

## **Small Business**

### **House Bill Would Boost Penalties For Misrepresenting Small Business Size**

Rep. Henry Johnson (D-Ga.) May 21 introduced a bill requiring steps to ensure that a company that fraudulently misrepresents itself as a small businesses for purposes of obtaining a federal contract is debarred for no less than five years. The Fairness and Transparency in Contracting Act of 2009 (H.R. 2568) would require federal departments and agencies to debar companies from federal contracting for no less than five years if they fraudulently represent that they are small when bidding for small business contracts.

Under the bill, the Small Business Administration would be required to establish procedures for including in the Central Contractor Registration database an adequate warning regarding criminal penalties established under section 16(d) of the Small Business Act (15 U.S.C. 645(d)) for misrepresenting the status of a business concern or person in order to obtain certain contracts with the federal government.

The bill would allow individuals to file complaints with the SBA and agency heads about the classification of a business concern as a small business concern. It directs that those complaints be resolved in a timely manner and reported annually to Congress.

#### **New Requirements to Qualify as Small**

The bill also would establish additional requirements to prevent a firm from being considered a small business for the purpose of federal contracting and subcontracting and agency small business procurement goals if it is a publicly traded business concern, a subsidiary of a publicly traded business concern, a foreign-owned business concern, or a subsidiary of a foreign-owned business concern.

The bill would clarify that language in Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) applicable to “independently owned and operated” firms does not apply to:

- a business concern that is an issuer or is owned by an issuer of a class of securities required to be registered pursuant to section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or file reports pursuant to section 15(d) of that Act (15 U.S.C. 78o(d)), or
- a business concern, more than 50 percent of which is owned, directly or indirectly, by one or more individuals that are not United States citizens.

#### **Publicizing Contracts to Small Businesses**

In the area of transparency, the bill requires that SBA administrator, no later than six months after the end of each fiscal year, to publish and make available on the Web a report regarding prime contracts with the federal government awarded to firms identified as small business concerns for the purposes of achieving federal government small business contracting goals.

The reports are to include:

- the name of each small business concern and identify those that are owned and controlled by socially and economically disadvantaged individuals, women, veterans, and service-disabled veterans;
- for each small business concern, the total dollar amount of prime contracts with the federal government awarded to that small business concern in descending order; and
- information regarding the parent companies of small business concerns that have prime contracts with the company.

The bill also would require federal departments and agencies to publish on their Web sites a list of each business concern that received a contract award because it was identified as a small business concern. Agencies are to:

- list business concerns in the order of the total amount in dollars of contracts between the federal government and that business concern, beginning with the largest total value;
- include the total amount in dollars of contracts between the federal government and each business concern on such list; and
- include the name of any parent company of a business concern on such list.

The bill was referred to the Small Business Committee and the Oversight and Government Reform Committee