

115TH CONGRESS
1ST SESSION

H. R. 2139

To amend the FAA Modernization and Reform Act of 2012 and title 49, United States Code, with respect to disadvantaged business enterprises, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2017

Ms. MOORE introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the FAA Modernization and Reform Act of 2012 and title 49, United States Code, with respect to disadvantaged business enterprises, 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. INSPECTOR GENERAL REPORT ON PARTICIPA-**
4 **TION IN FAA PROGRAMS BY DISADVANTAGED**
5 **SMALL BUSINESS CONCERNS.**

6 Section 140 of the FAA Modernization and Reform
7 Act of 2012 is amended—

8 (1) in subsection (c)—

1 (A) in paragraph (1) by striking “each of
2 fiscal years 2013 through 2017” and inserting
3 “fiscal year 2017 and periodically thereafter”;
4 and

5 (B) in paragraph (3)(A) by striking “a
6 list” and inserting “with respect to the large
7 and medium hub airports in the United States
8 that participate in the airport disadvantaged
9 business enterprise program referenced in sub-
10 section (a), a list”; and

11 (2) by adding at the end the following:

12 “(d) ASSESSMENT OF EFFORTS.—The Inspector
13 General shall assess the efforts of the Federal Aviation
14 Administration with respect to implementing recommen-
15 dations suggested in reports submitted under subsection
16 (c) and shall include in each semiannual report of the In-
17 spector General that is submitted to Congress a descrip-
18 tion of the results of such assessment.”.

19 **SEC. 2. MINORITY AND DISADVANTAGED BUSINESS PAR-**
20 **TICIPATION.**

21 Section 47113 of title 49, United States Code, is
22 amended—

23 (1) in subsection (c)—

24 (A) by striking “The Secretary shall” and
25 inserting the following:

1 “(1) IN GENERAL.—The Secretary shall”; and

2 (B) by adding at the end the following:

3 “(2) CONSISTENCY OF INFORMATION.—The
4 Secretary shall develop and maintain a training pro-
5 gram—

6 “(A) for employees of the Federal Aviation
7 Administration who provide guidance and train-
8 ing to entities that certify whether a small busi-
9 ness concern qualifies under this section (and
10 for employees of the other modal administra-
11 tions of the Department of Transportation who
12 provide similar services); and

13 “(B) that ensures Federal officials provide
14 consistent communications with respect to cer-
15 tification requirements.

16 “(3) LISTS OF CERTIFYING AUTHORITIES.—The
17 Secretary shall ensure that each State maintains an
18 accurate list of the certifying authorities in such
19 State for purposes of this section and that the list
20 is—

21 “(A) updated at least twice each year; and

22 “(B) made available to the public.”;

23 (2) in subsection (e) by adding at the end the
24 following:

1 “(4) REPORTING.—The Secretary shall deter-
2 mine, for each fiscal year, the number of individuals
3 who received training under this subsection and shall
4 make such number available to the public on an ap-
5 propriate website operated by the Secretary. If the
6 Secretary determines, with respect to a fiscal year,
7 that fewer individuals received training under this
8 subsection than in the previous fiscal year, the Sec-
9 retary shall submit to Congress, and make available
10 to the public on an appropriate website operated by
11 the Secretary, a report describing the reasons for
12 the decrease.

13 “(5) ASSESSMENT.—Not later than 2 years
14 after the date of enactment of this paragraph, and
15 every 2 years thereafter, the Secretary shall assess
16 the training program, including by soliciting feed-
17 back from stakeholders, and update the training pro-
18 gram as appropriate.”; and

19 (3) by adding at the end the following:

20 “(f) TREND ASSESSMENT.—

21 “(1) IN GENERAL.—Not later than 2 years
22 after the date of enactment of this subsection, and
23 at least every 2 years thereafter, the Secretary shall
24 study, using information reported by airports, trends

1 in the participation of small business concerns re-
2 ferred to in subsection (b).

3 “(2) CONTENTS.—The study under paragraph
4 (1) shall include—

5 “(A) an analysis of whether the participa-
6 tion of small business concerns referred to in
7 subsection (b) at reporting airports increased or
8 decreased during the period studied, including
9 for such concerns that were first time partici-
10 pants;

11 “(B) an analysis of the factors relating to
12 any significant increases or decreases in partici-
13 pation compared to prior years; and

14 “(C) development of a plan to respond to
15 the results of the study, including development
16 of recommendations for sharing best practices
17 for maintaining or boosting participation.

18 “(3) REPORTING.—For each study completed
19 under paragraph (1), the Secretary shall submit to
20 Congress, and make available to the program con-
21 tact at each airport that participates in the airport
22 disadvantaged business enterprise program, a report
23 describing the results of the study.”.

