

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

### SMALL BUSINESS FAIRNESS IN CONTRACTING ACT

The SPEAKER pro tempore. Pursuant to House Resolution 383 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 1873.

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#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 1873) to reauthorize the programs and activities of the Small Business Administration relating to procurement, and for other purposes, with Mr. LINCOLN DAVIS of Tennessee in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentlewoman from New York (Ms. VELÁZQUEZ) and the gentleman from Ohio (Mr. CHABOT) each will control 30 minutes.

The Chair recognizes the gentlewoman from New York.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there is no question that the Federal marketplace continues to grow at record rates. Just last year, the Federal Government spent \$417 billion on goods and services. While the government's buying power is increasing, small businesses' opportunities and access to this market is decreasing. With unfair competition and the combining of government projects, entrepreneurs are being shut out of the Federal market. Currently, the state of procurement for small businesses is one that does more to create barriers than it does to encourage participation.

What we have heard time and time again is that access to government projects is out of the reach of small firms. The barriers in the way of accessing this work is clear, among them, the bundling of contracts, the lack of a strongly enforced small business contracting goal and large firms receiving contracts intended for small firms.

For the past 6 years, the government has failed to meet its 23 percent small business contracting goal, costing entrepreneurs last year alone as much as \$4.5 billion in lost contracting opportunities. With small businesses creating three out of every four new jobs in this country, they deserve to compete on a level playing field for government work. Small firms do not deserve to be left out of the Federal marketplace but, instead, to be given every tool needed to continue to spur economic growth.

The number one reason the small business contracting goal is not being

met is because of the bundling of contracts. Individual contracts being combined works to exclude small firms from bidding on them and often results in higher costs to taxpayers and decreased value for the government. For every \$1,800 awarded in a bundled contract, there is a \$33 decrease to small businesses. When contracts are bundled together creating "super-contracts," they become too large for entrepreneurs to compete.

In 2002, the President pledged during the administration's announcement of their small business agenda that, "We're going to insist we break down large Federal contracts so that small business owners have got a fair shot at Federal contracting." This legislation finally puts his words into action.

To create the illusion that the goal is being met, agencies are using contracts awarded to large companies and including them toward their small business contracting goal. In 2005, approximately \$12 billion in contracts were falsely counted. This gives the impression that agencies are doing more work with small firms than they actually are.

Access to the Federal marketplace is an important mechanism for growth for small businesses. If competition for government projects is not fair, there is no way we can expect entrepreneurs to grow and expand their ventures. This not only benefits entrepreneurs, but also puts taxpayers' dollars to good use. For every dollar in contracts, \$7 in revenue is generated for the Federal Government.

Clearly, large businesses have more resources than small firms. Oftentimes they have access to more capital, can hire more staff and have fewer barriers in the way of marketing and expanding their companies. The last thing they need to be doing is taking contracts intended for small businesses.

H.R. 1873 is a bipartisan effort introduced by Mr. BRALEY. I want to commend Mr. BRALEY for his work on addressing small business procurement issues and bringing this bill up for consideration.

This legislation will help open the marketplace for small business contracts. It ensures that fair competition is enforced and that small firms are given the opportunities they deserve to work with the Federal Government.

With the government being the largest buyer of services and goods and small businesses being the largest job creators, increased partnership between these two is the best value for the taxpayer dollar, and not only benefits entrepreneurs, but communities all across the country.

I strongly urge my colleagues to vote for the Small Business Fairness in Contracting Act.

Mr. Chairman, I reserve the balance of my time.

Mr. CHABOT. Mr. Chairman, I yield myself such time as I may consume.

(Mr. CHABOT asked and was given permission to revise and extend his remarks.)

Mr. CHABOT. Mr. Chairman, tonight I rise in support of H.R. 1873, the Small Business Fairness in Contracting Act. As an original cosponsor of this legislation, we worked closely with Chairwoman VELÁZQUEZ and Representative BRALEY to draft a good, bipartisan bill that passed the Small Business Committee by voice vote and was cosponsored by nearly all the members of the committee.

Our legislation was intended to reform the contracting process, increase competition and provide a better value to the taxpayer. The legislation also takes steps to provide greater opportunities to small businesses and address problems with the Federal procurement database.

Promoting competition and increasing suppliers depends on the active participation of small businesses, the fastest growing segment of the American economy.

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Without small business's participation, the government is forced to rely on fewer and fewer businesses to satisfy its need for goods and services. This concentration is bad for the government and worse for the tax-paying public. For that reason, utilization of small businesses to fulfill government contracts has been a long-standing policy, a policy that is neither Republican nor Democrat.

Unfortunately, the bill we are considering today, while making many important reforms, is watered down from the original version we introduced.

I commend Chairman VELÁZQUEZ and her staff for working tirelessly to try and protect the sound work done by the Committee on Small Business.

I also want to thank the Rules Committee, and especially Chairwoman SLAUGHTER and Ranking Member DREIER, for allowing me to offer three important amendments, along with three of my Democratic colleagues, to restore significant provisions of the original bill.

One amendment that I proposed with Mr. SESTAK, however, was not ruled in order. This amendment would have restored a provision of our original Small Business Committee bill related to contract bundling. Contract bundling is a procurement strategy that represents a potential obstacle to small business participation in the Federal marketplace. Contract bundling allows Federal procurement officials to manage the procurement process using fewer contracts. At times, contract bundling may be appropriate. At other times, it may reduce competition by combining multiple contracts for goods or services that could be provided separately into a single contract that small businesses are incapable of performing.

Nothing in our original bill as reported by the Committee on Small Business would have completely prevented the Federal Government from bundling contracts, nor is there anything in the bill that we are debating

today that prevents contracts from being bundled. Instead, we take the view that bundling can be beneficial if the government gets substantial, measurable benefits in terms of better prices or higher quality or critical delivery terms.

However, our original bill would have required that Federal contracting officers examine their contracting strategies to ensure that the government was receiving real benefits through bundled contracts and also consider the potential loss of competition from small businesses being excluded. Or as President Reagan might have put it, trust but verify.

The bill we are debating now reduces the amount of contracts subject to the trust but verify standard as compared to our original bill. It does, however, represent an increase from current law in the number of contracts that will be scrutinized. With that in mind and with the amendments made in order, including a separate amendment by Mr. SESTAK, the bill moves us modestly in the right direction.

I would hope that as we proceed, and especially in conference, we continue to strengthen the trust but verify standards relative to bundled contracts.

While this may create more work for Federal contracting officers, it also ensures that the Federal procurement process protects competition in the long run while ensuring that the government benefits in the short run from necessary bundled contracts.

As we work through the legislative process with the Senate, it is important that a sensible mechanism exist for an independent arbiter to resolve disputes between the SBA and the agency issuing a bundled contract. It seems unfair that the SBA's only avenue of appeal is to the agency that is doing the procurement. Would anybody be surprised to learn that the administrator has never won an appeal on an agency head on a disputed bundled contract? Not once.

Nor should the legislation as it works its way to final passage substitute an appeals process by affected small businesses for that of the Small Business Administrator. Requiring a small business to challenge an agency's decision pits a David against a Goliath. But, unlike the biblical account, Goliath usually win these battles.

In addition to the provisions on bundling, the bill we are considering today increases the goals for prime Federal contracts to small businesses. But in my estimation and why I offered amendments is that the increase in the bill does not recognize the 10 percent growth in the number of small businesses since 1997, the last time the goals were raised. Nor does the modest increase from 23 to 25 percent recognize substantial technological changes and the capacity of small businesses to perform contracts overseas. Amendments we will be considering will raise those standards to appropriate levels and rec-

ognize the capacity of small businesses to perform work overseas.

In addition, I would ask the chairwoman that we work together to remove a provision included in the bill by the Committee on Oversight and Government Reform that treads on the sole jurisdiction of the Committee on Small Business. I believe that sets a bad precedent for future legislation in the House.

I also find that the provisions in title III of the bill are worthy of support. I congratulate the Committee on Oversight and Government Reform as well as members of the Committee on Small Business on working to eradicate errors in critical Federal procurement databases. These changes, although seemingly arcane, will ensure that contracting officers award contracts intended to small businesses to actual small businesses.

While this bill is not as strong as the version adopted by the Small Business Committee, it nevertheless represents an improvement over existing law. I will continue to work to further strengthen this bill and to ensure that small businesses have their fair opportunity to participate in the Federal procurement process.

Mr. Chairman, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I yield to the gentleman from California (Mr. WAXMAN), chairman of the Committee on Oversight and Government Reform, such time as he may consume; and I want to take this opportunity to thank him for his work on this legislation.

Mr. WAXMAN. Mr. Chairman, H.R. 1873, the Small Business Fairness in Contracting Act, would make a number of improvements to the preferences given small businesses in Federal contracts.

The bill is the product of much hard work by both the Small Business Committee and the Oversight Committee and reflects our consensus view on many important issues, and I would like to thank Chairwoman VELÁZQUEZ and the Small Business Committee for working with us to address their legitimate concerns and to reach the correct balance in this bill.

I would also like to commend Congressman BRALEY, a member of both the Small Business and Oversight Committees, for his leadership on this issue. I also thank the ranking member of the Oversight Committee, Congressman TOM DAVIS.

