System code.

7 (C) Recommendations for Governmentwide
8 reforms to increase participation by disadvan-
9 tagged small businesses in Federal contracts and
10 the estimated qualitative and quantitative ef-
11 fects of such recommendations.

12 (c) USES OF DATABASE AND RECORD.—The data-
13 base required under subsection (a) or a record developed
14 under subsection (b) may be used—

15 (1) by the Administrator and heads of Federal
16 departments and agencies to develop procurement
17 policies, practices, and strategies that reduce dis-
18 crimination, establish contracting and subcon-
19 tracting goals for disadvantaged small businesses,
20 enhance contract compliance monitoring, and in-
21 crease disadvantaged small business participation in
22 Federal contracting and subcontracting by mecha-
23 nisms that may include dividing large contracts into
24 multiple smaller contracts, establishing mentor-
25 mentee relationships between businesses, and pairing

1 disadvantaged small businesses with larger busi-
2 nesses for partnering in contract fulfillment;

3 (2) by the head of a Federal department or
4 agency to substantiate an award of a contract under
5 the 8(a) Program;

6 (3) by the head of a Federal department or
7 agency to substantiate any contracting preference
8 program for disadvantaged small businesses admin-
9 istered by the Federal agency;

10 (4) by a disadvantaged small business that
11 seeks an award of a contract under the 8(a) Pro-
12 gram to develop a narrative of discrimination; and

13 (5) by a disadvantaged small business that re-
14 quires proof of discrimination for purpose of a judi-
15 cial or administrative action or by a person assisting
16 a disadvantaged small business for that purpose.

17 **SEC. 4. OUTREACH AND RECRUITMENT TO EXPAND PAR-**
18 **TICIPATION OF DISADVANTAGED SMALL**
19 **BUSINESSES IN FEDERAL CONTRACTING.**

20 (a) OUTREACH AND RECRUITMENT.—The Adminis-
21 trator, in coordination with the MBDA Under Secretary,
22 shall engage in outreach and education to expand partici-
23 pation of disadvantaged small businesses in Federal con-
24 tracting. Such efforts may include the following:

1 (1) Convening events to engage and inform dis-
2 advantaged small businesses, including—

3 (A) business, professional, and industry-
4 specific conferences;

5 (B) informational fairs; and

6 (C) networking events.

7 (2) Providing briefings and electronic or printed
8 materials to disadvantaged small businesses and to
9 national and local business associations and organi-
10 zations that represent disadvantaged small busi-
11 nesses about Federal contracting and subcontracting
12 opportunities and procedures, including opportuni-
13 ties to participate in mentor-protegee programs of
14 Federal agencies.

15 (3) Partnering with organizations that assist
16 disadvantaged small businesses, historically Black
17 colleges and universities, minority-serving institu-
18 tions, alumni networks of such colleges and univer-
19 sities and institutions, small business development
20 centers, and other organizations that have the ability
21 to facilitate relationships between prospective dis-
22 advantaged small business subcontractors and prime
23 contractors seeking subcontractors.

24 (4) Creating a publicly accessible online direc-
25 tory of disadvantaged small businesses that are sub-

1 contractors or that seek to become subcontractors,
2 including details about the North American Industry
3 Classification System code of such businesses, the
4 goods and services provided by such businesses, and
5 past performance information of such subcontractors.
6

7 (5) Creating a publicly accessible online direc-
8 tory of available Federal contracting and subcon-
9 tracting opportunities that, in the determination of
10 the Administrator, are appropriate for disadvan-
11 taged small businesses based on factors that may in-
12 clude the size or scope of the contract or sub-
13 contract, the North American Industry Classification
14 System code of the business, or other relevant fac-
15 tors.

16 (b) AGENCY OSDBUS.—Pursuant to guidelines es-
17 tablished by the Administrator, the Director of each Agen-
18 cy OSDBU shall engage in outreach and education to ex-
19 pand participation of disadvantaged small businesses in
20 contracts and subcontracts with the Federal agency. Such
21 activities shall include the following:

22 (1) Facilitating interactions between prospective
23 disadvantaged small business subcontractors and
24 prime contractors seeking subcontractors.

1 (2) Establishing a system to facilitate matching
2 prime contractors seeking subcontractors with pro-
3 spective disadvantaged small business subcontrac-
4 tors, including through the development of mentor-
5 mentee relationships.

6 (3) Advertising subcontracting opportunities
7 through media and business or trade association
8 channels that are effective in reaching prospective
9 disadvantaged small business subcontractors that
10 provide the goods or services for which the advertise-
11 ment is placed.

