

HR 1873

Small Business Fairness in Contracting Act

Congress: 110 (2007–2009, Ended)

Chamber: House

Policy Area: Commerce

Introduced: Apr 17, 2007

Current Status: Received in the Senate and Read twice and referred to the Committee on Small Business and Entrepreneurship

Latest Action: Received in the Senate and Read twice and referred to the Committee on Small Business and Entrepreneurship. (May 11, 2007)

Official Text: <https://www.congress.gov/bill/110th-congress/house-bill/1873>

Sponsor

Name: Rep. Braley, Bruce L. [D-IA-1]

Party: Democratic • **State:** IA • **Chamber:** House

Cosponsors (29 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Chabot, Steve [R-OH-1]	R · OH		Apr 17, 2007
Rep. Velazquez, Nydia M. [D-NY-12]	D · NY		Apr 17, 2007
Rep. Bartlett, Roscoe G. [R-MD-6]	R · MD		Apr 20, 2007
Rep. Buchanan, Vern [R-FL-13]	R · FL		Apr 20, 2007
Rep. Davis, David [R-TN-1]	R · TN		Apr 20, 2007
Rep. Johnson, Henry C. "Hank," Jr. [D-GA-4]	D · GA		Apr 20, 2007
Rep. Moore, Gwen [D-WI-4]	D · WI		Apr 20, 2007
Rep. Altmire, Jason [D-PA-4]	D · PA		Apr 23, 2007
Rep. Clarke, Yvette D. [D-NY-11]	D · NY		Apr 23, 2007
Rep. Cuellar, Henry [D-TX-28]	D · TX		Apr 23, 2007
Rep. Ellsworth, Brad [D-IN-8]	D · IN		Apr 23, 2007
Rep. Fallin, Mary [R-OK-5]	R · OK		Apr 23, 2007
Rep. Fortenberry, Jeff [R-NE-1]	R · NE		Apr 23, 2007
Rep. Graves, Sam [R-MO-6]	R · MO		Apr 23, 2007
Rep. Grijalva, Raúl M. [D-AZ-7]	D · AZ		Apr 23, 2007
Rep. Heller, Dean [R-NV-2]	R · NV		Apr 23, 2007
Rep. Jefferson, William J. [D-LA-2]	D · LA		Apr 23, 2007
Rep. Musgrave, Marilyn N. [R-CO-4]	R · CO		Apr 23, 2007
Rep. Sestak, Joe [D-PA-7]	D · PA		Apr 23, 2007
Rep. Shuler, Heath [D-NC-11]	D · NC		Apr 23, 2007
Rep. Shuster, Bill [R-PA-9]	R · PA		Apr 23, 2007
Rep. Westmoreland, Lynn A. [R-GA-3]	R · GA		Apr 23, 2007
Rep. Lipinski, Daniel [D-IL-3]	D · IL		Apr 24, 2007
Rep. Michaud, Michael H. [D-ME-2]	D · ME		Apr 24, 2007
Rep. Bean, Melissa L. [D-IL-8]	D · IL		Apr 25, 2007
Rep. Gonzalez, Charles A. [D-TX-20]	D · TX		Apr 25, 2007
Rep. Jordan, Jim [R-OH-4]	R · OH		Apr 25, 2007
Rep. Larsen, Rick [D-WA-2]	D · WA		Apr 25, 2007
Rep. Reyes, Silvestre [D-TX-16]	D · TX		Apr 25, 2007

Committee Activity

Committee	Chamber	Activity	Date
Oversight and Government Reform Committee	House	Reported By	May 8, 2007
Small Business and Entrepreneurship Committee	Senate	Referred To	May 11, 2007
Small Business Committee	House	Reported By	Apr 26, 2007

Subjects & Policy Tags

Policy Area:

Commerce

Related Bills

Bill	Relationship	Last Action
110 HRES 383	Procedurally related	May 9, 2007: Motion to reconsider laid on the table Agreed to without objection.