The bill represents a delicate balance between appropriate assistance for small businesses through the Federal acquisition system and the overriding purpose of the system, which must always be to ensure that taxpayers get the best value for their money.

The bill also starts us on the path of addressing the current contracting preference enjoyed by Alaska Native Corporations. These groups can be awarded Federal contracts of any size without competition.

To address these concerns about ANC contracts and promote competition in contracting, the bill includes a provision which would give Congress until the end of the year to adopt legislation addressing sole-source contracting by Alaska Native Corporations and economically disadvantaged Indian tribes. If we fail to act during this "placeholder" period, the bill would then require the administration to consult with Alaska Natives and Indian tribes to establish an appropriate limit on the size of the sole-source awards to these groups.

In crafting this provision, I have worked closely with the gentleman from Michigan (Mr. KILDEE), who is Democratic Chair of the Congressional Native American Caucus; and at this time I yield to the gentleman from Michigan (Mr. KILDEE) for the purpose of engaging in a colloquy.

Mr. KILDEE. I want to thank my chairman for yielding to engage in a colloquy on a matter of great importance to Native Americans.

Congress has long been concerned about addressing the social ills that plague our Native American communities which stem from the policies of the United States that were designed to terminate tribal nations and their culture.

While we cannot erase the deplorable history of Indian policy in the United States, Congress has sought to honor the political status of tribal governments by enacting a wide range of laws designed to promote Indian self-determination and economic self-sufficiency. The entirety of title 25 of the United States Code is a compilation of all Federal laws relating to Indians that seek to achieve those goals.

Congress has established the Native 8(a) program in furtherance of those Federal policies to foster strong economies in Native communities. The program is an important tool which has significant benefits to Native communities.

I understand that the authorizing committees have concerns relating to the Native 8(a) program, and I thank Chairman WAXMAN for agreeing to placeholder language at section 211 so we may continue our dialogue with the participants of that program to find a permanent solution to the committee's concern.

In addressing the committee's concerns, however, it is my strong desire that we balance the interest of all parties and that any change to that program take into account our trust relationship with tribal nations and the communities they serve.

I thank the gentleman for yielding.

Mr. WAXMAN. I think the gentleman makes a number of excellent points about the sorry history of Indian policy in the United States. I agree with him that the intent of this provision is to start a dialogue which can recognize the legitimate concerns of Alaska Natives and American Indians, while at the same time preserving the integrity of the Federal contracting process.

I congratulate the chairwoman of the Small Business Committee and thank her for her willingness to work with us.

Mr. CHABOT. Mr. Chairman, I continue to reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. BRALEY), the sponsor of the bill and the chairman of the Contracting and Technology Subcommittee of the Small Business Committee.

Mr. BRALEY of Iowa. I thank the gentlewoman for yielding me this time.

Last month, I introduced H.R. 1873, the Small Business Fairness in Contracting Act. Today, I rise as a voice for small business owners everywhere who want a fighting chance to compete for Federal contracts.

I would like to take a moment to thank Chairwoman NYDIA VELÁZQUEZ and Ranking Member STEVE CHABOT. I am pleased H.R. 1873 has such strong bipartisan support and is co-sponsored by nearly the entire Small Business Committee.

Additionally, I would like to thank Oversight and Government Reform Chairman HENRY WAXMAN and Ranking Member TOM DAVIS for their prompt consideration of this bill.

Finally, I would like to thank Rules Committee Chairwoman LOUISE SLAUGHTER and Ranking Member DAVID DREIER for acting on this bill. It is clear to me that members of all these committees understand the important role small businesses play in our communities.

Over the past 5 years, government agencies have greatly increased the practice known as contract bundling, oftentimes combining work that small businesses could perform into giant packages that exceed small firms' ability to compete for this work. During this same time, total government contracting has increased by 60 percent, while the number of small business contracts has decreased by 55 percent.

This is unacceptable; and that is why it is so important that today we are considering the Small Business Fairness in Contracting Act, sending a message to small businesses that this Congress is serious about leveling the playing field for them by improving their opportunities to compete for Federal contracts.

H.R. 1873 also increases competition in the contracting process, which can lead to lower prices for the government.

As we know, small businesses are the number one job creators in this country, and we must ensure that this engine remains not only healthy but also has the support it needs to grow. It is essential to remove the barriers blocking small businesses from entering the nearly \$400 billion per year Federal marketplace.

Public support for this bill is broad and bipartisan. The Small Business Fairness in Contracting Act was co-sponsored by 29 Representatives, 17

Democrats and 12 Republicans. H.R. 1873 has been endorsed by the National Federation of Independent Business, the Associated General Contractors, the National Small Business Association, Women in Public Policy, the U.S. Women's Chamber of Commerce, and the U.S. Hispanic Chamber of Commerce.

My State of Iowa ranks near the bottom in terms of government contracting dollars awarded to small businesses. Even though 477 small businesses in my district are registered with the Small Business Administration, the dollar value of contracts awarded to those businesses is a tiny fraction of the Federal contract pie. Everyone in this House understands the important role that small businesses play in each of our districts. Allowing them a fair opportunity to bid on Federal contracts will bring economic vitality to our towns and cities.

I thank all of my colleagues who join me today in standing up for the interests of small businesses in this country.

Mr. CHABOT. Mr. Chairman, we have no further speakers, and I yield back the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I would like to close by saying that it has been over a decade since a small business contracting bill has come to the floor. Clearly, addressing the concerns of entrepreneurs in regards to procurement is long overdue and much needed.

I just want to take this opportunity to thank Ranking Member CHABOT for all of his hard work and his collaboration in working on this legislation. I also want to thank Mr. BRALEY and to take this opportunity to thank the staff that worked on this bill.

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From the minority staff, Barry Pineles; from Mr. BRALEY's staff, Tom Wolf and Mike Goodman; from Mr. WAXMAN's staff, Mark Stevens and Phil Barnett; and from the majority staff, LeAnn Delaney and Melody Reis and Russ Orban.

I strongly urge my colleagues to vote for the Small Business Fairness in Contracting Act.

Mr. HOLT. Mr. Chairman, I rise today in support of H.R. 1873, the Small Business Fairness in Contracting Act.

Small businesses are a big part of the U.S. economy. In fact, small businesses employ more than half of all private sector employees and pay 45 percent of the total U.S. private payroll. New jobs come disproportionately from small businesses, which generated 60 to 80 percent of new jobs in the past 10 years.

Although federal government contracting practices are required by law to be supportive of small businesses, the bundling of contracts has prevented many small businesses from being able to compete fairly. This is a significant loss to small businesses, as federal contracts pay a total of \$400 billion annually to contractors. H.R. 1873 gives small businesses a fair chance at competing for these contracts by preventing the contract bundling that has

excluded them from being considered. In doing this, the Act also insures that taxpayer money is spent more efficiently, as more competition for government contracts will necessarily result in better use of public funds.

The Act further improves small business contracting practices by creating a system by which small businesses and opportunities for small businesses can be better catalogued and tracked. If a business has grown and should no longer be considered small, we will know, and we will give priority to true small businesses. If a large business has not subcontracted enough to small businesses, we will know, and we will assist small businesses in finding these subcontracting opportunities.

When small businesses can compete fairly and are made aware of the opportunities provided them, jobs are created, entrepreneurship thrives, and the overall economy prospers. I therefore encourage my colleagues to support this resolution.

Ms. HIRONO. Mr. Chairman, I rise in support of H.R. 1873, the Small Business Fairness in Contracting Act.

This bill creates a competitive bid process in the federal marketplace by restricting the ability of federal agencies to generate contracts that are too large for small businesses to compete effectively. Within the last 7 years, larger firms have benefited from the bundling of contracts while the total number of contracts received by small businesses has declined nationwide by 55 percent. H.R. 1873 increases the goal for small-business participation in federal contracts to at least 25 percent and requires the Small Business Administration to work with government agencies each fiscal year to establish and meet contracting goals that benefit small businesses.

Small businesses represent the overwhelming majority of businesses in Hawaii and play a vital role in economic growth for the state. H.R. 1873 will provide increased opportunities for Hawaii's small business community to compete for federal contracts that formerly were bundled and ended up going to larger out-of-state corporations.

Of course, this bill will help small businesses throughout the country compete for their fair share of federally funded projects.

I urge my colleagues to support this measure.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in strong support of H.R. 1873, the Small Business Fairness in Contracting Act. From the bodegas of the Bronx to your favorite family owned restaurant scattered across the plains of small town America, small businesses are the backbone of the American economy. These entities epitomize the spirit of the American dream, and they speak to everything that is wonderful about our society. Small businesses represent an opportunity for those individuals who dare to dream, who take a chance, and who wish to fulfill that entrepreneurial spirit that built this mighty Nation. I find it interesting that we are giving this bill consideration in the midst of a heated immigration debate, because one will find that a significant number of immigrants start small businesses as a means to realizing the American dream. They enrich the local community while bringing in much needed tax revenue, the same revenue that helped build New York City, Chicago, and Boston back at the turn of the 20th century. Turning our focus back to H.R. 1873, the Small Business Fairness in Contracting

Act, I rise in strong support of this legislation as it ensures that the federal government maintains a strong commitment to small businesses, as they try to remain competitive in a growing global economy.