12 (4) Directing contracting officers to provide to
13 prime contractors seeking subcontractors a list of
14 prospective disadvantaged small business sub-
15 contractors that provide the needed goods or serv-
16 ices.

17 (5) Creating a publicly accessible online direc-
18 tory of disadvantaged small businesses that are eligi-
19 ble to participate in Federal contracting and subcon-
20 tracting opportunities that includes the North Amer-
21 ican Industry Classification System codes of such
22 businesses.

1 **SEC. 5. DETERMINATION OF THE DATE OF COMMENCE-**
2 **MENT OF PARTICIPATION IN THE 8(A) PRO-**
3 **GRAM.**

4 Section 7(j)(10)(C) of the Small Business Act (15
5 U.S.C. 636(j)(10)(C)) is amended—

6 (1) by redesignating clause (ii) as clause (iii);

7 and

8 (2) by inserting after clause (i) the following:

9 “(ii) A small business concern that has
10 commenced participation in the Program estab-
11 lished under this paragraph on or after the date
12 of the enactment of this clause, shall be consid-
13 ered to have begun such participation one year
14 before the date on which such concern has at-
15 tained, in the determination of the Adminis-
16 trator, the full benefits of participation in the
17 Program. Such determination may include con-
18 sideration of the date on which such concern
19 was first awarded a contract or subcontract be-
20 cause of participation of such concern in the
21 Program.”.

1 **SEC. 6. INCLUSION OF CONCERNS OWNED BY HBCU BUSI-**
2 **NESS ENTITIES IN DEFINITION OF SOCIALLY**
3 **AND ECONOMICALLY DISADVANTAGED**
4 **SMALL BUSINESS CONCERN.**

5 (a) HBCU BUSINESS ENTITY DEFINED.—Section
6 8(a) of the Small Business Act (15 U.S.C. 637(a)) is
7 amended by adding at the end the following new para-
8 graph:

9 “(21) HBCU BUSINESS ENTITY.—In this sub-
10 section, the term ‘HBCU business entity’ means an
11 entity owned and operated by a part B institution
12 (as defined under section 322 of the Higher Edu-
13 cation Act of 1965 (20 U.S.C. 1061); commonly re-
14 ferred to as a ‘historically Black college or univer-
15 sity’) for purposes of—

16 “(A) participation in interstate commerce;
17 or

18 “(B) participation in the program de-
19 scribed under section 8(a).”.

20 (b) INCLUSION IN DEFINITION OF SOCIALLY AND
21 ECONOMICALLY DISADVANTAGED SMALL BUSINESS CON-
22 CERN.—Section 8(a)(4) of the Small Business Act (15
23 U.S.C. 637(a)(4)) is amended—

24 (1) in subparagraph (A)—

25 (A) in clause (i)—

1 (i) in subclause (I), by striking the
2 comma at the end and inserting a semi-
3 colon;

4 (ii) in subclause (II), by striking “,
5 or” and inserting a semicolon;

6 (iii) in subclause (III), by striking “,
7 or” and inserting “; or”; and

8 (iv) by adding at the end the following
9 new subclause:

10 “(IV) a HBCU business entity;
11 or”; and

12 (B) in clause (ii)—

13 (i) in subclause (I), by striking the
14 comma at the end and inserting a semi-
15 colon;

16 (ii) in subclause (II), by striking “,
17 or” and inserting a semicolon;

18 (iii) in subclause (III), by striking the
19 period at the end and inserting “; or”; and

20 (iv) by adding at the end the following
21 new subclause:

22 “(IV) a HBCU business entity.”;
23 and

24 (2) in subparagraph (B)—

1 (A) in clause (i), by striking the comma at
 2 the end and inserting a semicolon;

3 (B) in clause (ii), by striking “, or” and
 4 inserting a semicolon;

5 (C) in clause (iii), by striking the period at
 6 the end and inserting “; or”; and

7 (D) by adding at the end the following new
 8 subclause:

9 “(IV) a HBCU business entity
 10 described in subparagraph (A)(i)(IV)
 11 or subparagraph (A)(ii)(IV).”.

12 (c) INCLUSION IN HUBZONE SMALL BUSINESS CON-
 13 CERN DEFINITION.—Section 31(b)(2) of the Small Busi-
 14 ness Act (15 U.S.C. 657a(b)(2))—

15 (1) in subparagraph (E)(ii), by striking “or” at
 16 the end;

17 (2) in subparagraph (F)(iii), by striking the pe-
 18 riod at the end and inserting “; or”; and

19 (3) by adding at the end the following new sub-
 20 paragraph:

21 “(G) a small business concern—

22 “(i) that is wholly owned by one or
 23 more HBCU business entities (as defined
 24 in section 8(a)(21)), or by a corporation

1 that is wholly owned by one or more
2 HBCU business entities; or

3 “(ii) that is owned in part by one or
4 more HBCU business entities, or by a cor-
5 poration that is wholly owned by one or
6 more HBCU business entities, if all other
7 owners are either United States citizens or
8 small business concerns.”.

