

117TH CONGRESS
1ST SESSION

H. R. 5217

To amend section 846 of the National Defense Authorization Act for Fiscal Year 2018 to expand the testing program for e-commerce portal models, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 10, 2021

Ms. ESCOBAR introduced the following bill; which was referred to the Committee on Oversight and Reform

A BILL

To amend section 846 of the National Defense Authorization Act for Fiscal Year 2018 to expand the testing program for e-commerce portal models, and for other purposes.

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 “Federal Acquisition
5 E-Commerce Fairness and Competition Act”.

1 **SEC. 2. ADDITIONAL TESTING OF COMMERCIAL E-COM-**
2 **MERCE PORTAL MODELS FOR FEDERAL PRO-**
3 **CUREMENT.**

4 Section 846 of the National Defense Authorization
5 Act for Fiscal Year 2018 (41 U.S.C. 1901 note) is amend-
6 ed—

7 (1) in subsection (c)(3)—

8 (A) by striking “Not later” and inserting
9 the following:

10 “(A) GUIDANCE.—Not later”; and

11 (B) by adding at the end the following:

12 “(B) INITIAL REPORT.—Not later than 90
13 days after the date of the enactment of this
14 subparagraph, the Administrator shall—

15 “(i) expand the proof-of-concept test-
16 ing program by testing at least 3 commer-
17 cial e-commerce portal models, including
18 the E-Commerce Model, the E-Procure-
19 ment Model, and the E-Marketplace Model
20 (as such models are described in the imple-
21 mentation plan of the General Services Ad-
22 ministration published in March 2018, ti-
23 tled ‘Procurement Through Commercial E-
24 Commerce Portals’), so as to ensure that
25 such program is representative of available

1 commercial e-commerce portal models that
2 qualify under subsection (d); and

3 “(ii) submit to the appropriate con-
4 gressional committees a report addressing
5 the following:

6 “(I) A summary of the program
7 described in clause (i) to date, includ-
8 ing the commercial e-commerce portal
9 providers participating in such pro-
10 gram and the Federal agencies pur-
11 chasing products under such program.

12 “(II) The product categories test-
13 ed to date under such program.

14 “(III) The revenue associated
15 with each category and commercial e-
16 commerce portal provider tested to
17 date under such program.

18 “(IV) The additional commercial
19 e-commerce portal providers to be
20 tested under such program.

21 “(V) A timeline for the comple-
22 tion of such program.

23 “(C) FINAL REPORT.—Not later than 180
24 days after the completion of testing of all com-
25 mercial e-commerce portal models, the Adminis-

1 trator shall submit to the appropriate congres-
2 sional committees a report on the results of
3 such testing that includes—

4 “(i) an examination and comparison
5 of each commercial e-commerce portal pro-
6 vider with respect to—

7 “(I) pricing;

8 “(II) product quality;

9 “(III) supplier reliability and
10 service;

11 “(IV) security of Federal Govern-
12 ment information and third-party sup-
13 plier proprietary information;

14 “(V) protections against counter-
15 feit merchandise;

16 “(VI) whether products prohib-
17 ited by law or rule, including products
18 referenced in section 889 of the John
19 S. McCain National Defense Author-
20 ization Act for Fiscal Year 2019 (41
21 U.S.C. 3901 note), have been offered
22 for sale by any supplier through such
23 commercial e-commerce portal pro-
24 vider; and

1 “(VII) supply chain risks, par-
2 ticularly with respect to healthcare
3 and information technology products;
4 and

5 “(ii) a comparison of the convenience
6 of each commercial e-commerce portal pro-
7 vider with its overall adherence to Federal
8 procurement rules and policies.”; and

9 (2) in subsection (d)—

10 (A) by striking “The Administrator” and
11 inserting the following:

12 “(1) IN GENERAL.—The Administrator”; and

13 (B) by adding at the end the following:

14 “(2) LIMITATION.—The Administrator shall en-
15 sure that a commercial e-commerce portal provider
16 awarded a contract pursuant to subsection (a), that
17 is owned or controlled by a person or entity with a
18 market capitalization greater than
19 \$600,000,000,000 at any time in the 2 years pre-
20 ceding the date of the enactment of this paragraph,
21 does not sell products through the commercial e-
22 commerce portal operated by such portal provider
23 that compete with products sold by any third-party
24 supplier through such portal.”.

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