

# Union Calendar No. 524

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3851

**[Report No. 112-721, Part I]**

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

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## 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

DECEMBER 21, 2012

Additional sponsors: Mr. CHABOT, Mr. MULVANEY, Mr. WALSH of Illinois, Mr. WEST, Mr. HANNA, Mr. SCHILLING, Mrs. ELLMERS, and Ms. HERRERA BEUTLER

DECEMBER 21, 2012

Reported from the Committee on Small Business with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

DECEMBER 21, 2012

The Committee on Oversight and Government Reform discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on January 31, 2012]

# **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 Advocate*  
5 *Act of 2012”.*

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

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

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

1           (1) by striking “be responsible only to, and re-  
2           port directly to, the head” and inserting “shall be re-  
3           sponsible only to (including with respect to perform-  
4           ance appraisals), and report directly and exclusively  
5           to, the head”; and

6           (2) by striking “be responsible only to, and re-  
7           port directly to, such Secretary” and inserting “be re-  
8           sponsible only to (including with respect to perform-  
9           ance appraisals), and report directly and exclusively  
10          to, such Secretary”.

11          (c) *SMALL BUSINESS TECHNICAL ADVISERS.*—Section  
12 *15(k)(8)(B) of such Act (15 U.S.C. 644(k)(8)(B)) is amend-*  
13 *ed—*

14           (1) by striking “and 15 of this Act,” and insert-  
15           ing “, 15, and 44 of this Act;”; and

16           (2) by inserting after “of this Act” the following:  
17           “(giving priority in assigning to small business that  
18           are in metropolitan statistical areas for which the un-  
19           employment rate is higher than the national average  
20           unemployment rate for the United States)”.

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

24           “(11) shall review and advise such agency on  
25           any decision to convert an activity performed by a

1 *small business concern to an activity performed by a*  
2 *Federal employee;*

3 *“(12) shall provide to the Chief Acquisition Offi-*  
4 *cer and senior procurement executive of such agency*  
5 *advice and comments on acquisition strategies, mar-*  
6 *ket research, and justifications related to section 44 of*  
7 *this Act;*

8 *“(13) may provide training to small business*  
9 *concerns and contract specialists, except that such*  
10 *training may only be provided to the extent that the*  
11 *training does not interfere with the Director carrying*  
12 *out other responsibilities under this subsection;*

13 *“(14) shall carry out exclusively the duties enu-*  
14 *merated in this Act, and shall, while the Director, not*  
15 *hold any other title, position, or responsibility, except*  
16 *as necessary to carry out responsibilities under this*  
17 *subsection; and*

18 *“(15) shall submit, each fiscal year, to the Com-*  
19 *mittee on Small Business of the House of Representa-*  
20 *tives and the Committee on Small Business and En-*  
21 *trepreneurship of the Senate a report describing—*

22 *“(A) the training provided by the Director*  
23 *under paragraph (13) in the most recently com-*  
24 *pleted fiscal year;*

1           “(B) the percentage of the budget of the Di-  
2           rector used for such training in the most recently  
3           completed fiscal year; and

4           “(C) the percentage of the budget of the Di-  
5           rector used for travel in the most recently com-  
6           pleted fiscal year.”.

7           (e) *REQUIREMENT OF CONTRACTING EXPERIENCE FOR*  
8 *OSDBU DIRECTOR.*—Section 15(k) of the Small Business  
9 Act (15 U.S.C. 644(k)), as amended by this Act, is further  
10 amended, in the matter preceding paragraph (1), by strik-  
11 ing “who shall” and insert the following: “, with at least  
12 10 years of experience serving in any combination of the  
13 following roles: federal contracting officer, small business  
14 technical advisor, contracts administrator for federal gov-  
15 ernment contracts, attorney specializing in federal procure-  
16 ment law, small business liaison officer, officer or employee  
17 who managed federal government contracts for a small busi-  
18 ness, or individual whose primary responsibilities were for  
19 the functions and duties of section 8, 15 or 44 of this Act.  
20 Such officer or employee”.

21           (f) *TECHNICAL AMENDMENTS.*—Section 15(k) of such  
22 Act (15 U.S.C. 644(k)), as amended, is further amended—

23           (1) in paragraph (1)—

24           (A) by striking “be known” and inserting  
25           “shall be known”; and

1           (B) by striking “such agency,” and insert-  
2           ing “such agency;”;

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

5           (3) in paragraph (3)—

6           (A) by striking “director” and inserting  
7           “Director”; and

8           (B) by striking “Secretary’s designee,” and  
9           inserting “Secretary’s designee;”;

10          (4) in paragraph (4)—

11          (A) by striking “be responsible” and insert-  
12          ing “shall be responsible”; and

13          (B) by striking “such agency,” and insert-  
14          ing “such agency;”;

15          (5) in paragraph (5) by striking “identify pro-  
16          posed” and inserting “shall identify proposed”;

17          (6) in paragraph (6) by striking “assist small”  
18          and inserting “shall assist small”;

19          (7) in paragraph (7)—

20          (A) by striking “have supervisory” and in-  
21          serting “shall have supervisory”; and

22          (B) by striking “this Act,” and inserting  
23          “this Act;”;

24          (8) in paragraph (8)—

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

3           (B) in subparagraph (A), by striking “the  
4           activity, and” and inserting “the activity; and”;  
5           (9) in paragraph (9)—

6           (A) by striking “cooperate, and” and insert-  
7           ing “shall cooperate, and”; and

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

10          (10) in paragraph (10)—

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

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

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

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

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



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

3 (a) *DUTIES.*—Section 7104(b) of the Federal Acquisi-  
4 tion 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 Entrepreneur-  
23 ship of the Senate a report describing—

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

1           *date on which the report is submitted, including*  
2           *any outcomes related to the comments;*

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

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

7           *(b) MEMBERSHIP.—Section 7104(c)(3) of such Act (15*  
8           *U.S.C. 644 note) is amended by striking “(established under*  
9           *section 15(k) of the Small Business Act (15 U.S.C. 644(k))”.*

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



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