9 **SEC. 7. AGENCY OSDBU TECHNICAL ASSISTANCE.**

10 Section 15(k) of the Small Business Act (15 U.S.C.
11 644(k)) is amended—

12 (1) in paragraph (16)—

13 (A) by redesignating subparagraphs (A)
14 through (D) as subparagraphs (B) through (E),
15 respectively; and

16 (B) by inserting before subparagraph (B)
17 (as so redesignated) the following:

18 “(A) the training provided by the Director
19 under paragraph (23) in the most recently com-
20 pleted fiscal year;”;

21 (2) in paragraph (21), by striking the period at
22 the end and inserting “; and”; and

23 (3) by adding at the end the following new
24 paragraphs:

1 “(22) shall provide or contract with an entity
2 (which may include a small business development
3 center) to provide, in coordination with the Under
4 Secretary of Commerce for Minority Business Devel-
5 opment of the Minority Business Development Agen-
6 cy (established under section 100002 of the Minority
7 Business Development Act of 2021), technical as-
8 sistance to small business concerns owned and con-
9 trolled by socially and economically disadvantaged
10 individuals (as defined under section 8(d)(3)(C)) or
11 socially and economically disadvantaged small busi-
12 ness concerns (as defined in section 8(a)(4)(A)) for
13 the development of individualized, specific narratives
14 of discrimination; and

15 “(23) shall provide or contract with an entity
16 (which may include a small business development
17 center) to provide training to prepare small business
18 concerns owned and controlled by socially and eco-
19 nomically disadvantaged individuals or socially and
20 economically disadvantaged small business concerns
21 to become better situated to submit an offer for a
22 contract offered under section 8(a).”.

1 **SEC. 8. FEDERAL DISADVANTAGED SMALL BUSINESS TASK**
2 **FORCE.**

3 (a) ESTABLISHMENT.—Not later than 4 months after
4 the date of the enactment of this Act, the President shall
5 establish a task force (in this section referred to as the
6 “Task Force”) to—

7 (1) make recommendations to increase opportu-
8 nities for disadvantaged small businesses in Federal
9 contracting and subcontracting;

10 (2) coordinate and optimize participation by
11 disadvantaged small business in Federal contracting
12 and subcontracting, including by—

13 (A) attempting to eliminate any discrimi-
14 nation against such businesses; and

15 (B) removing any barriers to participation
16 such participation;

17 (3) encourage compliance by prime contractors
18 with the requirements of covered Executive orders;

19 (4) expand outreach for Federal contracting
20 and subcontracting opportunities to disadvantaged
21 small businesses;

22 (5) enhance strategies to match disadvantaged
23 small businesses with prime contractors; and

24 (6) recommend policies or revisions to policies
25 relating to Federal contracting and subcontracting
26 for disadvantaged small businesses.

1 (b) MEMBERSHIP.—The members of the Task Force
2 shall include:

3 (1) The MBDA Under Secretary, who shall also
4 serve as the chair of the Task Force.

5 (2) The Administrator of the Small Business
6 Administration.

7 (3) The Administrator of the Office of Federal
8 Procurement Policy within the Office of Manage-
9 ment and Budget.

10 (4) The Director of the Domestic Policy Coun-
11 cil.

12 (5) The Administrator of General Services.

13 (6) The Secretary of Defense.

14 (7) The Secretary of Transportation.

15 (8) The Administrator of the National Aero-
16 nautics and Space Administration.

17 (9) The Secretary of the Treasury.

18 (10) The Secretary of Labor.

19 (11) The Secretary of Homeland Security.

20 (12) The Secretary of Housing and Urban De-
21 velopment.

22 (13) The Secretary of Agriculture.

23 (14) The heads of such other Federal agencies
24 or offices as the President may designate.

1 (c) MEETINGS.—The Task Force shall meet not later
2 than 3 months after the date of establishment and not
3 less frequently than once every 3 months thereafter until
4 the termination date. To the extent practicable, each meet-
5 ing of the Task Force shall include a presentation by at
6 least one representative from an institution of higher edu-
7 cation (as defined in section 101 of the Higher Education
8 Act of 1965 (20 U.S.C. 1001)) or other research organiza-
9 tion with expertise in matters related to—

10 (1) the duties of the Task Force;

11 (2) the legal basis for the processes and find-
12 ings of the Task Force;

13 (3) historical or current discrimination in Fed-
14 eral contracting against disadvantaged small busi-
15 nesses; or

16 (4) potential remedies to historical or current
17 discrimination in Federal contracting against dis-
18 advantaged small businesses.