1 **SEC. 3. PASSENGER FACILITY CHARGES.**

2 Section 40117(c) of title 49, United States Code, is
3 amended by adding at the end the following:

4 “(5) With respect to an application under this sub-
5 section that relates to an airport that participates in the
6 airport disadvantaged business enterprise program ref-
7 erenced in section 140(a) of the FAA Modernization and
8 Reform Act of 2012 (49 U.S.C. 47113 note), the applica-
9 tion shall include a detailed description of good faith ef-
10 forts at the airport to contract with disadvantaged busi-
11 ness enterprises in relation to any project that is a subject
12 of the application and to ensure that all small businesses,
13 including those owned by veterans, fairly compete for work
14 funded with passenger facility charges.”.

15 **SEC. 4. ANNUAL TRACKING OF CERTAIN NEW FIRMS AT**
16 **AIRPORTS WITH A DISADVANTAGED BUSI-**
17 **NESS ENTERPRISE PROGRAM.**

18 (a) TRACKING REQUIRED.—Beginning in fiscal year
19 2017, and each fiscal year thereafter, the Administrator
20 of the Federal Aviation Administration shall require each
21 covered airport to report to the Administrator on the num-
22 ber of new disadvantaged business enterprises that were
23 awarded a contract or concession during the previous fis-
24 cal year at the airport.

1 (b) TRAINING.—The Administrator shall provide
2 training to airports, on an ongoing basis, with respect to
3 compliance with subsection (a).

4 (c) REPORTING.—During the first fiscal year begin-
5 ning after the date of enactment of this Act and every
6 fiscal year thereafter, the Administrator shall update
7 dbE-Connect (or any successor online reporting system)
8 to include information on the number of new disadvan-
9 taged business enterprises that were awarded a contract
10 or concession during the previous fiscal year at a covered
11 airport.

12 (d) COVERED AIRPORT DEFINED.—In this section,
13 the term “covered airport” means a large or medium hub
14 airport that participates in the airport disadvantaged busi-
15 ness enterprise program referenced in section 140(a) of
16 the FAA Modernization and Reform Act of 2012 (49
17 U.S.C. 47113 note).

18 **SEC. 5. AUDITS.**

19 The Inspector General of the Department of Trans-
20 portation shall conduct periodic audits regarding the accu-
21 racy of the data on disadvantaged business enterprises
22 contained in the Federal Aviation Administration’s report-
23 ing database related to such enterprises or any similar or
24 successor online reporting database developed by the Ad-
25 ministration.

1 **SEC. 6. PROMPT PAYMENTS.**

2 (a) REPORTING OF COMPLAINTS.—Not later than 30
3 days after the date of enactment of this Act, the Adminis-
4 trator of the Federal Aviation Administration shall ensure
5 that each airport that participates in the Program tracks,
6 and reports to the Administrator, the number of covered
7 complaints made in relation to activities at that airport.

8 (b) IMPROVING COMPLIANCE.—

9 (1) IN GENERAL.—The Administrator shall
10 take actions to assess and improve compliance with
11 prompt payment requirements under part 26 of title
12 49, Code of Federal Regulations.

13 (2) CONTENTS OF ASSESSMENT.—In carrying
14 out paragraph (1), the Administrator shall assess—

15 (A) whether requirements relating to the
16 inclusion of prompt payment language in con-
17 tracts are being satisfied;

18 (B) whether and how airports are enforce-
19 ing prompt payment requirements;

20 (C) the processes by which covered com-
21 plaints are received and resolved by airports;

22 (D) whether improvements need to be
23 made to—

24 (i) better track covered complaints re-
25 ceived by airports; and

1 (ii) assist the resolution of covered
2 complaints in a timely manner;

3 (E) the effectiveness of alternative dispute
4 resolution mechanisms with respect to resolving
5 covered complaints;

6 (F) best practices that ensure prompt pay-
7 ment requirements are satisfied;

8 (G) the Federal Aviation Administration
9 resources, including staff, that are dedicated to
10 helping resolve covered complaints; and

11 (H) how the Federal Aviation Administra-
12 tion can enhance efforts to resolve covered com-
13 plaints, including by using timelines and pro-
14 viding additional staffing and other resources.

15 (3) REPORTING.—The Administrator shall
16 make available to the public on an appropriate web-
17 site operated by the Administrator a report describ-
18 ing the results of the assessment completed under
19 this subsection, including a plan to respond to such
20 results.

21 (c) DEFINITIONS.—In this section, the following defi-
22 nitions apply:

23 (1) COVERED COMPLAINT.—The term “covered
24 complaint” means a complaint relating to an alleged
25 failure to satisfy a prompt payment requirement

1 under part 26 of title 49, Code of Federal Regula-
2 tions.

3 (2) PROGRAM.—The term “Program” means
4 the airport disadvantaged business enterprise pro-
5 gram referenced in section 140(a) of the FAA Mod-
6 ernization and Reform Act of 2012 (49 U.S.C.
7 47113 note).

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