Small Business Fairness in Contracting Act - **Title I: Contract Bundling** - (Sec. 101) Amends the Small Business Act to redefine the term "bundled contract" as a contract or order entered into to meet procurement requirements that are consolidated in a bundling of contract requirements, without regard to its designation by the procuring agency or whether a study of the effects of the solicitation on civilian or military personnel has been made. Expands the definition of "bundling of contract requirements" to cover construction services, and to cover a combination of contract requirements that would meet the definition of a bundling if it were not for the addition of a procurement requirement with at least one new good or service if the new features or functions do not substantially transform the goods or services previously performed. Makes the revised and expanded definitions inapplicable to contracts for construction services under \$65 million or under \$5 million for all other types of contracts.

(Sec. 102) Requires a procurement contracting agency to provide the small business representative of that agency identifying information on incumbent contract holders, a description of the industries which might be interested in bidding on the contract requirements, and the number of small businesses listed in the industry categories that could be excluded from future bidding if the contract is combined or packaged.

Allows the Administrator of the Small Business Administration (SBA), if there is cause to believe a contract combines requirements or a contract or task or delivery order for construction services or includes unjustified bundling, to request a statement of work for goods and services, and to request that the solicitation process be postponed ten days to allow the Administrator to review the statement and make recommendations.

(Sec. 103) Allows a small business adversely affected by a proposed procurement, or trade association acting on behalf of the small business, to request that the SBA take actions to further the interests of that small business.

(Sec. 104) Requires the SBA, whenever the SBA and the contracting procurement agency fail to agree on a bundling issue, to submit the matter to the head of the agency for a determination and the head of the agency to provide a written response to the SBA, with a copy of such response also being provided to specified congressional committees.

Title II: Increasing the Number of Small Business Contracts and Subcontracts - (Sec. 201) Increases from: (1) 23% to 25% the government-wide small business procurement contract goal; and (2) 5% to 8% the government-wide procurement goal for small disadvantaged businesses and women-owned businesses.

(Sec. 202) Includes overseas contracts within such small business procurement goals.

(Sec. 203) Requires the President, before the close of each fiscal year, to establish new government-wide procurement goals for the following fiscal year.

(Sec. 204) Allows a small business to be counted toward one additional procurement category goal (small businesses owned by service-disabled veterans, socially and economically disadvantaged individuals, qualified HUBZone businesses, and small businesses owned and controlled by women) only, even if the small business would otherwise qualify under more than one goal.

(Sec. 205) Requires the head of each federal agency to submit to the Administrator and Congress a plan explaining how the agency intends to meet its small business procurement goals.

(Sec. 206) Requires the maximum value of the small business threshold to be raised to that of the simplified acquisition

threshold, adjusted annually for inflation.

(Sec. 207) Directs the Administrator to require each prime contractor to report small business subcontract usage at all tiers based on the percentage of the total dollar amount of the contract award.

(Sec. 208) Requires the Administrator to develop and maintain a password-protected database to enable the SBA to assist small businesses in marketing to large corporations that have not achieved their small business procurement goals.

(Sec. 209) Directs the Administrator to ensure that whenever a small business enters its information in the Central Contractor Registry (or any successor registry), the Administrator contacts that business within 30 days regarding the likelihood of federal contracting opportunities.

(Sec. 210) Directs the SBA, after an opportunity for notice and comment, to begin modifications to the Electronic Subcontracting Reporting System (ESRS) for the purpose of tracking companies' compliance with small business subcontracting plans included in successful contract bids. Allows for review of a company's record of compliance. Requires periodic prime contractor reports concerning such compliance. States that ESRS and its information shall be available to boards evaluating contract proposals, and requires agencies to take into consideration the compliance records of companies in competitions for federal contracts.

(Sec. 211) Requires the head of each federal agency to report annually to Congress on the percentage of contracts awarded to small businesses. Requires such agency head, if such percentage is less than 25, to explain the reasons therefor and steps to be taken to ensure that such percentage will not be less than 25 in the following fiscal year.

(Sec. 212) Requires that, if a law is not enacted by the end of 2007 revising limits on the value of contracts awarded without the use of competitive procedures to Alaska Native Corporations and economically disadvantaged Indian tribes, the Administrator for Federal Procurement Policy shall establish appropriate limits. Requires such Administrator to consult with such participants in establishing such limits.