19 (d) DUTIES.—The duties of the Task Force shall in-
20 clude determining the following:

21 (1) Best practices among Federal agencies to
22 promote participation in Federal contracting and
23 subcontracting for disadvantaged small businesses,
24 including practices described in section 4.

1 (2) The needs of disadvantaged small busi-
2 nesses that desire to participate in the 8(a) Program
3 and any contracting programs for disadvantaged
4 small businesses administered by a Federal agency.

5 (3) Methods and initiatives to expand the par-
6 ticipation of disadvantaged small businesses in Fed-
7 eral contracting and subcontracting, including by
8 unbundling large contracts into separate smaller
9 contracts, by increasing flexibility for such busi-
10 nesses to demonstrate eligibility for Federal con-
11 tracts and subcontracts and to demonstrate past
12 performance of a same or similar contract, and by
13 enforcing compliance by prime contractors with the
14 requirements of covered Executive orders.

15 (4) Methods and initiatives to expand access to
16 capital, credit, surety bonds, loan guarantees, finan-
17 cial training, and credit counseling for disadvan-
18 taged small businesses.

19 (5) Strategies to improve the compliance of
20 Federal agencies with contracting and subcon-
21 tracting objectives set forth in the Executive Order
22 13985 titled “Advancing Racial Equity and Support
23 for Underserved Communities Through the Federal
24 Government” (86 Fed. Reg. 7009), including the fol-
25 lowing:

1 (A) For Federal agencies that fail to meet
2 such objectives—

3 (i) opportunities for training of con-
4 tracting officers on how to increase the
5 number of contracts awarded to disadvan-
6 taged small businesses; and

7 (ii) commencing a study led by the In-
8 spector General for such Federal agency to
9 determine the causes of such failure, evalu-
10 ate disadvantaged small business participa-
11 tion in prime contracts, and make rec-
12 ommendations for improvement.

13 (B) For Federal agencies that meet such
14 objectives, incentives to assist such Federal
15 agencies to exceed such objectives.

16 (e) REPORTS.—

17 (1) ACTIVITIES AND FINDINGS REPORT.—Not
18 later than 4 months after the first meeting date of
19 the Task Force, and biannually thereafter, the chair
20 of the Task Force shall submit to Congress a report
21 on the activities and findings of the Task Force and
22 any recommendations to increase participation of
23 disadvantaged small businesses in Federal con-
24 tracting and subcontracting.

1 (2) DISPARITY STUDY REPORT.—Not later than
2 12 months after the first meeting date of the Task
3 Force, the chair of the Task Force shall submit to
4 Congress a report on the results of a study on dis-
5 advantaged small businesses that includes—

6 (A) a quantitative and qualitative analysis
7 of the disadvantaged small businesses that are
8 eligible to perform Federal contracts and sub-
9 contracts that were offered during the 5-year
10 period beginning on the date of the establish-
11 ment of the Task Force under this section;

12 (B) the number and the North American
13 Industry Classification System code of each
14 such business that submitted an offer (or bid)
15 for a contracting or subcontracting opportunity
16 during such period, including information re-
17 garding contracts and subcontracts that each
18 such business was previously awarded;

19 (C) the number of such businesses that
20 were awarded such Federal contracts and sub-
21 contracts; and

22 (D) any conclusions regarding the pres-
23 ence, absence, or extent of discrimination
24 against, or underrepresentation of, disadvan-
25 taged small businesses (disaggregated by demo-

1 graphic classification) in Federal contracting
2 and subcontracting.

3 (f) TERMINATION DATE.—The Task Force estab-
4 lished under this section shall terminate on the date that
5 is 10 years after the first meeting date of the Task Force.

6 (g) COVERED EXECUTIVE ORDER DEFINED.—In this
7 section, the term “covered Executive Order” means the
8 following:

9 (1) Executive Order 13985, titled “Advancing
10 Racial Equity and Support for Underserved Commu-
11 nities Through the Federal Government” (January
12 20, 2021).

13 (2) Executive Order 14035, titled “Diversity,
14 Equity, Inclusion, and Accessibility in the Federal
15 Workforce” (June 25, 2021).

16 (3) Executive Order 14091, titled “Further Ad-
17 vancing Racial Equity and Support for Underserved
18 Communities Through The Federal Government”
19 (February 16, 2023).

