

115TH CONGRESS  
2D SESSION

# H. R. 7221

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

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2018

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

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## 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 2018” 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 of each subcontractor that  
9 the offeror intends to use in the performance of the  
10 contract, for any subcontract expected to be awarded  
11 in excess of \$100,000; and

12 (2) include a clause in the contract requiring  
13 that the prime contractor shall submit to the agency  
14 a written notification of any subcontractor sub-  
15 stituted after the award of the contract for a sub-  
16 contractor so listed, along with an updated estimate  
17 for the cost of performing the work associated with  
18 the substituted subcontractor.

19 (b) **MODIFICATION TO CONTRACT.**—In the case of a  
20 construction contract covered by subsection (a), if the  
21 prime contractor notifies the agency of a substituted sub-  
22 contractor under subsection (a)(2) and there is a signifi-  
23 cant difference in the cost of performing the work associ-  
24 ated with the substituted subcontractor, the contracting  
25 officer for the contract may modify the contract to take

1 into account the substitution of subcontractor, including  
2 modification of the amount of the contract.

3 (c) AGENCY DEFINED.—In this Act, the term “agen-  
4 cy” has the meaning provided the term “executive agency”  
5 by section 133 of title 41, United States Code, except the  
6 term does not include the Department of Defense or any  
7 military department, but such term shall include the  
8 United States Army Corps of Engineers.

9 (d) REVISION OF FEDERAL ACQUISITION REGULA-  
10 TION.—

11 (1) IN GENERAL.—Not later than 180 days  
12 after the date of the enactment of this section, the  
13 Federal Acquisition Regulation shall be revised to  
14 provide for the implementation of this section.

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

18 (3) FINAL RULE.—Any final rule promulgated  
19 pursuant to this subsection shall take effect 30 days  
20 after the date on which the final rule is published  
21 in the Federal Register.

22 (e) EFFECTIVE DATE.—This Act shall apply with re-  
23 spect to contracts awarded on or after the date occurring  
24 180 days after the date of the enactment of this Act.

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