This legislation increases the government-wide goal for participation by small-business concerns in all contracts awarded in a fiscal year to no less than 25 percent, from the current 23 percent. This legislation also increases the government-wide goal for procurement for small disadvantaged and women-owned businesses to 8 percent from 5 percent. The bill also requires each federal agency to submit to the SBA and Congress a detailed plan outlining how the agency plans to meet its small-business goals each fiscal year.

As a body, we the members of this 110th Congress have a duty to protect the needs of the average American. By passing this legislation we ensure the owners of small businesses across the country that the 110th Congress eagerly performed their duties.

Mr. LARSON of Connecticut. Mr. Chairman, I regret that I could not be present today because of a family medical situation and I would like to submit this statement for the record in support of H.R. 1873, the Small Business Fairness in Contracting Act.

All too often mega contracts are too large for small business to compete for in the federal marketplace. Last year, the federal government spent more than \$417 billion on goods and services in over 8 million contracts in 2006, of which small businesses won about \$80 billion (22 percent). Of the \$80 billion for small business contracts, \$12 billion was actually awarded to large businesses, not small businesses.

For the past six years, the federal government has failed to meet its 23 percent small business contracting goal. The bill before the House today would create a fair and open federal contracting system, that would ensure all small businesses have an equal opportunity to secure government contracts. This bill would increase the government-wide goal for small-business participation in federal contracts, limit the ability of federal agencies to bundle small projects into large contracts, and require the Small Business Administration to take steps to reduce erroneous entries in the government's contractor registry. The Small Businesses Fairness in Contracting Act would require no less than 25 percent, an increase from 23 percent, of all contracts be awarded to small-business in a fiscal year. It would also increase the government-wide goal for procurement for small disadvantaged and women-owned businesses to 8 percent from 5 percent.

This bill is a vital step for America's 26 million small businesses, including Connecticut's 341,000 small businesses. It is an investment in our nation's small businesses. For every \$1 invested, small businesses will contribute \$7 to the economy. I call upon my colleagues to join me in supporting a bill that supports a vital national interest—America's small businesses and economy.

Ms. VELÁZQUEZ. Mr. Chairman, I yield back the balance of our time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Oversight and Government Reform, printed in the bill, is considered as an original

bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

#### H.R. 1873

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "Small Business Fairness in Contracting Act".

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Regulations.

#### TITLE I—CONTRACT BUNDLING

Sec. 101. Definitions of bundling of contract requirements and related terms.

Sec. 102. Justification.

Sec. 103. Appeals.

Sec. 104. Third-party review.

#### TITLE II—INCREASING THE NUMBER OF SMALL BUSINESS CONTRACTS AND SUB-CONTRACTS

Sec. 201. Small business goal.

Sec. 202. Include overseas contracts in small business goal.

Sec. 203. Annual goal negotiation.

Sec. 204. Goal reasonableness.

Sec. 205. Usage of small companies in goal achievement.

Sec. 206. Annual plan for each agency explaining how agency will meet small business goals.

Sec. 207. Making small businesses the first choice.

Sec. 208. Uniform metric for subcontracting achievements.

Sec. 209. Subcontracting database.

Sec. 210. National database.

Sec. 211. Review of subcontracting plans.

Sec. 212. Agency obligation for fulfilling contracting goals.

#### TITLE III—PROTECTION OF TAXPAYERS FROM FRAUD

Sec. 301. Small business size protest notification.

Sec. 302. Review of national registry.

Sec. 303. Recertification of compliance with size standards and registration with Central Contractor Registry.

#### TITLE IV—AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Authorization of appropriations.

#### SEC. 2. REGULATIONS.

(a) *IN GENERAL.*—Not later than 180 days after the date of the enactment of this Act—

(1) the Administrator of the Small Business Administration shall promulgate regulations to implement this Act and the amendments made by this Act; and

(2) the Federal Acquisition Regulation shall be revised to implement this Act and the amendments made by this Act.

(b) *NOTICE AND COMMENT.*—The regulations required by subsection (a) shall be promulgated after opportunity for notice and comment as required by section 553(b) of title 5, United States Code.

#### TITLE I—CONTRACT BUNDLING

#### SEC. 101. DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by amending subsection (o) to read as follows:

"(o) *DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.*—For purposes of this Act:

"(1) *BUNDLED CONTRACT.*—

"(A) *IN GENERAL.*—The term 'bundled contract' means a contract or order that is entered

into to meet procurement requirements that are consolidated in a bundling of contract requirements, without regard to its designation by the procuring agency or whether a study of the effects of the solicitation on civilian or military personnel has been made.

"(B) *EXCEPTIONS.*—The term does not include—

"(i) a contract or order with an aggregate dollar value below the dollar threshold specified in paragraph (4); or

"(ii) a contract or order that is entered into to meet procurement requirements, all of which are exempted requirements under paragraph (5).

"(2) *BUNDLING OF CONTRACT REQUIREMENTS.*—

"(A) *IN GENERAL.*—The term 'bundling of contract requirements' means the use of any bundling methodology to satisfy 2 or more procurement requirements for new or existing goods or services, including any construction services, that is likely to be unsuitable for award to a small business concern due to—

"(i) the diversity, size, or specialized nature of the elements of the performance specified;

"(ii) the aggregate dollar value of the anticipated award;

"(iii) the geographical dispersion of the contract or order performance sites; or

"(iv) any combination of the factors described in clauses (i), (ii), and (iii).

"(B) *EXCEPTIONS.*—The term does not include—

"(i) the use of a bundling methodology for an anticipated award with an aggregate dollar value below the dollar threshold specified in paragraph (4); or

"(ii) the use of a bundling methodology to meet procurement requirements, all of which are exempted requirements under paragraph (5).

"(3) *BUNDLING METHODOLOGY.*—The term 'bundling methodology' means—

"(A) a solicitation to obtain offers for a single contract or order, or a multiple award contract or order;

"(B) a solicitation of offers for the issuance of a task or a delivery order under an existing single or multiple award contract or order; or

"(C) the creation of any new procurement requirement that permits a consolidation of contract or order requirements.

"(4) *DOLLAR THRESHOLD.*—The term 'dollar threshold' means—

"(A) \$65,000,000, if solely for construction services; and

"(B) \$1,500,000, in all other cases.

"(5) *EXEMPTED REQUIREMENTS.*—The term 'exempted requirement' means one or more of the following:

"(A) A procurement requirement solely for items that are not commercial items (as the term 'commercial item' is defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).

"(B) A procurement requirement with respect to which a determination that it is unsuitable for award to a small business concern has previously been made by the agency. However, the Administrator shall have authority to review and reverse such a determination for purposes of this paragraph and, if the Administrator does reverse that determination, the term 'exempted requirement' shall not apply to that procurement requirement.

"(6) *PROCUREMENT REQUIREMENT.*—The term 'procurement requirement' means a determination by an agency that a specified good or service is needed to satisfy the mission of the agency."

#### SEC. 102. JUSTIFICATION.

Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) by striking "is in a quantity or estimated dollar value the magnitude of which renders small business prime contract participation unlikely" and inserting "would now be combined with other requirements for goods and services";

(2) by striking "(2) why delivery schedules" and inserting "(2) the names, addresses and size

of the incumbent contract holders; (3) a description of the industries that might be interested in bidding on the contract requirements; (4) the number of small businesses listed in the industry categories that could be excluded from future bidding if the contract is combined or packaged; (5) why delivery schedules";

(3) by striking "(3) why the proposed acquisition" and inserting "(6) why the proposed acquisition";

(4) by striking "(4) why construction" and inserting "(7) why construction";

(5) by striking "(5) why the agency" and inserting "(8) why the agency";

(6) by striking "justified." and inserting "justified. The statement shall also set forth the proposed procurement strategy required by subsection (e) and, if applicable, the specifications required by subsection (e)(3). Concurrently, the statement shall be made available to the public, including through dissemination in the Federal contracting opportunities database."; and

(7) by inserting after "prime contracting opportunities." the following: "If no notification of the procurement and accompanying statement is received, but the Administrator determines that there is cause to believe the contract combines requirements or a contract (single or multiple award) or task or delivery order for construction services or includes unjustified bundling, then the Administrator can demand that such a statement of work goods or services be completed by the procurement activity and sent to the Procurement Center Representative and the solicitation process postponed for at least 10 days to allow the Administrator to review the statement and make recommendations as described in this section before the procurement is continued.".

#### SEC. 103. APPEALS.

Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) by striking "If a proposed procurement includes in its statement" and inserting "If a proposed procurement would negatively affect one or more small business concerns, or if a proposed procurement includes in its statement"; and

(2) by inserting before "Whenever the Administration and the contracting procurement agency fail to agree," the following: "If a small business concern would be adversely affected, directly or indirectly, by the procurement as proposed, and that small business concern or a trade association on behalf of that small business concern so requests, the Administrator may, in the Administrator's discretion, take action to further the interests of that small business concern.".

#### SEC. 104. THIRD-PARTY REVIEW.

Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended by striking the sentence beginning "Whenever the Administration and the contracting procurement agency fail to agree," and inserting the following: "Whenever the Administrator and the contracting procurement agency fail to agree, the Administrator shall submit the matter to the Administrator of the Office of Federal Procurement Policy within the Office of Management and Budget, who shall render his decision regarding the matter not later than 10 days after receiving the matter.".

