

116TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To prohibit the use of reverse auctions for design and construction services procurements, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. PORTMAN (for himself and Ms. HIRONO) introduced the following bill;  
which was read twice and referred to the Committee on

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## **A BILL**

To prohibit the use of reverse auctions for design and construction services procurements, 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 “Construction Con-  
5 sensus Procurement Improvement Act of 2019”.

1 **SEC. 2. PROHIBITION ON USE OF A REVERSE AUCTION FOR**  
2 **THE AWARD OF A CONTRACT FOR DESIGN**  
3 **AND CONSTRUCTION SERVICES.**

4 (a) FINDING.—Congress finds that, in contrast to a  
5 traditional auction in which the buyers bid up the price,  
6 sellers bid down the price in a reverse auction.

7 (b) PROHIBITION.—Not later than 180 days after the  
8 date of the enactment of this Act, the Federal Acquisition  
9 Regulation shall be amended to prohibit the use of reverse  
10 auctions for awarding contracts for design and construc-  
11 tion services.

12 (c) DEFINITIONS.—In this section:

13 (1) The term “design and construction serv-  
14 ices” means—

15 (A) site planning and landscape design;

16 (B) architectural and engineering services  
17 (as defined in section 1102 of title 40, United  
18 States Code);

19 (C) interior design;

20 (D) performance of substantial construc-  
21 tion work for facility, infrastructure, and envi-  
22 ronmental restoration projects;

23 (E) delivery and supply of construction  
24 materials to construction sites; or

25 (F) construction or substantial alteration  
26 of public buildings or public works.

1           (2) The term “reverse auction” means, with re-  
2           spect to any procurement by an executive agency—

3                   (A) a real-time auction conducted through  
4                   an electronic medium among 2 or more offerors  
5                   who compete by submitting bids for a supply or  
6                   service contract, or a delivery order, task order,  
7                   or purchase order under the contract, with the  
8                   ability to submit revised lower bids at any time  
9                   before the closing of the auction; and

10                   (B) the award of the contract, delivery  
11                   order, task order, or purchase order to the of-  
12                   feror, in whole or in part, based on the price  
13                   obtained through the auction process.