(Sec. 213) Includes green small businesses (small businesses that carry out their activities in an environmentally sound manner) within federal small business procurement contract goals.

(Sec. 214) Requires the SBA Administrator to carry out, and report to Congress on, a study on the feasibility and desirability of providing financial incentives to federal contractors that achieve subcontracting goals which utilize small businesses owned and controlled by socially and economically disadvantaged individuals.

Title III: Protection of Taxpayers From Fraud - (Sec. 301) Directs the SBA Administrator to work with appropriate federal agencies to ensure that whenever a small business is awarded a contract on the basis that it qualifies as a small business and then is determined not to qualify as small, a notification of those facts shall be placed on that business' listing in the Central Contractor (or successor) Registry. Requires the inspector general of each federal procurement agency to report annually to Congress on the number and dollar value of contracts that were coded as awards to small businesses but in fact were made to businesses that did not qualify as small businesses.

(Sec. 302) Requires the SBA Administrator to ensure, on a biannual basis, that an independent audit is performed of the Central Contractor (or successor) Registry, and that the Dynamic Small Business Search portion of the Registry is purged of any businesses that are not in fact small businesses.

(Sec. 303) Requires that, if a small business is awarded a contract because of a standard by which it is determined to be

a small business, and such business is close to exceeding that standard at the time of award, then the business must, on an annual basis, recertify to the awarding agency whether it meets that standard.

Title IV: Authorization of Appropriations - (Sec. 401) Authorizes appropriations.

Actions Timeline

- **May 11, 2007:** Received in the Senate and Read twice and referred to the Committee on Small Business and Entrepreneurship.
- **May 10, 2007:** UNFINISHED BUSINESS - The Chair announced that the unfinished business was the question of adoption of amendments which had been debated earlier and on which further proceedings had been postponed.
- **May 10, 2007:** Considered as unfinished business. (consideration: CR H4766-4772)
- **May 10, 2007:** The House rose from the Committee of the Whole House on the state of the Union to report H.R. 1873.
- **May 10, 2007:** The House adopted the amendment in the nature of a substitute as agreed to by the Committee of the Whole House on the state of the Union. (text: CR 5/9/2007 H4723-4727)
- **May 10, 2007:** Mr. English (PA) moved to recommit with instructions to Small Business. (consideration: CR H4770)
- **May 10, 2007:** DEBATE - The House proceeded with 10 minutes of debate on the English motion to recommit with instructions on H.R. 1873. The instructions contained in the motion seek to require the bill to be reported back to the House with an amendment to allow small businesses who can demonstrate that it is adversely affected by expiring tax incentives will be considered as economically disadvantage businesses.
- **May 10, 2007:** On motion to recommit with instructions Failed by recorded vote: 209 - 216 (Roll no. 322). (consideration: CR H4770-4772; text: CR H4770)
- **May 10, 2007:** Passed/agreed to in House: On passage Passed by recorded vote: 409 - 13 (Roll no. 323).
- **May 10, 2007:** On passage Passed by recorded vote: 409 - 13 (Roll no. 323).
- **May 10, 2007:** Motion to reconsider laid on the table Agreed to without objection.
- **May 9, 2007:** Rule H. Res. 383 passed House.
- **May 9, 2007:** ORDER OF PROCEDURE - Ms. Velazquez asked unanimous consent that, during consideration of H.R. 1873 in the Committee of the Whole pursuant to the provisions of H. Res. 383, the amendment numbered 4 printed in House Report 110-137, may be offered at any time . Agreed to without objection.
- **May 9, 2007:** Considered under the provisions of rule H. Res. 383. (consideration: CR H4720-4734)
- **May 9, 2007:** Rule provides for consideration of H.R. 1873 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Specified amendments are in order. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Oversight and Government Reform now printed in the bill.
- **May 9, 2007:** House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 383 and Rule XVIII.
- **May 9, 2007:** The Speaker designated the Honorable Lincoln Davis to act as Chairman of the Committee.
- **May 9, 2007:** GENERAL DEBATE - The Committee of the Whole proceeded with one hour of general debate on H.R. 1873.
- **May 9, 2007:** DEBATE - Pursuant to the provisions of H. Res. 383, the Committee of the Whole proceeded with 10 minutes of debate on the Sestak amendment, as modified.
- **May 9, 2007:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Sestak amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Ms. Velazquez demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until a time to be announced.
- **May 9, 2007:** DEBATE - Pursuant to the provisions of H. Res. 383, the Committee of the Whole proceeded with 10 minutes of debate on the Reyes amendment.
- **May 9, 2007:** DEBATE - Pursuant to the provisions of H. Res. 383, the Committee of the Whole proceeded with 10 minutes of debate on the Shuler amendment.
- **May 9, 2007:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Shuler amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Ms. Velazquez demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the amendment until a time to be announced.
- **May 9, 2007:** DEBATE - Pursuant to the provisions of H. Res. 383, the Committee of the Whole proceeded with 10 minutes of debate on the Bean amendment.
- **May 9, 2007:** POSTPONED PROCEEDINGS - At the conclusion of debate on the Bean amendment, the Chair put the question on adoption of the amendment and by voice vote, announced that the ayes had prevailed. Ms. Velazquez demanded a recorded vote and the Chair postponed further proceedings on the question of adoption of the