### TITLE II—INCREASING THE NUMBER OF SMALL BUSINESS CONTRACTS AND SUBCONTRACTS

#### SEC. 201. SMALL BUSINESS GOAL.

Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended by striking "23 percent" and inserting "30 percent".

#### SEC. 202. INCLUDE OVERSEAS CONTRACTS IN SMALL BUSINESS GOAL.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

"(3) The procurement goals required by this subsection apply to all procurement contracts,

without regard to whether the contract is for work within or outside the United States.".

#### SEC. 203. ANNUAL GOAL NEGOTIATION.

Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended by striking "The President shall annually establish Government-wide goals for procurement contracts" and inserting "The President shall before the close of each fiscal year establish new Government-wide procurement goals for the following fiscal year for procurement contracts".

#### SEC. 204. GOAL REASONABLENESS.

Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended by striking "Notwithstanding the Government-wide goal, each agency shall have an annual goal" and inserting "Each agency shall have an annual goal, not lower than the Government-wide goal,".

#### SEC. 205. USAGE OF SMALL COMPANIES IN GOAL ACHIEVEMENT.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

"(4) For purposes of this subsection and subsection (h), a small business concern shall be counted toward one additional category goal only, even if that small business concern otherwise qualifies under more than one category goal. In this paragraph, the term 'category goal' means a goal described in paragraph (2).".

#### SEC. 206. ANNUAL PLAN FOR EACH AGENCY EXPLAINING HOW AGENCY WILL MEET SMALL BUSINESS GOALS.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

"(5) Before the beginning of each fiscal year, the head of each Federal agency shall submit to the Administrator of the Small Business Administration and to Congress a detailed plan explaining how the agency intends to meet the small business goals under this subsection that apply to that agency for that fiscal year.".

#### SEC. 207. MAKING SMALL BUSINESSES THE FIRST CHOICE.

Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended—

(1) in paragraph (1)—

(A) by inserting "or order" after "Each contract"; and

(B) by striking "\$100,000" and insert "the Simplified Acquisition Threshold"; and

(2) in paragraph (3), by striking "subsection (a) of section 8" and inserting "section 8, 31, or 36".

#### SEC. 208. UNIFORM METRIC FOR SUBCONTRACTING ACHIEVEMENTS.

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:

"(12) In carrying out this subsection, the Administrator shall require each prime contractor to report small business subcontract usage at all tiers based on the percentage of the total dollar amount of the contract award.".

#### SEC. 209. SUBCONTRACTING DATABASE.

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:

"(13) In carrying out this subsection, the Administrator shall develop and maintain a password-protected database that will enable the Administration to assist small businesses in marketing to large corporations that have not achieved their small business goals.".

#### SEC. 210. NATIONAL DATABASE.

The Administrator of the Small Business Administration shall ensure that whenever a small business enters its information in the Central Contractor Registry, or any successor to that registry, the Administrator contacts that business within 30 days regarding the likelihood of Federal contracting opportunities. The Administrator shall ensure that each small business that so registers is, for each industry code entered by that small business, provided with the total dol-

lar value of government contract awards to small businesses for that industry.

#### SEC. 211. REVIEW OF SUBCONTRACTING PLANS.

Not later than 120 days after the date of the enactment of this section, the Administrator of the Small Business Administration shall, after an opportunity for notice and comment, prescribe regulations to govern the Administrator's review of subcontracting plans, including standards for determining good faith effort in compliance with the subcontracting plans.

#### SEC. 212. AGENCY OBLIGATION FOR FULFILLING CONTRACTING GOALS.

Section 15(h) of the Small Business Act (15 U.S.C. 644(h)) is amended by adding at the end the following:

"(4) At the conclusion of each fiscal year, the head of each Federal agency shall submit to Congress a report specifying the percentage of contracts awarded by that agency for that fiscal year that were awarded to small business concerns. If the percentage is less than 30 percent, the head of the agency shall, in the report, explain why the percentage is less than 30 percent and what will be done to ensure that the percentage for the following fiscal year will not be less than 30 percent.".

### TITLE III—PROTECTION OF TAXPAYERS FROM FRAUD

#### SEC. 301. SMALL BUSINESS SIZE PROTEST NOTIFICATION.

(a) IN GENERAL.—The Administrator of the Small Business Administration shall work with appropriate Federal agencies to ensure that whenever a business concern is awarded a contract on the basis that it qualifies as small and then is determined not to qualify as small, a notification of those facts (that an award was made on such a basis, and that such a determination was made) shall be placed adjacent to that concern's listing in the Central Contractor Registry (or any successor to that registry).

(b) COMPTROLLER GENERAL CERTIFICATION.—The Administrator shall, in making any report of small business goal accomplishments, qualify the accomplishments as "estimated", until the Administrator obtains from the Comptroller General the Comptroller General's certification that there are no data integrity issues with respect to the national repository of contract award information known as Federal Procurement Data System-Next Generation (FPDS-NG), or any successor to that repository.

(c) AWARDS TO LARGE BUSINESSES.—For each Federal agency, the Inspector General of that agency shall, on an annual basis, submit to Congress a report on the number and dollar value of contract awards that were coded as awards to small business concerns but in fact were made to businesses that did not qualify as small business concerns.

#### SEC. 302. REVIEW OF NATIONAL REGISTRY.

The Administrator of the Small Business Administration shall ensure, on a biannual basis, that an independent audit is performed of the Central Contractor Registry, or any successor to that registry, and that the Dynamic Small Business Search portion of the registry, or any successor to that portion of the registry, is purged of any businesses that are not in fact small businesses. If a business that has been so purged attempts, while not in fact a small business, to re-register, that business is subject to debarment as a Federal contractor and is further subject to penalties outlined in section 16 of the Small Business Act (15 U.S.C. 645).

#### SEC. 303. RECERTIFICATION OF COMPLIANCE WITH SIZE STANDARDS AND REGISTRATION WITH CENTRAL CONTRACTOR REGISTRY.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by adding at the end the following:

"(5) RECERTIFICATION.—

"(A) IN GENERAL.—If a business concern is awarded a contract because of a standard by which it is determined to be a small business

concern, and the business concern is close to exceeding that standard at the time the award is made, then the business concern must, annually after the date of the award, recertify to the agency awarding the contract whether it meets that standard.

“(B) ‘CLOSE TO EXCEEDING’.—For purposes of subparagraph (A), a business concern is close to exceeding—

“(i) a number-of-employees standard if the number of employees of the business concern is 95 percent or more of the maximum number of employees allowed under the standard; and

“(ii) a dollar-volume-of-business standard if the dollar volume of business is 80 percent or more of the maximum dollar volume allowed under the standard.

“(6) REGISTRY.—For a business concern to be awarded a contract because of a standard by which it is determined to be a small business concern, the business concern must, annually after the end of the fiscal year used by the business concern, update its listing in the Central Contractor Registry.”.

#### **TITLE IV—AUTHORIZATION OF APPROPRIATIONS**

##### **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this Act and the amendments made by this Act.

##### **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Small Business Fairness in Contracting Act”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Regulations.

#### **TITLE I—CONTRACT BUNDLING**

Sec. 101. Definitions of bundling of contract requirements and related terms.

Sec. 102. Justification.

Sec. 103. Appeals.

Sec. 104. Review.

#### **TITLE II—INCREASING THE NUMBER OF SMALL BUSINESS CONTRACTS AND SUBCONTRACTS**

Sec. 201. Small business goal.

Sec. 202. Annual goal negotiation.

Sec. 203. Usage of small companies in goal achievement.

Sec. 204. Annual plan for each agency explaining how agency will meet small business goals.

Sec. 205. Making small businesses the first choice.

Sec. 206. Uniform metric for subcontracting achievements.

Sec. 207. Subcontracting database.

Sec. 208. National database.

Sec. 209. Review of subcontracting plans.

Sec. 210. Agency obligation for fulfilling contracting goals.

Sec. 211. Appropriate limits on value of sole source contracts.

#### **TITLE III—PROTECTION OF TAXPAYERS FROM FRAUD**

Sec. 301. Small business size protest notification.

Sec. 302. Review of national registry.

Sec. 303. Recertification of compliance with size standards and registration with Central Contractor Registry.

#### **TITLE IV—AUTHORIZATION OF APPROPRIATIONS**

Sec. 401. Authorization of appropriations.

##### **SEC. 2. REGULATIONS.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act—

(1) the Administrator of the Small Business Administration shall promulgate regulations to implement this Act and the amendments made by this Act; and

(2) the Federal Acquisition Regulation shall be revised to implement this Act and the amendments made by this Act.

(b) NOTICE AND COMMENT.—The regulations required by subsection (a) shall be promulgated after opportunity for notice and comment as required by section 553(b) of title 5, United States Code.

#### **TITLE I—CONTRACT BUNDLING**

##### **SEC. 101. DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.**

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by amending subsection (o) to read as follows:

“(O) DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.—For purposes of this Act:

“(1) BUNDLED CONTRACT.—

“(A) IN GENERAL.—The term ‘bundled contract’ means a contract or order that is entered into to meet procurement requirements that are consolidated in a bundling of contract requirements, without regard to its designation by the procuring agency or whether a study of the effects of the solicitation on civilian or military personnel has been made.

“(B) EXCEPTIONS.—The term does not include—

“(i) a contract or order with an aggregate dollar value below the dollar threshold specified in paragraph (4); or

“(ii) a contract or order that is entered into to meet procurement requirements, all of which are exempted requirements under paragraph (5).

