

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

S. 958

A bill to amend the Small Business Act to provide for team and joint venture offers for certain contracts.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. VITTER

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Fair-
5 ness Act”.

6 **SEC. 2. JOINT VENTURING AND TEAMING.**

7 (a) JOINT VENTURE OFFERS FOR BUNDLED OR
8 CONSOLIDATED CONTRACTS.—Section 15(e)(4) of the
9 Small Business Act (15 U.S.C. 644(e)(4)) is amended to
10 read as follows:

11 “(4) CONTRACT TEAMING.—

1 “(A) IN GENERAL.—In the case of a solici-
2 tation of offers for a bundled or consolidated
3 contract that is issued by the head of an agen-
4 cy, a small business concern may submit an
5 offer that provides for use of a particular team
6 of subcontractors or a joint venture of small
7 business concerns for the performance of the
8 contract.

9 “(B) EVALUATION OF OFFERS.—The head
10 of an agency shall evaluate the offer of a team
11 or a joint venture of small business concerns
12 submitted under subparagraph (A) in the same
13 manner as other offers, with due consideration
14 to the capabilities of all of the proposed sub-
15 contractors or members of the joint venture.

16 “(i) TEAMS.—When evaluating an
17 offer of a small business prime contractor
18 that includes a proposed team of sub-
19 contractors, the head of the agency shall
20 consider the capabilities, prior experience,
21 and past performance of the prime con-
22 tractor and each first tier subcontractor
23 that is part of the team as the capabilities,
24 prior experience, and past performance of
25 the team.

1 “(ii) JOINT VENTURES.—When evalu-
2 ating an offer of a joint venture of small
3 business concerns, if the joint venture does
4 not have sufficient capabilities, prior expe-
5 rience, or past performance to be consid-
6 ered for award of a contract opportunity,
7 the head of the agency shall consider the
8 capabilities, prior experience, and past per-
9 formance of each member of the joint ven-
10 ture as the capabilities, prior experience,
11 and past performance of the joint venture.

12 “(C) STATUS AS A SMALL BUSINESS CON-
13 CERN.—Participation of a small business con-
14 cern in a team or a joint venture under this
15 paragraph shall not affect the status of that
16 concern as a small business concern with re-
17 spect to the performance of a contract described
18 in subparagraph (A).”.

19 (b) TEAM AND JOINT VENTURE OFFERS FOR MUL-
20 TIPLE AWARD CONTRACTS.—Section 15(q)(1) of the
21 Small Business Act (15 U.S.C. 644(q)(1)) is amended—

22 (1) in the heading, by inserting “AND JOINT
23 VENTURE” before “REQUIREMENTS”;

24 (2) by striking “Each Federal agency” and in-
25 serting the following:

1 “(A) IN GENERAL.—Each Federal agen-
2 cy”;

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

4 “(B) TEAMS.—When evaluating an offer of
5 a small business prime contractor that includes
6 a proposed team of subcontractors for any mul-
7 tiple award contract above the substantial bun-
8 dling threshold of the Federal agency, the head
9 of the Federal agency shall consider the capa-
10 bilities, prior experience, and past performance
11 of the prime contractor and each first tier sub-
12 contractor that is part of the team as the capa-
13 bilities, prior experience, and past performance
14 of the team.

15 “(C) JOINT VENTURES.—When evaluating
16 an offer of a joint venture of small business
17 concerns for any multiple award contract above
18 the substantial bundling threshold of the Fed-
19 eral agency, if the joint venture does not have
20 sufficient capabilities, prior experience, or past
21 performance to be considered for award of a
22 contract opportunity, the head of the Federal
23 agency shall consider the capabilities, prior ex-
24 perience, and past performance of each member
25 of the joint venture as the capabilities, prior ex-

1 perience, and past performance of the joint ven-
2 ture.

3 “(D) USE OF SMALL BUSINESS TEAMS OR
4 JOINT VENTURES.—

5 “(i) IN GENERAL.—For contracts
6 awarded under section 8(a), 8(m), 15(a),
7 15(j), 31, or 36 to a team of small busi-
8 ness prime contractors and subcontractors
9 or a joint venture of small business con-
10 cerns, the contracting officer shall certify
11 annually to the Administration, for each
12 year the contract is in effect, that each
13 small business concern member of the
14 team or joint venture has the same status
15 of a small business concern, small business
16 concern owned and controlled by service-
17 disabled veterans, qualified HUBZone
18 small business concern, small business con-
19 cern owned and controlled by socially and
20 economically disadvantaged individuals, or
21 small business concern owned and con-
22 trolled by women, as applicable, that such
23 concern had at the time the contract was
24 awarded.

1 “(ii) EXCEPTION.—The requirements
2 of clause (i) shall not apply to a contract
3 awarded to a joint venture of small busi-
4 ness concerns that is a protege under a
5 mentor-protege program approved pursu-
6 ant to section 45.”.

7 (c) RULEMAKING.—Not later than 1 year after the
8 date of enactment of this section, the Administrator of the
9 Small Business Administration shall issue any regulations
10 necessary to carry out the amendments made by this sec-
11 tion.