20 **SEC. 9. REQUIREMENTS RELATING TO PROMPT PAYMENT,**
21 **PROGRESS PAYMENTS, AND PERFORMANCE-**
22 **BASED PAYMENTS.**

23 (a) DISCLOSURES FOR PAYMENTS ON CERTAIN CON-
24 TRACTS.—

1 (1) IN GENERAL.—Chapter 39 of title 31,
2 United States Code, is amended by inserting after
3 section 3905 the following:

4 **“SEC. 3906. DISCLOSURES FOR PROMPT PAYMENTS ON**
5 **CERTAIN CONTRACTS.**

6 “(a) IN GENERAL.—Each covered contract shall in-
7 clude a clause that requires the prime contractor to in-
8 clude in each subcontract entered into by the prime con-
9 tractor and a subcontractor for the purpose of performing
10 such covered contract—

11 “(1) a payment clause which obligates the
12 prime contractor to pay the subcontractor (at any
13 tier) for satisfactory performance under its sub-
14 contract within 14 calendar days of receipt of pay-
15 ment from the agency; and

16 “(2) an interest penalty clause which obligates
17 the prime contractor to pay to the subcontractor (at
18 any tier) an interest penalty on amounts due in the
19 case of each payment not made in accordance with
20 the payment clause described in paragraph (1)—

21 “(A) for the period beginning on the day
22 after the required payment date and ending on
23 the date on which payment of the amount due
24 is made; and

1 “(B) computed at the rate specified by sec-
 2 tion 3902(a) of this title.

3 “(b) COVERED CONTRACT DEFINED.—In this sec-
 4 tion, the term ‘covered contract’ means a contract award-
 5 ed by the head of an agency to a prime contractor that
 6 is not a disadvantaged small business (as defined in the
 7 CONTRACTS Act of 2024) with a proposed value greater
 8 than the simplified acquisition threshold.”.

9 (2) CLERICAL AMENDMENT.—The table of con-
 10 tents for chapter 39 of title 31, United States Code,
 11 is amended by inserting after the item relating to
 12 section 3905 the following:

“3906. Disclosures for payments on certain contracts.”.

13 (b) DISCLOSURES; REPORTS; EVALUATIONS.—

14 (1) DISCLOSURE.—The head of a Federal agen-
 15 cy shall include in any contract terms, and in any
 16 modification to such contract, a requirement that a
 17 prime contractor disclose to each potential subcon-
 18 tractor that is a disadvantaged small business—

19 (A) whether the prime contractor is receiv-
 20 ing progress payments or performance-based
 21 payments under such contract; and

22 (B) whether the prime contractor will pro-
 23 vide progress payments to a subcontractor for
 24 such contract.

1 (2) ACKNOWLEDGMENT.—The prime contractor
2 shall ensure that each potential subcontractor in re-
3 ceipt of a disclosure described in paragraph (1) sub-
4 mits to such prime contractor a signed acknowledg-
5 ment of receipt of such disclosure.

6 (3) SUBCONTRACTING REPORTS.—A prime con-
7 tractor for a Federal contract shall include in any
8 subcontracting reports required to be submitted
9 under Section 8(d)(6)(E) of the Small Business Act
10 (15 U.S.C. 637(d)(6)(E)) verification of the timely
11 remittance of any payments to each subcontractor of
12 such prime contractor.

13 (4) PERFORMANCE EVALUATIONS.—The head
14 of a Federal agency shall include in any contract
15 performance evaluation of a prime contractor for
16 such contract an evaluation of the prime contractor's
17 compliance with the requirements of this subsection
18 and the requirements of section 3906 of title 31,
19 United States Code.

20 (5) SUBSEQUENT CONTRACT INELIGIBILITY.—
21 If a prime contractor submits an offer for a subse-
22 quent contract to the head of a Federal agency
23 through a sealed bid or negotiated acquisition pro-
24 posal and such head determines such contractor is
25 not in compliance with paragraph (1), such head

1 may not award the subsequent contract to such con-
2 tractor—

3 (A) until such contractor is in compliance
4 with paragraph (1), as determined by such
5 head; and

6 (B) unless such head determines that such
7 award is in the national interest.

8 **SEC. 10. REPORTS ON SUBCONTRACTOR ENGAGEMENT.**

9 (a) IN GENERAL.—Section 8(d) of the Small Busi-
10 ness Act (15 U.S.C. 637(d)) is amended by adding at the
11 end the following new paragraph:

12 “(18) REPORTS ON SUBCONTRACTOR ENGAGE-
13 MENT.—

14 “(A) IN GENERAL.—Each prime contractor
15 that is not a disadvantaged small business that
16 has been awarded a major prime contract shall
17 submit to the head of the Federal agency that
18 awarded such contract an annual report on sub-
19 contracts awarded pursuant to such contract,
20 including—

21 “(i) the total number of subcontracts
22 awarded under the contract;

23 “(ii) the number of subcontracts and
24 a description of such subcontracts awarded
25 to disadvantaged small businesses,

disaggregated by demographic characteristics, including the North American Industry Classification System code for each such business;

“(iii) the total dollar value of payments made to subcontractors; and

“(iv) the total dollar value of payments made to disadvantaged small businesses, disaggregated by demographic characteristics.