“(2) BUNDLING OF CONTRACT REQUIREMENTS.—

“(A) IN GENERAL.—The term ‘bundling of contract requirements’ means the use of any bundling methodology to satisfy 2 or more procurement requirements for goods or services, including any construction services, previously supplied or performed under separate smaller contracts or orders that is likely to be unsuitable for award to a small business concern due to—

“(i) the diversity, size, or specialized nature of the elements of the performance specified;

“(ii) the aggregate dollar value of the anticipated award;

“(iii) the geographical dispersion of the contract or order performance sites; or

“(iv) any combination of the factors described in clauses (i), (ii), and (iii).

“(B) INCLUSION OF NEW FEATURES OR FUNCTIONS.—A combination of contract requirements that would meet the definition of a bundling of contract requirements but for the addition of a procurement requirement with at least one new good or service shall be considered to be a bundling of contract requirements unless the new features or functions substantially transform the goods or services previously performed.

“(C) EXCEPTIONS.—The term does not include—

“(i) the use of a bundling methodology for an anticipated award with an aggregate dollar value below the dollar threshold specified in paragraph (5); or

“(ii) the use of a bundling methodology to meet procurement requirements, all of which are exempted requirements under paragraph (6).

“(3) BUNDLING METHODOLOGY.—The term ‘bundling methodology’ means—

“(A) a solicitation to obtain offers for a single contract or order, or a multiple award contract or order; or

“(B) a solicitation of offers for the issuance of a task or a delivery order under an existing single or multiple award contract or order.

“(4) SEPARATE SMALLER CONTRACT.—The term ‘separate smaller contract’, with re-

spect to bundling of contract requirements, means a contract or order that has been performed by 1 or more small business concerns or was suitable for award to 1 or more small business concerns.

“(5) DOLLAR THRESHOLD.—The term ‘dollar threshold’ means—

“(A) \$65,000,000, if solely for construction services; and

“(B) \$5,000,000, in all other cases.

“(6) EXEMPTED REQUIREMENTS.—The term ‘exempted requirement’ means a procurement requirement solely for items that are not commercial items (as the term ‘commercial item’ is defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

“(7) PROCUREMENT REQUIREMENT.—The term ‘procurement requirement’ means a determination by an agency that a specified good or service is needed to satisfy the mission of the agency.”.

##### **SEC. 102. JUSTIFICATION.**

Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) by striking “(2) why delivery schedules” and inserting “(2) the names, addresses and size of the incumbent contract holders; (3) a description of the industries that might be interested in bidding on the contract requirements; (4) the number of small businesses listed in the industry categories that could be excluded from future bidding if the contract is combined or packaged; (5) why delivery schedules”;

(2) by striking “(3) why the proposed acquisition” and inserting “(6) why the proposed acquisition”;

(3) by striking “(4) why construction” and inserting “(7) why construction”;

(4) by striking “(5) why the agency” and inserting “(8) why the agency”;

(5) by striking “justified.” and inserting “justified. The statement shall also set forth the proposed procurement strategy required by subsection (e) and, if applicable, the specifications required by subsection (e)(3). The statement shall be made available to the public, including through dissemination in the Federal contracting opportunities database, concurrently with the issuance of the solicitation.”; and

(6) by inserting after “prime contracting opportunities.” the following: “If no notification of the procurement and accompanying statement is received, but the Administrator determines that there is cause to believe the contract combines requirements or a contract (single or multiple award) or task or delivery order for construction services or includes unjustified bundling, then the Administrator may request that such a statement of work goods or services be completed by the procurement activity and sent to the Procurement Center Representative and the solicitation process postponed for 10 days to allow the Administrator to review the statement and make recommendations as described in this section before the procurement is continued.”.

##### **SEC. 103. APPEALS.**

Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended by inserting before “Whenever the Administration and the contracting procurement agency fail to agree,” the following: “If a small business concern would be adversely affected, directly or indirectly, by the procurement as proposed, and that small business concern or a trade association on behalf of that small business concern so requests, the Administrator may, in the Administrator’s discretion, take action to further the interests of that small business concern.”.

**SEC. 104. REVIEW.**

Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended by striking the sentence beginning "Whenever the Administration and the contracting procurement agency fail to agree," and inserting the following: "Whenever the Administration and the contracting procurement agency fail to agree, the Administrator shall submit the matter to the head of the agency for a determination. The head of the agency shall provide a written response to the Administrator. A copy of such response shall also be provided to the Committees on Small Business of the House of Representatives and Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate."

**TITLE II—INCREASING THE NUMBER OF SMALL BUSINESS CONTRACTS AND SUBCONTRACTS****SEC. 201. SMALL BUSINESS GOAL.**

(a) **GOVERNMENT-WIDE GOAL.**—Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended by striking "23 percent" and inserting "25 percent".

(b) **GOALS FOR SMALL DISADVANTAGED BUSINESSES AND WOMEN-OWNED BUSINESSES.**—Section 15(g)(1) of such Act is further amended by striking "5 percent" both places it appears and inserting "8 percent".

**SEC. 202. ANNUAL GOAL NEGOTIATION.**

Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended by striking "The President shall annually establish Government-wide goals for procurement contracts" and inserting "The President shall before the close of each fiscal year establish new Government-wide procurement goals for the following fiscal year for procurement contracts".

**SEC. 203. USAGE OF SMALL COMPANIES IN GOAL ACHIEVEMENT.**

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

"(4) For purposes of this subsection and subsection (h), a small business concern shall be counted toward one additional category goal only, even if that small business concern otherwise qualifies under more than one category goal. In this paragraph, the term 'category goal' means a goal described in paragraph (2)."

**SEC. 204. ANNUAL PLAN FOR EACH AGENCY EXPLAINING HOW AGENCY WILL MEET SMALL BUSINESS GOALS.**

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

"(5) Before the beginning of each fiscal year, the head of each Federal agency shall submit to the Administrator of the Small Business Administration and to Congress a detailed plan explaining how the agency intends to meet the small business goals under this subsection that apply to that agency for that fiscal year."

**SEC. 205. MAKING SMALL BUSINESSES THE FIRST CHOICE.**

Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended—

(1) in paragraph (1), by striking "\$100,000" and inserting "the Simplified Acquisition Threshold"; and

(2) in paragraph (3), by striking "subsection (a) of section 8" and inserting "section 8, 31, or 36".

**SEC. 206. UNIFORM METRIC FOR SUBCONTRACTING ACHIEVEMENTS.**

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:

"(12) In carrying out this subsection, the Administrator shall require each prime con-

tractor to report small business subcontract usage at all tiers based on the percentage of the total dollar amount of the contract award."

**SEC. 207. SUBCONTRACTING DATABASE.**

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:

"(13) In carrying out this subsection, the Administrator shall develop and maintain a password-protected database that will enable the Administration to assist small businesses in marketing to large corporations that have not achieved their small business goals."

**SEC. 208. NATIONAL DATABASE.**

The Administrator of the Small Business Administration shall ensure that whenever a small business enters its information in the Central Contractor Registry, or any successor to that registry, the Administrator contacts that business within 30 days regarding the likelihood of Federal contracting opportunities. The Administrator shall ensure that each small business that so registers is, for each industry code entered by that small business, provided with the total dollar value of government contract awards to small businesses for that industry.

**SEC. 209. REVIEW OF SUBCONTRACTING PLANS.**

Not later than 120 days after the date of the enactment of this section, the Administrator of the Small Business Administration shall, after an opportunity for notice and comment, prescribe regulations to govern the Administrator's review of subcontracting plans, including standards for determining good faith effort in compliance with the subcontracting plans.

**SEC. 210. AGENCY OBLIGATION FOR FULFILLING CONTRACTING GOALS.**

Section 15(h) of the Small Business Act (15 U.S.C. 644(h)) is amended by adding at the end the following:

"(4) At the conclusion of each fiscal year, the head of each Federal agency shall submit to Congress a report specifying the percentage of contracts awarded by that agency for that fiscal year that were awarded to small business concerns. If the percentage is less than 25 percent, the head of the agency shall, in the report, explain why the percentage is less than 25 percent and what will be done to ensure that the percentage for the following fiscal year will not be less than 25 percent."

**SEC. 211. APPROPRIATE LIMITS ON VALUE OF SOLE SOURCE CONTRACTS.**

(a) **APPROPRIATE LIMITS.**—If a law is not enacted by December 31, 2007, revising the limits referred to in this subsection, the Administrator for Federal Procurement Policy, in consultation with the Administrator for Small Business, shall establish appropriate limits on the value of contracts awarded without the use of competitive procedures to participants in the program established by section 8(a) of the Small Business Act (15 USC 637(a)) that are not subject to the limits on the value of such contracts established by paragraph (1)(D) of section 8(a) of such Act.

(b) **CONSULTATION.**—In establishing any limit described in subsection (a), the Administrator for Federal Procurement Policy shall consult with representatives of the affected program participants. The Administrator shall also take into account—

(1) any special circumstances and needs of the affected program participants; and

(2) the advantages of promoting competition in Federal contracting.