amendment until a time to be announced.

- **May 9, 2007:** DEBATE - Pursuant to the provisions of H. Res. 383, the Committee of the Whole proceeded with 10 minutes of debate on the Welch (VT) amendment.
- **May 9, 2007:** DEBATE - Pursuant to the provisions of H. Res. 383, the Committee of the Whole proceeded with 10 minutes of debate on the Wynn amendment.
- **May 9, 2007:** DEBATE - Pursuant to the provisions of H. Res. 383, the Committee of the Whole proceeded with 10 minutes of debate on the Jackson-Lee amendment No. 7.
- **May 9, 2007:** DEBATE - Pursuant to the provisions of H. Res. 383, the Committee of the Whole proceeded with 10 minutes of debate on the Jackson-Lee amendment No. 8.
- **May 9, 2007:** Ms. Velazquez moved that the Committee rise.
- **May 9, 2007:** On motion that the Committee rise Agreed to by voice vote.
- **May 9, 2007:** Committee of the Whole House on the state of the Union rises leaving H.R. 1873 as unfinished business.
- **May 9, 2007:** The Clerk was authorized to correct section numbers, punctuation, and cross references, and to make other necessary technical and conforming corrections in the engrossment of H.R. 1873.
- **May 8, 2007:** PERMISSION TO FILE REPORT - Mr. Davis of Illinois asked unanimous consent that the Committee on Oversight and Government Reform be permitted to file a supplemental report. Agreed to without objection.
- **May 8, 2007:** Supplemental report filed by the Committee on Oversight and Government, H. Rept. 110-111, Part III.
- **May 8, 2007:** Rules Committee Resolution H. Res. 383 Reported to House. Rule provides for consideration of H.R. 1873 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Specified amendments are in order. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Oversight and Government Reform now printed in the bill.
- **May 3, 2007:** Reported (Amended) by the Committee on Oversight and Government. H. Rept. 110-111, Part II.
- **May 3, 2007:** Placed on the Union Calendar, Calendar No. 71.
- **May 1, 2007:** Committee Consideration and Mark-up Session Held.
- **May 1, 2007:** Ordered to be Reported in the Nature of a Substitute by Voice Vote.
- **Apr 26, 2007:** Reported (Amended) by the Committee on Small Business. H. Rept. 110-111, Part I.
- **Apr 26, 2007:** Referred sequentially to the House Committee on Oversight and Government Reform for a period ending not later than May 4, 2007 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(m), rule X.
- **Apr 24, 2007:** Committee Consideration and Mark-up Session Held.
- **Apr 24, 2007:** Ordered to be Reported in the Nature of a Substitute by Voice Vote.
- **Apr 19, 2007:** Committee Hearings Held.
- **Apr 17, 2007:** Introduced in House
- **Apr 17, 2007:** Referred to the House Committee on Small Business.