



## Legislative Bulletin.....October 30, 2007

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#### **H.R. 3867**—Amendments to the Small Business Contracting Program Improvements Act

H.R. 3867, the Small Business Contracting Program Improvements Act (sponsored by Rep. Nydia Velazquez, D-NY), is scheduled to be considered on the House floor on Tuesday, October 30, 2007, subject to a structured rule ([H.Res. 773](#)), making in order the following ten amendments, each debatable for ten minutes, except where indicated.

The rule waives all points of order against consideration of the bill, except those regarding PAYGO and earmarks, waives all points of order against the bill itself—except PAYGO—and allows the Chair to postpone consideration of the legislation at any time during its consideration. The rule allows one motion to recommit with or without instructions.

Note: The summaries below are based on RSC staff’s review of *actual amendment text* (and thus differ from what’s on the Rules Committee website). For a summary of the underlying bill, see a separate RSC document released yesterday.

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### **AMENDMENTS MADE IN ORDER**

**Akin (R-MO):** Requires the Administrator of the Small Business Administration (SBA) to conduct a study to determine what changes would be required to provide greater contracting assistance to the participants of the section 8(a) program with the least amount of equity in their business. The Administrator would be required to submit the report to the appropriate Senate and House Committees.

Currently, 50 percent of all contracting assistance through section 8(a) programs goes to 1.7 percent of eligible participants.

**Baird (D-WA):** Requires the Administrator of the SBA to conduct a study to determine whether the list of groups considered “socially disadvantaged” under section 8(a) should be expanded.

**Brown-Waite (R-FL):** Establishes a liaison within the SBA to ensure that section 2(i) of the Small Business Act, which prohibits assistance to individuals who are illegal in the United States, is carried out.

**Gillibrand (D-NY):** Prohibits an employer who has been found to knowingly hire unauthorized aliens from receiving contracts or awards through SBA contracting programs.

**Lampson (D-TX):** Prohibits the use of any funds made available through SBA contracting programs for the purchase of business-class or first-class airline tickets unless no other ticket is available or such a ticket is necessary to accommodate a disability.

**Mica (R-FI):** Clarifies that Small Business Act set-aside programs do not exclude federal acquisition contracts under any Federal Supply Schedule or Multiple Award Schedule.

**Mica (R-FL):** Expresses the sense of the House that “small business set-asides should not be excluded from any acquisition under the General Services Administration’s Federal Supply Schedule.”

The amendment also states the following findings:

- “The Small Business Act was adopted by Congress to ensure that small business concerns receive fair access to, and a fair share of, Federal government contracts and subcontracts;
- “There is a disagreement between the General Services Administration and the Small Business Administration of whether the Small Business Act applies to the acquisition under the General Services Administration’s Federal Supply Schedule, which account for over \$30,000,000,000 in procurement dollars awarded each year; and
- “As demonstrated in proceedings of the White House Acquisition Advisory Panel, small businesses hold 79.6 percent of contracts under the Federal Supply Schedule, but receive only 37.1 percent of dollars awarded under the Federal Supply Schedule, and this disparity has a significant impact on the competitive viability of small business concerns in government contracting.”

**Moran (D-VA):** Requires the Administrator of the SBA to conduct a study to determine whether current government contractors are submitting frivolous protests against contract awards to small businesses in order to extend the duration of their existing contract. The amendment would require the Administrator to develop recommendations to discourage frivolous protests and report the findings to Congress within 180 days.

**Velazquez (D-NY):** Requires that severely disabled veterans be given special consideration when agencies develop contracting regulations.

The amendment also requires a background check on the owners of any small business receiving SBA contracting assistance to determine that the owners “do not lack business integrity.” For the purposes of such a determination, previous criminal convictions will create a presumption of a lack of business integrity.

Finally, the amendment expands the ability of small business to challenge the eligibility of other businesses and clarifies the term “underrepresented industries” with respect to the women’s procurement program to mean:

- Forestry

- Mining
- Utilities
- Construction
- Manufacturing
- Wholesale Trade
- Information
- Finance and Insurance
- Real Estate
- Professional, Scientific, and Technical Services
- Waste Management
- Education Services
- Health Care and Social Assistance
- Arts, Entertainment and Recreation
- Accommodation and Food Services
- Other Services

**Welch (D-VT):** Requires the Director of the Office of Management and Budget to develop and put into writing prompt payment policy for subcontractors that obtain federal contracts. Requires each federal agency to provide a copy of the policy to each contractor and requires each contractor to provide a copy to each subcontractor.