**TITLE III—PROTECTION OF TAXPAYERS FROM FRAUD****SEC. 301. SMALL BUSINESS SIZE PROTEST NOTIFICATION.**

(a) **IN GENERAL.**—The Administrator of the Small Business Administration shall work

with appropriate Federal agencies to ensure that whenever a business concern is awarded a contract on the basis that it qualifies as small and then is determined not to qualify as small, a notification of those facts (that an award was made on such a basis, and that such a determination was made) shall be placed adjacent to that concern's listing in the Central Contractor Registry (or any successor to that registry).

(b) **COMPTROLLER GENERAL CERTIFICATION.**—The Administrator shall, in making any report of small business goal accomplishments, qualify the accomplishments as "estimated", until the Administrator obtains from the Comptroller General the Comptroller General's certification that there are no data integrity issues with respect to the national repository of contract award information known as Federal Procurement Data System-Next Generation (FPDS-NG), or any successor to that repository.

(c) **AWARDS TO LARGE BUSINESSES.**—For each Federal agency, the Inspector General of that agency shall, on an annual basis, submit to Congress a report on the number and dollar value of contract awards that were coded as awards to small business concerns but in fact were made to businesses that did not qualify as small business concerns.

**SEC. 302. REVIEW OF NATIONAL REGISTRY.**

The Administrator of the Small Business Administration shall ensure, on a biannual basis, that an independent audit is performed of the Central Contractor Registry, or any successor to that registry, and that the Dynamic Small Business Search portion of the registry, or any successor to that portion of the registry, is purged of any businesses that are not in fact small businesses. If a business that has been so purged attempts, while not in fact a small business, to re-register, that business is subject to debarment as a Federal contractor and is further subject to penalties outlined in section 16 of the Small Business Act (15 U.S.C. 645).

**SEC. 303. RECERTIFICATION OF COMPLIANCE WITH SIZE STANDARDS AND REGISTRATION WITH CENTRAL CONTRACTOR REGISTRY.**

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by adding at the end the following:

"(5) **RECERTIFICATION.**—

"(A) **IN GENERAL.**—If a business concern is awarded a contract because of a standard by which it is determined to be a small business concern, and the business concern is close to exceeding that standard at the time the award is made, then the business concern must, annually after the date of the award, recertify to the agency awarding the contract whether it meets that standard.

"(B) **'CLOSE TO EXCEEDING.'**—For purposes of subparagraph (A), a business concern is close to exceeding—

"(i) a number-of-employees standard if the number of employees of the business concern is 95 percent or more of the maximum number of employees allowed under the standard; and

"(ii) a dollar-volume-of-business standard if the dollar volume of business is 80 percent or more of the maximum dollar volume allowed under the standard.

"(6) **REGISTRY.**—For a business concern to be awarded a contract because of a standard by which it is determined to be a small business concern, the business concern must, annually after the end of the fiscal year used by the business concern, update its listing in the Central Contractor Registry."

**TITLE IV—AUTHORIZATION OF APPROPRIATIONS****SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out

this Act and the amendments made by this Act.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 110-137. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

Pursuant to the order of the House of today, amendment No. 4 may be offered out of order.

AMENDMENT NO. 4 OFFERED BY MR. SESTAK

Mr. SESTAK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. SESTAK:

Strike section 101 and insert the following:

**SEC. 101. DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.**

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by amending subsection (o) to read as follows:

“(o) DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.—For purposes of this Act:

“(1) BUNDLED CONTRACT.—

“(A) IN GENERAL.—The term ‘bundled contract’ means a contract or order that is entered into to meet procurement requirements that are consolidated in a bundling of contract requirements, without regard to its designation by the procuring agency or whether a study of the effects of the solicitation on civilian or military personnel has been made.

“(B) EXCEPTIONS.—The term does not include—

“(i) a contract or order with an aggregate dollar value below the dollar threshold specified in paragraph (4); or

“(ii) a contract or order that is entered into to meet procurement requirements, all of which are exempted requirements under paragraph (5).

“(2) BUNDLING OF CONTRACT REQUIREMENTS.—

“(A) IN GENERAL.—The term ‘bundling of contract requirements’ means the use of any bundling methodology to satisfy 2 or more procurement requirements for goods or services previously supplied or performed under separate smaller contracts or orders, or to satisfy 2 or more procurement requirements for construction services of a type historically performed under separate smaller contracts or orders, that is likely to be unsuitable for award to a small business concern due to—

“(i) the diversity, size, or specialized nature of the elements of the performance specified;

“(ii) the aggregate dollar value of the anticipated award;

“(iii) the geographical dispersion of the contract or order performance sites; or

“(iv) any combination of the factors described in clauses (i), (ii), and (iii).

“(B) INCLUSION OF NEW FEATURES OR FUNCTIONS.—A combination of contract requirements that would meet the definition of a bundling of contract requirements but for the addition of a procurement requirement

with at least one new good or service shall be considered to be a bundling of contract requirements unless the new features or functions substantially transform the goods or services and for which measurably substantial benefits to the government in terms of quality or price are identified.

“(C) EXCEPTIONS.—The term does not include—

“(i) the use of a bundling methodology for an anticipated award with an aggregate dollar value below the dollar threshold specified in paragraph (5); or

“(ii) the use of a bundling methodology to meet procurement requirements, all of which are exempted requirements under paragraph (6).

“(3) BUNDLING METHODOLOGY.—The term ‘bundling methodology’ means—

“(A) a solicitation to obtain offers for a single contract or order, or a multiple award contract or order; or

“(B) a solicitation of offers for the issuance of a task or a delivery order under an existing single or multiple award contract or order.

“(4) SEPARATE SMALLER CONTRACT.—The term ‘separate smaller contract’, with respect to bundling of contract requirements, means a contract or order that has been performed by 1 or more small business concerns or was suitable for award to 1 or more small business concerns.

“(5) DOLLAR THRESHOLD.—The term ‘dollar threshold’ means \$65,000,000, if solely for construction services.

“(6) EXEMPTED REQUIREMENTS.—The term ‘exempted requirement’ means a procurement requirement solely for items that are not commercial items (as the term ‘commercial item’ is defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).

“(7) PROCUREMENT REQUIREMENT.—The term ‘procurement requirement’ means a determination by an agency that a specified good or service is needed to satisfy the mission of the agency.”.

MODIFICATION TO AMENDMENT NO. 4 OFFERED BY MR. SESTAK

Mr. SESTAK. Mr. Chairman, I ask unanimous consent that the amendment be modified by the form I have placed at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 4 offered by Mr. SESTAK:

Strike section 101 and insert the following:

**SEC. 101. DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.**

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by amending subsection (o) to read as follows:

“(o) DEFINITIONS OF BUNDLING OF CONTRACT REQUIREMENTS AND RELATED TERMS.—For purposes of this Act:

“(1) BUNDLED CONTRACT.—

“(A) IN GENERAL.—The term ‘bundled contract’ means a contract or order that is entered into to meet procurement requirements that are consolidated in a bundling of contract requirements, without regard to its designation by the procuring agency or whether a study of the effects of the solicitation on civilian or military personnel has been made.

“(B) EXCEPTIONS.—The term does not include—

“(i) a contract or order with an aggregate dollar value below the dollar threshold specified in paragraph (4); or

“(ii) a contract or order that is entered into to meet procurement requirements, all

of which are exempted requirements under paragraph (5).

“(2) BUNDLING OF CONTRACT REQUIREMENTS.—

“(A) IN GENERAL.—The term ‘bundling of contract requirements’ means the use of any bundling methodology to satisfy 2 or more procurement requirements for goods or services previously supplied or performed under separate smaller contracts or orders, or to satisfy 2 or more procurement requirements for construction services of a type historically performed under separate smaller contracts or orders, that is likely to be unsuitable for award to a small business concern due to—

“(i) the diversity, size, or specialized nature of the elements of the performance specified;

“(ii) the aggregate dollar value of the anticipated award;

“(iii) the geographical dispersion of the contract or order performance sites; or

“(iv) any combination of the factors described in clauses (i), (ii), and (iii).

“(B) INCLUSION OF NEW FEATURES OR FUNCTIONS.—A combination of contract requirements that would meet the definition of a bundling of contract requirements but for the addition of a procurement requirement with at least one new good or service shall be considered to be a bundling of contract requirements unless the new features or functions substantially transform the goods or services and will provide measurably substantial benefits to the government in terms of quality, performance, or price.

“(C) EXCEPTIONS.—The term does not include—

“(i) the use of a bundling methodology for an anticipated award with an aggregate dollar value below the dollar threshold specified in paragraph (5); or

“(ii) the use of a bundling methodology to meet procurement requirements, all of which are exempted requirements under paragraph (6).

“(3) BUNDLING METHODOLOGY.—The term ‘bundling methodology’ means—

“(A) a solicitation to obtain offers for a single contract or order, or a multiple award contract or order; or

“(B) a solicitation of offers for the issuance of a task or a delivery order under an existing single or multiple award contract or order.

“(4) SEPARATE SMALLER CONTRACT.—The term ‘separate smaller contract’, with respect to bundling of contract requirements, means a contract or order that has been performed by 1 or more small business concerns or was suitable for award to 1 or more small business concerns.

“(5) DOLLAR THRESHOLD.—The term ‘dollar threshold’ means \$65,000,000, if solely for construction services.

“(6) EXEMPTED REQUIREMENTS.—The term ‘exempted requirement’ means a procurement requirement solely for items that are not commercial items (as the term ‘commercial item’ is defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).

