



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

May 31, 2007

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

As passed by the House of Representatives on May 10, 2007

SUMMARY

H.R. 1873 would make several changes to the laws that promote and encourage federal agencies to contract for goods and services with small businesses. The legislation would amend the definition of "bundled contracts" (the practice of combining two or more contracts into a single agreement) for the procurement of goods and services and require agencies to better justify the need for such larger contracts rather than smaller ones that could be available to small businesses. The federal government currently has a goal of acquiring 23 percent of most goods and services from small businesses. H.R. 1873 would increase that goal to 30 percent. The legislation also would require the Small Business Administration (SBA) to develop new regulations and new databases and to conduct other efforts to encourage and promote the use of small businesses in government contracting.

CBO estimates that implementing H.R. 1873 would cost \$63 million in fiscal year 2008 and \$605 million over the 2008-2012 period, subject to the availability of appropriated funds. Most of those estimated costs would fall on the largest agencies—the Department of Defense, the Department of Energy, and the National Aeronautics and Space Administration—that have not met the current goal for contracting with small businesses. Enacting H.R. 1873 could increase civil and criminal penalties and thus could affect federal revenues and direct spending, but CBO estimates that such effects would not be significant in any year.

The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 1873 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit) and all other budget functions that include spending to procure goods and services.

	By Fiscal Year, in Millions of Dollars				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Administration of Governmentwide Procurement					
Estimated Authorization Level	75	100	125	150	175
Estimated Outlays	60	80	125	150	175
Small Business Administration					
Estimated Authorization Level	3	3	3	3	3
Estimated Outlays	3	3	3	3	3
Total Changes					
Estimated Authorization Level	78	103	128	153	178
Estimated Outlays	63	83	128	153	178

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 1873 will be enacted near the end of fiscal year 2007, that the necessary amounts will be appropriated over the 2008-2012 period, and that outlays will follow historical spending patterns for administering federal contracts.

Spending Subject to Appropriation

H.R. 1873 would make several changes to the laws that promote and encourage federal agencies to contract for goods and services with small businesses. CBO estimates that implementing H.R. 1873 would cost \$63 million in 2008 and \$605 million over the 2008-2012 period, assuming appropriation of the necessary funds.

Administration of Governmentwide Procurement. H.R. 1873 would amend the definition of "bundled contracts" to restrict the bundling of contracts that were formerly performed by a small business (with some specific exemptions such as any construction projects worth more than \$65 million). Under the bill, agencies would have to justify the use of bundled contracts by evaluating whether or not such work could be performed by a small business. The SBA could appeal to the agency to determine whether the use of bundled contracts by an agency is justified. The SBA would then inform appropriate Congressional committees of its findings and post the information on the Internet. In addition, H.R. 1873 would amend current law to increase the goal of using contracts with small businesses from the current governmentwide goal of 23 percent of the value of all contracts to 30 percent. The legislation also would increase the goal for using contracts with disadvantaged and women-owned small businesses from 5 percent of the value of all government contracts to 8 percent.

The federal government purchases about \$400 billion worth of goods and services each year, from office supplies to space shuttle parts. Recent SBA procurement reports indicate that the federal government is contracting for about 25 percent of all goods and services it obtains from small businesses. Based on that data and information from agencies with the most procurement spending, CBO expects that implementing the legislation would have significant discretionary costs. Such costs would include additional resources to review, analyze, and justify the need for and use of bundled contracts, conduct additional market research to identify small business concerns able to perform government contracts and provide necessary products, and expand existing mentoring and developmental programs to prepare small businesses to obtain government procurement opportunities.

Based on current contract administration costs and the size and characteristics of those contracts, CBO estimates that complying with H.R. 1873 would increase costs by about \$120 million annually—less than 5 percent of the roughly \$2.5 billion that CBO estimates is currently spent each year to administer the government's procurement contracting efforts. We expect that this increase would be phased in over a three-year period. Most of this cost would be incurred to administer additional smaller contracts.

Governmentwide Procurement. CBO expects that agencies would continue to encourage the use of small businesses for the procurement of goods and services and seek to meet the goal for such contracts in this legislation. CBO expects, however, that agencies would continue to purchase goods and services at the lowest price available and that small business contracting goals would be met to the extent that doing so would not significantly increase the cost of procuring needed goods and services. Thus, we do not estimate any significant change in such acquisition costs.

Small Business Administration. Several provisions of H.R. 1873 would increase the responsibilities of the SBA to monitor and support small business preferences in government

contracting and procurement. Those responsibilities would include reviewing bundled contracts and auditing contractor databases. Based on information from the SBA, CBO estimates that implementing those provisions would cost about \$3 million per year, subject to the availability of appropriated funds.

Direct Spending and Revenues

H.R. 1873 would impose new penalties on small businesses that misrepresent themselves as "green" (environmentally friendly) small business concerns to receive federal contracts. Enacting the legislation could increase the collections of civil and criminal fines for violations of this provision. CBO estimates that any additional collections would not be significant because of the relatively small number of cases likely to be affected. Civil fines are recorded as revenues. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and subsequently spent without further appropriation action.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 1873 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

PREVIOUS CBO ESTIMATES

On May 7, 2007, CBO transmitted cost estimates for H.R. 1873 as ordered reported by the House Committee on Small Business on April 26, 2007, and by the House Committee on Oversight and Government Reform on May 3, 2007. All the versions of the legislation have similar provisions to promote and encourage federal agencies to contract for goods and services with small businesses, but contain different requirements regarding contract bundling and set different goals for increasing government contracting with small businesses. CBO expects that the cost of implementing those versions of the legislation would vary mostly by the level of effort required to reach the proposed small business contracting goals. The version of H.R. 1873 passed by the House of Representatives would cost less to implement than the Small Business Committee's version, but more than the Oversight and Government Reform Committee's version.

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