“(B) DEFINITIONS.—In this paragraph:

“(i) CONTRACTS ACT OF 2024 DEFINITIONS.—The terms ‘demographic characteristics’ and ‘disadvantaged small business’ have the meanings given, respectively, in the CONTRACTS Act of 2024.

“(ii) MAJOR PRIME CONTRACT.—The term ‘major prime contract’ means—

“(I) the 50 highest dollar value prime contracts of a Federal agency; and

“(II) each contract of a Federal agency that has a total dollar value greater than or equal to \$10,000,000.”.

1 (b) APPLICABILITY.—This section and the amend-
2 ments made by this section shall apply with respect to a
3 major prime contract (as defined in section 8(d)(18) of
4 the Small Business Act (15 U.S.C. 637(d))) entered into
5 on or after the date of the enactment of this section.

6 **SEC. 11. MODIFICATIONS TO SUBCONTRACTING PLANS TO**
7 **ENHANCE OPPORTUNITIES FOR SMALL BUSI-**
8 **NESS CONCERNS OWNED AND CONTROLLED**
9 **BY SOCIALLY AND ECONOMICALLY DIS-**
10 **ADVANTAGED INDIVIDUALS.**

11 (a) IN GENERAL.—Each covered person that is re-
12 quired to submit a subcontracting plan under paragraph
13 (4) or (5) of section 8(d) of the Small Business Act (15
14 U.S.C. 637(d)) for a contract shall update such subcon-
15 tracting plan to include the following:

16 (1) The names, addresses, phone numbers,
17 types of business, and North American Industrial
18 Classification System code of the small business con-
19 cerns owned and controlled by socially and economi-
20 cally disadvantaged individuals, disaggregated by de-
21 mographic characteristics, that were considered or
22 solicited as subcontractors.

23 (2) With respect to such concerns that were
24 considered or solicited but not included in the up-

1 dated subcontracting plan, the reasons for the deci-
2 sion not to include such concerns.

3 (3) Information on the process and efforts of
4 the covered person in developing such subcontracting
5 plan, including—

6 (A) the actions taken by the covered per-
7 son to identify, solicit, and provide outreach to
8 small business concerns owned and controlled
9 by socially and economically disadvantaged indi-
10 viduals for possible inclusion in its subcon-
11 tracting plan;

12 (B) the information provided by the cov-
13 ered person to such concerns about subcon-
14 tracting opportunities under the contract;

15 (C) the means by which the subcontractors
16 that were included in the subcontracting plan
17 were selected by the covered person; and

18 (D) the directories or lists of small busi-
19 ness concerns owned and controlled by socially
20 and economically disadvantaged individuals,
21 websites and website search tools, business or
22 professional associations, industry databases,
23 and other resources that the covered person
24 consulted or used to identify such concerns for
25 possible inclusion in the subcontracting plan.

1 (4) A description of the plans of the covered
2 person to—

3 (A) increase the number of disadvantaged
4 small businesses in the subcontracting plan for
5 subsequent years of contract performance; and

6 (B) increase the dollar amount under the
7 contract allocated for goods and services pro-
8 vided by such concerns.

9 (b) ENFORCEMENT.—

10 (1) COMPLIANCE WITH SUBCONTRACTING
11 PLAN.—A covered person described in subsection (a)
12 that is awarded a prime contract and granted a
13 modification of a contract by the head of a Federal
14 agency under such subsection shall remain in com-
15 pliance with the terms of the updated subcontracting
16 plan during the term of performance of the contract
17 before receiving any amounts related to such modi-
18 fication.

19 (2) SUBSEQUENT CONTRACT INELIGIBILITY.—
20 If a covered person described in paragraph (1) sub-
21 mits an offer for a subsequent contract to such head
22 of a Federal agency through a sealed bid or nego-
23 tiated acquisition proposal and such head determines
24 such covered person is not in compliance with a sub-
25 contracting plan described in subsection (a), such

1 head may not award the subsequent contract to such
2 contractor—

3 (A) until such covered person is in compli-
4 ance with subsection (a), as determined by such
5 head; and

6 (B) unless such head determines that such
7 award is in the national interest.