“(7) PROCUREMENT REQUIREMENT.—The term ‘procurement requirement’ means a determination by an agency that a specified good or service is needed to satisfy the mission of the agency.”.

Mr. SESTAK (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Without objection, the amendment is modified.

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 383, the gentleman from Pennsylvania (Mr. SESTAK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. SESTAK. Mr. Chairman, I yield myself such time as I may consume.

(Mr. SESTAK asked and was given permission to revise and extend his remarks.)

Mr. SESTAK. Mr. Chairman, I rise to speak in support of this amendment to increase the number of Federal contracts granted to small businesses by addressing a practice known as contract bundling, which has allowed Federal agencies to award mega-contracts, contracts so large they cannot possibly be performed by a small business. This amendment will ensure that more large contracts will be reviewed as to their appropriateness to be bundled and potentially broken into smaller pieces more suitable for small business.

The goal: enhancing taxpayer savings by a more efficient and effective use of our resources by helping the Federal Government meet its statutory goal of small business contracts, which it presently does not.

Presently, the bill's current definition would prevent too many large contracts to be exempted from a bundling analysis as to their appropriateness for access to small business. This amendment will help reduce these exemptions by eliminating the monetary threshold for nonconstruction Federal contracts to be reviewed. Additionally, bundled contracts that "substantially transform a good or service," referring to contracts that use a new, innovative contract process, are currently exempted from bundling analysis.

This amendment would mandate that in such cases measurable, substantial benefits must be demonstrated to the government in terms of quality, performance or price. If that cannot be shown, a bundling analysis must be completed.

This amendment, by also explicitly requiring that a bundling analysis be performed for new work and construction contracts, as opposed to just previously performed work, will also close the loophole that has been used by agencies to avoid unbundling contracts.

Let me give you an example of why addressing contract bundling is important to not just small businesses but also to efficient and effective use of our Nation's resources, particularly in new or transformational requirements that our Federal agencies increasingly contract for.

Gestalt, a small business located in my district, recently competed in an Army contract, which they competed for against a very large defense corporation, to fix the Defense Readiness Reporting System.

Right now, we have in the military a fairly arcane system, where obtaining detailed, up-to-date, instantaneous information on the readiness of our military and its units is challenging at best. What was required was a much more dynamic system that could present in real-time the readiness of our forces, in this case, the 5,000-plus Army units we have, which can greatly impact a commander's decision in what has become a fast-paced, battle space environment where speed of decision is so highly valued.

The large defense corporation said it would take 3 years to complete the project, while the smaller firm then did it in only 7 months. From my time as a vice admiral responsible for executing the Navy's annual \$67 billion worth of warfare requirements and programs, I know there is a tendency, because of ease of execution, to want to go to a large corporation and have them subcontract their bundled program to other vendors.

The result, unfortunately, is particularly worrisome at a moment when we need to transform not just our military but many of our other federally funded efforts. The speed and agility that more entrepreneurial small businesses often can provide in a fast-paced, globalized and continuously changing world are key to rapidly meeting new, evolving requirements of our Nation, particularly in such transformational areas as software and information technology.

It is, therefore, inefficient and ineffective to our competitive edge to deny entrepreneurial small businesses direct access to the real requirements of the customer, the U.S. government, and it is also harmful to our interests to have large corporations bundle certain contracts so that only derived requirements are available to the subcontractors, these derived requirements having to be interpreted by sub-vendors or be interpreted to them by the large corporation, a middleman, adding complexity, time and misinterpretation, rather than streamlining, to the Federal contracting process.

In short, undue bundling of contracts cost the taxpayers money. More, this inefficiency leads to less effectiveness. By unbundling work requirements, this amendment will create new opportunities for small firms, expanding the government's access to more qualified contractors. Increased competition because of more fair access will lead to lower prices and to the improvement of the quality of goods and services procured by the Federal Government.

I urge all my colleagues to support this critical amendment, not only for the Nation's entrepreneurial small businesses but for a more efficient and effective application of our Nation's resources.

Mr. Chairman, I reserve the balance of my time.

Mr. CHABOT. Mr. Chairman, I claim the 5 minutes in opposition to the amendment, although I do not oppose the amendment. I am in favor of it.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. CHABOT. Mr. Chairman, I yield such time as she might consume to the gentlewoman from New York (Ms. VELÁZQUEZ), if she would like to speak at this time.

Ms. VELÁZQUEZ. Mr. Chairman, contract bundling has been a major issue for years, and it is increasing. When contracts are combined together into mega-contracts, small businesses are unable to compete. In fact, some contracts are so large that only a handful of companies would be able to perform them. This can create a virtual monopoly, which is problematic for taxpayers concerned with getting the best value for their money.

This amendment would save taxpayers money and benefit the economy. It will increase competition, providing the government with more options to purchase goods and services from. This will ultimately lower prices for Federal agencies. Unbundling contracts will create new opportunities for entrepreneurs, leading to new jobs and more local tax revenue.

The amendment closes a loophole in current law. This amendment adds new work and construction, which previously were not subject to bundling analyses. Current law only required contracts that have been previously performed to be reviewed for bundling. This amendment closes this gap and gives Federal agencies the tools it needs to save the taxpayers money.

The expanded bundling definition will not be overly burdensome. Contracts that are not suitable for small businesses will not require a bundling analysis. Bundled construction contracts under \$65 million will not require an analysis. By creating more competition in the Federal marketplace, this amendment will save taxpayers money.

Expanding the definition of bundling will require more contracts to be reviewed, and possibly unbundled, than the current statute permits. This will create more opportunities for small firms, give the government more options and lower costs and increase quality for taxpayers.

I thank both the gentleman from Pennsylvania for his work on this issue and Mr. CHABOT for all the work that he has done on the underlying bill and on this amendment.

Mr. CHABOT. Mr. Chairman, I yield myself as much time as I may consume. I will be brief.

The amendment offered by Mr. SESTAK will increase the protections against inappropriate contract bundling. It represents a compromise between the Small Business Committee's version and the Committee on Government Reform's version of H.R. 1873. I believe it represents an adequate resolution of the issue and pledge to work to make the protections in the Sestak amendment even stronger as we work through the legislative process.

Mr. Chairman, I reserve the balance of my time.

Mr. SESTAK. Mr. Chairman, I yield back the balance of my time.

Mr. CHABOT. I yield back the balance of our time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Pennsylvania (Mr. SESTAK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Ms. VELÁZQUEZ. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Pennsylvania will be postponed.

AMENDMENT NO. 1 OFFERED BY MR. REYES

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 110-137.

Mr. REYES. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. REYES:

**SEC. 209. REVIEW OF SUBCONTRACTING PLANS.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the General Services Administration shall, after an opportunity for notice and comment, begin to make modifications, if necessary, to the Electronic Subcontracting Reporting System (ESRS) for the purpose of tracking companies' compliance with small business subcontracting plans included in successful contract bids. ESRS shall be further developed, if necessary, in such a way that it allows agencies to track whether or not the prime contractor actually subcontracted work out to the subcontracting firms described in the Small Business Subcontracting Plan. Further, ESRS shall be modified, if necessary, so that it facilitates review of a company's record of compliance with small business subcontracting plans.

(b) PERIODIC REPORTS.—Prime contractors shall be required to submit Small Business Subcontracting Plans to ESRS and submit subsequent periodic reports to ESRS describing the extent to which the prime contractor complied with small business subcontracting plans submitted as part of the company's successful contract proposal. Each such report shall include a specific accounting of compliance with subcontracting goals described in the prime contractor's Small Business Subcontracting Plans related to Small Disadvantaged Businesses Concerns, Women-Owned Small Business Concerns, Historically Black Colleges and Universities and Minority Institutions, Service-Disabled Veteran-Owned Small Business Concerns, and HUBZone Small Business Concerns. Each such accounting of compliance shall also be included in ESRS.

(c) INCLUSION IN ESRS.—The "percentage of the total dollar amount of the contract award" that is paid to small business, as referred to in paragraph (12) of section 8(d) of the Small Business Act (as added by section 206 of this Act) shall also be included in ESRS.

(d) AVAILABILITY OF ESRS.—ESRS and the information therein shall be made available to agency officials and Source Selection Evaluation Boards (as referred to in Federal Acquisition Regulations 3.104-1) that are charged with evaluating contract proposals, and, when evaluating contract proposals,

agencies shall take into consideration the compliance with small business subcontracting plans of companies competing for Federal contracts, and within one year after the date of the enactment of this Act such consideration shall be reflected in the Federal Acquisition Regulations.

(e) FURTHER MODIFICATIONS REQUIRED.—ESRS shall be modified in such a way that it can generate comparable reports on individual companies' compliance records to be used in the contract proposal evaluation processes of agencies.

The CHAIRMAN. Pursuant to House Resolution 383, the gentleman from Texas (Mr. REYES) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. REYES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is simple. It uses existing procedures and an existing resource to promote fairness in subcontracting. It makes a great bill, the Small Business Fairness in Contracting Act of 2007, I believe even better. Let me describe the problem as it currently exists.

For large government contracts, applicants are required to submit small business subcontracting plans during the bidding process detailing their intentions to include small businesses in the work. However, too often prime contractors disregard small business subcontracting plans submitted as part of winning government bids.

