

116TH CONGRESS
1ST SESSION

H. R. 5247

To require prime contractors under Federal construction contracts to notify the Government of changes in certain subcontractors performing work under the contract.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 21, 2019

Mr. PETERS introduced the following bill; which was referred to the Committee on Oversight and Reform

A BILL

To require prime contractors under Federal construction contracts to notify the Government of changes in certain subcontractors performing work under the contract.

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 “Stop Unfair Bid Shop-
5 ping Act of 2019” or the “SUBS Act”.

1 **SEC. 2. REQUIREMENT TO NOTIFY GOVERNMENT OF**
2 **CHANGES TO SUBCONTRACTORS UNDER**
3 **CONSTRUCTION CONTRACTS.**

4 (a) REQUIREMENT.—An agency awarding a construc-
5 tion contract using sealed bid procedures in an amount
6 greater than \$1,500,000 shall—

7 (1) require an offeror for the contract to in-
8 clude a list in the offer that includes—

9 (A) each subcontractor that the offeror in-
10 tends to use in the performance of the contract,
11 for any subcontract expected to be awarded in
12 excess of \$100,000; and

13 (B) any work estimated to cost in excess of
14 \$100,000 that will solely be performed by the
15 prime contractor for the contract;

16 (2) include a clause in the contract requiring
17 that the prime contractor shall submit to the agency
18 a written notification of—

19 (A) any subcontractor substituted after the
20 award of the contract for a subcontractor listed
21 under paragraph (1)(A), along with an updated
22 estimate for the cost of performing the work as-
23 sociated with the substituted subcontractor; and

24 (B) any subcontract entered into for work
25 listed under paragraph (1)(B).

1 (b) MODIFICATION TO CONTRACT.—In the case of a
2 construction contract covered by subsection (a), if the
3 prime contractor notifies the agency of a substituted sub-
4 contractor under subsection (a)(2) and the cost of per-
5 forming the work associated with the substituted con-
6 tractor is estimated to cost 10 percent or greater less than
7 the cost for performing such work as bid, the contracting
8 officer for the contract may modify the contract to reduce
9 the amount of the contract award to take into account
10 the substitution of subcontractor.

11 (c) AGENCY DEFINED.—In this section, the term
12 “agency”—

13 (1) has the meaning given the term “executive
14 agency” in section 133 of title 41, United States
15 Code;

16 (2) does not include the Department of Defense
17 or any military department; and

18 (3) includes the United States Army Corps of
19 Engineers.

20 (d) REVISION OF FEDERAL ACQUISITION REGULA-
21 TION.—

22 (1) IN GENERAL.—Not later than 180 days
23 after the date of the enactment of this section, the
24 Federal Acquisition Regulation shall be revised to
25 provide for the implementation of this section.

1 (2) NOTICE AND COMMENT.—There shall be
2 provided a public notice and comment period of not
3 less than 60 days.

4 (3) FINAL RULE.—Any final rule promulgated
5 pursuant to this subsection shall take effect 30 days
6 after the date on which the final rule is published
7 in the Federal Register.

8 (e) EFFECTIVE DATE.—This Act shall apply with re-
9 spect to contracts awarded on or after the date occurring
10 180 days after the date of the enactment of this Act.

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