8 (3) SUBSEQUENT CONTRACT OFFER SCORES.—

9 (A) ADJUSTMENT TO SCORE.—If a covered
10 person described in paragraph (1) submits an
11 offer for a subsequent contract to such head of
12 a Federal agency through a sealed bid or nego-
13 tiated acquisition proposal, the evaluation score
14 of the contracting officer given to such offer
15 shall be adjusted as follows:

16 (i) For a covered person that achieved
17 subcontractor diversity in the performance
18 of the prior contract, such score shall be
19 increased by one point.

20 (ii) For a covered person that failed
21 to achieve subcontractor diversity in the
22 performance of the prior contract, such
23 score shall be decreased by one point.

24 (B) SUBCONTRACTOR DIVERSITY DETER-
25 MINATION.—For purposes of this paragraph,

1 the contracting officer that awarded the covered
2 person a contract under subsection (a) shall
3 make a determination as to whether the covered
4 person achieved subcontractor diversity using
5 the information in the subcontracting plan of
6 the covered person and the standards used by
7 such contracting officer to evaluation subcon-
8 tractor diversity.

9 (c) ACCOUNTABILITY.—The appropriate head of a
10 Federal agency shall consider the performance of a con-
11 tracting officer of responsibilities under this section in any
12 evaluation of the performance of the contracting officer,
13 including such contracting officer's—

14 (1) collection and analysis of prime contractor
15 data to assess subcontractor diversity (as described
16 in subsection (b)(3)(B));

17 (2) failure to identify a covered person's failure
18 to achieve subcontractor diversity or to comply with
19 an applicable subcontracting plan; and

20 (3) efforts for monitoring and determinations
21 regarding the receipt of payments by disadvantaged
22 small business subcontractors from prime contrac-
23 tors in accordance with relevant contractual terms.

24 (d) APPLICABILITY.—This section and the require-
25 ments of this section shall apply with respect to a subcon-

1 tracting plan entered into on or after the date of the en-
 2 actment of this section.

3 (e) DEFINITIONS.—In this section:

4 (1) The term “small business concerns owned
 5 and controlled by socially and economically disadvan-
 6 taged individuals” has the meaning given under sec-
 7 tion 8(d)(3)(C) of the Small Business Act (15
 8 U.S.C. 637(d)(3)(C)).

9 (2) The term “covered person” means an ap-
 10 parently successful offeror, bidder for a contract, or
 11 contractor seeking a modification of a contract.

12 **SEC. 12. DIVERSITY AND INCLUSION REPORTING REQUIRE-**
 13 **MENTS FOR COVERED CONTRACTORS.**

14 (a) GOVERNMENTWIDE REQUIREMENT.—Chapter 47
 15 of division C of subtitle I of title 41, United States Code,
 16 is amended by inserting after section 4714 the following
 17 new section:

18 **“§ 4715. Diversity and inclusion reporting require-**
 19 **ments for covered contractors**

20 **“(a) COVERED CONTRACTOR REPORTS.—**

21 **“(1) IN GENERAL.—**The head of each executive
 22 agency shall require each covered contractor award-
 23 ed a major contract to submit to such head by the
 24 last day of each full fiscal year that occurs during

1 the period of performance of any major contract a
2 report on diversity and inclusion.

3 “(2) ELEMENTS.—Each report under para-
4 graph (1) shall include, for the fiscal year covered by
5 the report the following:

6 “(A) A description of each major contract
7 with a period of performance during the fiscal
8 year covered by the report, including the period
9 of performance, expected total value, and value
10 to date of each major contract.

11 “(B) The total value of payments received
12 under all major contracts of each covered con-
13 tractor during such fiscal year.

14 “(C) The total number of participants in
15 the board of directors of each covered con-
16 tractor, nominees for the board of directors of
17 the covered contractor, and the senior leaders of
18 the covered contractor, disaggregated by demo-
19 graphic classifications.

20 “(D) With respect to employees of each
21 covered contractor—

22 “(i) the total number of such employ-
23 ees; and

24 “(ii) the number of such employees
25 (expressed as a numeral and as a percent-

1 age of the total number), disaggregated by
2 demographic classification and major occu-
3 pational group.

4 “(E) The value of first-tier subcontracts
5 under each major contract entered into during
6 such fiscal year.

7 “(F) With respect to employees of each
8 covered subcontractor—

9 “(i) the total number of such employ-
10 ees; and

11 “(ii) the number of such employees
12 (expressed as a numeral and as a percent-
13 age of the total number), disaggregated by
14 demographic classification and major occu-
15 pational group.

16 “(G) Whether the board of directors of the
17 covered contractor has, as of the date on which
18 the covered contractor submits a report under
19 this section, adopted any policy, plan, or strat-
20 egy to promote racial, ethnic, and gender diver-
21 sity among the members of the board of direc-
22 tors of the covered contractor, nominees for the
23 board of directors of the covered contractor, or
24 the senior leaders of the covered contractor.

