

116TH CONGRESS
2D SESSION

H. R. 8955

To prohibit the use of reverse auctions for design and construction services procurements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 2020

Mr. COMER (for himself and Mr. KHANNA) introduced the following bill; which was referred to the Committee on Oversight and Reform

A BILL

To prohibit the use of reverse auctions for design and construction services procurements, 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 “Construction Con-
5 sensus Procurement Improvement Act of 2020”.

1 **SEC. 2. PROHIBITION ON USE OF A REVERSE AUCTION FOR**
2 **THE AWARD OF A CONTRACT FOR COMPLEX,**
3 **SPECIALIZED, OR SUBSTANTIAL DESIGN AND**
4 **CONSTRUCTION SERVICES.**

5 (a) FINDINGS.—Congress makes the following find-
6 ings:

7 (1) In contrast to a traditional auction in which
8 the buyers bid up the price, sellers bid down the
9 price in a reverse auction.

10 (2) Reverse auctions, while providing value for
11 the vast majority of Federal acquisitions, including
12 certain construction-related acquisitions, are limited
13 in value for complex, specialized, or substantial de-
14 sign and construction services.

15 (b) REVERSE AUCTION DEFINED.—In this Act, the
16 term “reverse auction” means, with respect to any pro-
17 curement by an executive agency, a real-time auction gen-
18 erally conducted through an electronic medium among two
19 or more offerors who compete by submitting bids for a
20 supply or service contract, or a delivery order, task order,
21 or purchase order under the contract, with the ability to
22 submit revised lower bids at any time before the closing
23 of the auction.

24 (c) PROHIBITION.—

25 (1) IN GENERAL.—Not later than 270 days
26 after the date of the enactment of this Act, the Fed-

1 eral Acquisition Regulation shall be amended to pro-
2 hibit the use of reverse auctions for awarding con-
3 tracts for complex, specialized, or substantial design
4 and construction services.

5 (2) APPLICABILITY TO ACQUISITIONS ABOVE
6 THE SIMPLIFIED ACQUISITION THRESHOLD.—The
7 prohibition on reverse auctions for complex, special-
8 ized, or substantial design and construction services
9 shall apply only to acquisitions above the simplified
10 acquisition threshold (SAT) for construction and de-
11 sign services pursuant to part 36 of the Federal Ac-
12 quisition Regulation.

13 (d) RULEMAKING FOR COMPLEX, SPECIALIZED, OR
14 SUBSTANTIAL SERVICES.—Not later than 180 days after
15 the date of the enactment of this Act, the Federal Acquisi-
16 tion Regulatory Council shall promulgate a definition of
17 complex, specialized, or substantial design and construc-
18 tion services, which shall include—

19 (1) site planning and landscape design;

20 (2) architectural and engineering services (as
21 defined in section 1102 of title 40, United States
22 Code);

23 (3) interior design;

1 (4) performance of substantial construction
2 work for facility, infrastructure, and environmental
3 restoration projects; and

4 (5) construction or substantial alteration of
5 public buildings or public works.

6 (e) RULE OF CONSTRUCTION.—Nothing in this Act
7 shall be construed to restrict the use of reverse auctions
8 for the procurement of other goods and services except as
9 specifically provided for under this Act.

10 (f) REPORT.—Not later than two years after the date
11 of the enactment of this Act, the Administrator of the
12 General Services Administration shall submit to the Com-
13 mittee on Homeland Security and Governmental Affairs
14 of the Senate and the Committee on Oversight and Re-
15 form of the House of Representatives a report on the ef-
16 fectiveness of this Act in delivering complex, specialized,
17 or substantial design and construction services to the
18 United States Government.

○