



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 8, 2007
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 1873 – Small Business Fairness in Contracting Act

(Rep. Braley (D) IA and 29 cosponsors)

The Administration supports efforts to increase opportunities for small businesses to compete for Federal government acquisitions. The Administration, however, opposes H.R. 1873, because it would impose broad, burdensome statutory restrictions on Federal agencies' ability to conduct acquisitions and establish unrealistic small business procurement goals. Although the Administration appreciates the efforts of the House Oversight and Government Reform Committee to address some of the Administration's concerns, its reported bill contains many of the same objectionable provisions as the introduced bill and the bill as reported by the House Small Business Committee.

Among its objectionable provisions, H.R. 1873 would impose costly and time-consuming requirements on thousands of agency acquisitions through an overly-expansive definition of "contract bundling" that would include construction contracts, new procurements not previously performed by or considered suitable for small businesses, and task and delivery orders under existing contracts even when bundling justifications were already performed under such contracts. These requirements would be in addition to existing rules that already require review of all agency procurements for small business opportunities.

Additionally, the bill would establish unrealistic government-wide and individual agency small business procurement goals that could undermine the small business procurement goal process. Moreover, both the increase in goals and the restrictions on allowing a small business to be counted for only one preferred small business contracting category raise constitutional questions by establishing new race- and gender-based Government preferences without presenting a strong basis in evidence that these preferences meet constitutional standards.

The bill also would overturn a recently issued small business regulation that guards against the abuse of small business preferences while allowing an affected small business a reasonable period of time to take advantage of such preferences during performance of a Federal procurement contract. Finally, the bill would impose additional detailed reporting requirements on agencies and prime contractors that would increase costs without clear benefits.

The Administration would strongly oppose amendments to require the Office of Management and Budget intervention in individual agency acquisition decisions, thereby removing the discretion and flexibility that agencies must have to accomplish their missions by contracting for needed supplies and services. The Administration also would strongly oppose any amendments that require individual agency goals to be no lower than government-wide statutory small business goals, or that apply small business goals to overseas acquisitions.

The Administration looks forward to working with Congress to increase opportunities for small businesses without unnecessarily disrupting agency operations and imposing burdensome requirements on agencies and contractors.

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