

## Some companies can keep small-biz contracts under House proposal

Small businesses that have outgrown that status because of a government contract may have some cushioning when the contract is competed again

- By [Matthew Weigelt](#)
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Small businesses that have outgrown that status because of a government contract could have some cushioning when the contract is competed again under new legislation in the House.

Agencies could still consider the incumbent contractor to be a small business if the company was a small business at the time of a initial contract award, but is no longer small at the time the recompetes rolls around and is in danger of reverting to a small business again if it is not awarded the contract, according to the [Small Business Fair Competition Act](#) (H.R. 3558).

However, the recompeted contract would have to be for essentially the same goods or services provided under the current contract.

Agencies can get credit toward their various small-business contracting goals for awarding contracts to companies defined as small. Overall, the government as whole often [misses its goals](#).

Rep. Parker Griffith (D-Ala.) introduced the bill Sept. 14. His district in northern Alabama includes the U.S. Army Aviation and Missile Command and the NASA Marshall Space Flight Center. He's a small-business owner and a member of the House Small Business Committee.

Guy Timberlake, CEO and chief visionary officer of the American Small Business Coalition, said the legislation is troublesome because small businesses would have to compete with incumbents who are no longer small and would have more resources to leverage than the true small businesses.

The bill could create another obstacle for small businesses, he said.

The bill was sent to the House Small Business and the Oversight and Government Reform committees.

See the Bill Language Below:

HR 3558 IH

111th CONGRESS  
1st Session  
**H. R. 3558**

To allow incumbent contractors to be eligible to re-compete for Government contracts as small businesses, and for other purposes.

**IN THE HOUSE OF REPRESENTATIVES**

**September 14, 2009**

Mr. GRIFFITH 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

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**A BILL**

To allow incumbent contractors to be eligible to re-compete for Government contracts as small businesses, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Small Business Fair Competition Act'.

**SEC. 2. REPRESENTATION BY CONTRACTORS AS SMALL BUSINESSES.**

- (a) Eligibility of Incumbent Contractors To Re-Compete as Small Businesses- In the case of a solicitation for bids or proposals by the Government for a proposed contract award, if the goods or services to be provided or performed under the proposed contract are substantially the same as the goods or services being provided or performed under a current contract, then the incumbent contractor is eligible to re-compete for the proposed contract as a small business if the incumbent contractor represents in good faith that it is a small business in accordance with this section. Such representation may be made if--
- (1) the incumbent contractor meets the definition of a small business concern applicable to the solicitation and has not been determined by the Small Business Administration to be a concern other than a small business; or

(2) the incumbent contractor was a small business at the time of initial award of the current contract to the incumbent, is no longer a small business at the time of the solicitation, and will revert to being a small business (as defined in the solicitation for the proposed contract) if not awarded the proposed contract.

(b) Small Business Set-Aside- In the case of a proposed contract referred to in subsection (a) being awarded to the incumbent contractor, the Government may qualify the contract as a small business set-aside for the duration of the contract.

(c) Incumbent Contractor Defined- In this section, the term `incumbent contractor', with respect to a contract, means the contractor currently performing the contract.

(d) Amendment of Federal Acquisition Regulation- The Federal Acquisition Regulation shall be revised within 180 days after the date of the enactment of this Act to implement this Act.