1 “(H) A description of participation by the
2 contractor in diversity programs, to include the
3 number of hours spent implementing, funds ex-
4 pended in support of, and the number of unique
5 relationships established by each such diversity
6 program.

7 “(b) ANNUAL SUMMARY REPORT.—

8 “(1) REPORT REQUIRED.—Not later than 60
9 days after the first day of each fiscal year, the head
10 of each executive agency shall submit to each rel-
11 evant committee of Congress a report that summa-
12 rizes the reports submitted pursuant to subsection
13 (a).

14 “(2) ELEMENTS.—Each report under para-
15 graph (1) shall include the following:

16 “(A) An index of the reports submitted
17 pursuant to subsection (a).

18 “(B) A compilation of the data described
19 in such subsection, disaggregated as described
20 in such subsection.

21 “(C) An aggregation of the data provided
22 in such reports.

23 “(D) A narrative that analyzes the infor-
24 mation disclosed in such reports and identifies
25 any year-to-year trends in such information.

1 “(c) PUBLIC AVAILABILITY.—Each report required
 2 under this subsection shall be posted on a single publicly
 3 available website of the relevant executive agency and
 4 made available in a machine-readable format that is
 5 downloadable, searchable, and sortable.

6 “(d) EXECUTIVE AGENCY.—Notwithstanding section
 7 3101(c)(1) of this title, this section applies to the Depart-
 8 ment of Defense, the Coast Guard, and the National Aero-
 9 nautics and Space Administration.

10 “(e) DEFINITIONS.—In this section:

11 “(1) COVERED CONTRACTOR.—The term ‘cov-
 12 ered contractor’ means a contractor awarded a
 13 major contract.

14 “(2) COVERED SUBCONTRACTOR.—The term
 15 ‘covered subcontractor’ means a subcontractor per-
 16 forming a subcontract that is one of the 10 highest
 17 aggregate value subcontracts under a major contract
 18 and any subcontract that has a total dollar value of
 19 \$10,000,000 or more.

20 “(3) DEMOGRAPHIC CLASSIFICATIONS.—The
 21 term ‘demographic classifications’ means classifica-
 22 tions by race, gender, veteran status, or ethnicity.

23 “(4) DIVERSITY PROGRAM.—The term ‘diver-
 24 sity program’ means—

1 “(A) any contracting program of an execu-
2 tive agency that awards contracts pursuant to
3 section 8(a) of the Small Business Act (15
4 U.S.C. 637(a)); and

5 “(B) any contracting program for dis-
6 advantaged small businesses (as defined in the
7 CONTRACTS Act of 2024) administered by
8 the executive agency.

9 “(5) MAJOR CONTRACT.—The term ‘major con-
10 tract’ means—

11 “(A) the largest 50 contracts (by total dol-
12 lar value) of each agency; and

13 “(B) each contract that has a total dollar
14 value of \$10,000,000 or more.

15 “(6) MAJOR OCCUPATIONAL GROUP.—The term
16 ‘major occupational group’ means a major occupa-
17 tional group as defined by the Bureau of Labor Sta-
18 tistics.

19 “(7) SENIOR LEADER.—The term ‘senior lead-
20 er’ means—

21 “(A) the president of a covered contractor;

22 “(B) any vice president in charge of a
23 principal business unit, division, or function of
24 a covered contractor;

1 “(C) any other officer of a covered con-
 2 tractor who performs a policy-making function;
 3 or

4 “(D) an individual responsible for the di-
 5 rect or indirect management of more than 200
 6 individuals.”.

7 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—
 8 The table of sections for chapter 47 of division C of sub-
 9 title I of title 41, United States Code, is amended by in-
 10 serting after the item for section 4714 the following new
 11 item:

“Sec. 4715. Diversity and inclusion reporting requirements for covered con-
 tractors.”.

12 (c) **APPLICABILITY.**—The amendments made by this
 13 section shall apply with respect to contracts entered into
 14 on or after January 1, 2025.

15 **SEC. 13. CHIEF COUNSEL FOR ADVOCACY REPORT TO CON-**
 16 **GRESS.**

17 Not later than 1 year after the date of the enactment
 18 of this Act and annually thereafter, the Chief Counsel for
 19 Advocacy of the Office of Advocacy of the Small Business
 20 Administration shall submit to Congress a report evalu-
 21 ating the implementation of this Act and the amendments
 22 made by this Act and the effects on Federal contracting

- 1 and subcontracting opportunities for disadvantaged small
- 2 businesses.