This is simply, in our eyes, not fair. Small business gets left behind, and prime contractors who keep their word, who are doing the right thing, end up at a competitive disadvantage with the bad actors.

This unfortunate practice has particularly adverse effects on the small businesses that are included in small business subcontracting plans but do not actually receive the contract work. When small businesses are included in the small business plans of prime contractors, the small businesses will often make investments on the front end to prepare themselves to do the subcontract work. If the prime does not ultimately subcontract the work to the small business in question, however, that small business will often find itself overextended. Often, the operating margins of small businesses are very small, and unmet subcontract obligations in small business subcontracting plans can force these small firms out of business.

Prime contractors receive bids based on their commitment to include small business in the contract, in part, and it is only fair that the primes fulfill their end of the deal.

My amendment provides much-needed accountability over small business subcontracting plans by doing two things. One, this amendment takes advantage of an existing online tool, the Electronic Subcontracting Reporting System, and existing procedures for reporting on contracts to accumulate and organize information about prime contractors' compliance records with

small business subcontracting plans. ESRS will be developed to prepare easily comparable reports for tracking prime contractors and their compliance through their records.

We are not reinventing the wheel. This is a commonsense, efficient way to allow information to be organized in such a way as to provide the necessary accountability over these small business plans.

Second, this amendment brings fairness to subcontracting by requiring that agencies, even when evaluating subcontract or contract proposals, take into consideration compliance with small business subcontracting plans of companies competing for Federal contracts, and requiring that within 1 year after the date of the enactment such consideration be reflected in the Federal acquisition regulations.

□ 1930

This is simply a matter of making sure that prime contractors are playing by the rules. This is an issue for us and, for small businesses, an issue of fairness. The amendment is fair to small businesses who are included in small business subcontracting plans and who have, in essence, helped prime contractors receive contract awards. The amendment is fair to prime contractors who do play by the rules by making sure that their records of helping small businesses are taken into account.

My amendment has the support of the U.S. Hispanic Chamber of Commerce and the National Black Chamber of Commerce. With that, I urge my colleagues to support it as well.

Mr. Chairman, I reserve the balance of my time.

Mr. CHABOT. Mr. Chairman, we accept the amendment. We have no objection.

Ms. VELÁZQUEZ. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. Mr. Chairman, we are prepared to accept this amendment.

One of the areas in which small businesses could participate much more than they currently are is in the area of subcontracting. Subcontracting provides a great entry point to the Federal marketplace for small businesses.

The gentleman's amendment would expand the amount of information collected on subcontracting in the government-wide database. It also reinforces the notion that when prime contractors don't achieve their small business goals these should be reflected in their evaluation for subsequent contracts.

I am pleased to support the gentleman's amendment, and I thank the gentleman from Texas for his work on this legislation.

I ask adoption of this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Texas has 1 minute remaining.

Mr. REYES. Mr. Chairman, I want to thank the chairwoman for her tireless work on behalf of small business and her support of small business, as well as my good friend, the ranking member. Thank you.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. REYES).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. SHULER

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 110-137.

Mr. SHULER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. SHULER:

After section 201 insert the following (and redesignate succeeding sections accordingly):

**SEC. 202. INCLUDE OVERSEAS CONTRACTS IN SMALL BUSINESS GOAL.**

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

“(3) The procurement goals required by this subsection apply to all procurement contracts, without regard to whether the contract is for work within or outside the United States.”.

The CHAIRMAN. Pursuant to House Resolution 383, the gentleman from North Carolina (Mr. SHULER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina.

Mr. SHULER. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, American small businesses supply goods and services throughout the world. These businesses have led the way in providing innovative solutions to private and public sector challenges.

When Federal agencies spend taxpayers' funds, they should look to American small businesses first before outsourcing to foreign companies. In this age of high-speed communication and global transportation, American workers can contribute to American projects anywhere on earth.

This amendment does not require Federal agencies to use American small businesses for every project. It simply sets expectations that these agencies look first to American small businesses to meet their needs.

I urge passage of this amendment.

Mr. Chairman, I yield to the cosponsor of this amendment, Mr. CHABOT.

Mr. CHABOT. I want to thank the gentleman for his hard work on this particular amendment. I think it's a good amendment. I would urge its passage.

The amendment expands the pool of contracts included in the Federal gov-

ernmentwide goal for participation of small business concerns and procurement contracts to include United States small business concern contracts performed overseas. Current law and regulations apply the small business concern Federal governmentwide goal only to contracts performed in the United States.

The bill as currently written would continue to apply the small business concern Federal governmentwide goal to contracts performed only in the United States. This methodology clearly does not address small business concerns involvement in today's global economy. When small business policy was first developed in the 1940 to 1950 timeframe, small business concern participation in the overseas markets was fairly limited.

In today's global economy, adding contracts where United States small business concerns perform overseas work is reasonable because the availability of the Internet and advances in technology allows contracting officers to acquire information on such activities.

Therefore, United States small business concerns global activity should be recognized and, thus, included as a part of the overall Federal governmentwide small business concern goal.

Again, I want to thank the chairwoman and I want to thank Mr. SHULER for their work on this particular amendment.

Mr. SHULER. Mr. Chairman, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. Mr. Chairman, it is important that the small business goals apply to contracts performed overseas. For too long there has been an exclusive club of contractors for overseas work. This needs to change. Extending the small business goals to apply to these contracts will expand the pool of contractors available to the government. This amendment will help bring overseas opportunity to small businesses.

A recent study of \$6 billion in overseas contracts showed only \$122 million was awarded to small businesses, just 2 percent. This amendment gives agencies an incentive to award overseas contracts to small businesses. Agencies that do use small businesses for overseas contracts will now be able to get credit.

The Federal Government should be looking to small businesses for overseas work. Ninety-seven percent of all exporters are small businesses; 30 percent of all goods made for export are made by small businesses. Technological improvements give small businesses much greater access to worldwide markets than in the past.

It is important to help small businesses gain access to overseas contracting opportunities they have been locked out of. This amendment will accomplish this by helping encourage agencies to look to American small businesses for this work.

I thank both gentlemen, Mr. SHULER and Mr. CHABOT, for their work on this legislation. I urge adoption of this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SHULER. Mr. Chairman, I want to commend Ranking Member CHABOT and Chairwoman VELÁZQUEZ for her hard work and dedication on this amendment, along with this bill, an outstanding job.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. SHULER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Ms. VELÁZQUEZ. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from North Carolina will be postponed.

AMENDMENT NO. 3 OFFERED BY MS. BEAN

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 110-137.

Ms. BEAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. BEAN:

Section 201(a), strike “25 percent” and insert “30 percent”.

The CHAIRMAN. Pursuant to House Resolution 383, the gentlewoman from Illinois (Ms. BEAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Illinois.

Ms. BEAN. Mr. Chairman, I rise today to offer an amendment to the Small Business Fairness in Contracting Act. I would like to thank Ranking Member CHABOT for cosponsoring and Chairman VELÁZQUEZ for her support. This amendment would increase the Federal Government's small business contracting goal from 23 to 30 percent.

Small businesses are the stimulative engine to our Nation's economy and drive our domestic job growth. They make up 97 percent of all businesses, provide 50 percent of our gross domestic product and 50 percent of our non-farm employment. Clearly, small businesses have the capacity to compete for Federal contracts.

The government's small business prime contract goal has not been increased since 1997. Since that time, the Nation has added over 3 million net new small businesses. At the same

time, the Federal marketplace has doubled and now accounts for over \$400 billion in goods and services. My amendment reflects that new reality that the number and capabilities of small businesses have grown to such an extent that an adjustment to our national goal is in the best interests of our country.

The increase would also address a discouraging development that, after some early successes in achieving the contracting goal, Federal agencies have become complacent in their efforts to provide opportunities to small business. Over the last 5 years, they have begun to use contract bundling and contract streamlining practices, which reduced opportunities for competition. Without competition, we cannot ensure that taxpayer dollars are being used most effectively.

In addition, Federal agencies have become careless in their reporting of contract awards, leading them to believe they have exceeded small business goals they were, in fact, failing to achieve. As a result, small businesses access to prime contracts have suffered. In 2005, the Federal marketplace rose by 7 percent, but prime small business contracts only rose by 2 percent.

Last year alone, we found that the Federal Government fell about \$12 billion below their goal level, even though the SBA originally reported that they had exceeded their goal.

By raising our small business prime contracting goal and increasing competitive bids, we get a greater return on our tax dollars. At the same time, we provide economic stimulus for the small businesses in our communities. I urge your support of this amendment.

I yield to cosponsor CHABOT.

Mr. CHABOT. I thank the gentlewoman for yielding, and I thank her for her leadership on this amendment and her hard work, as well as the chairwoman's.

This is a simple amendment. The amendment increases the Federal government-wide goal for participation of small business concerns in procurement contracts from 23 percent to 30 percent. The bill, as currently written, would increase the Federal government-wide goal from 23 percent to 25 percent, which is only a 2 percent increase, which is really pretty miserable when one considers it. It ought to be, I think, significantly more than that, especially when you consider that the Federal market for goods and services has doubled in the past 10 years, and the number of small businesses has increased by 10 percent during that period of time.

So to maintain the congressional standard in the Small Business Act that a fair share Federal government procurement contracts are awarded the small business concerns, this amendment increases the goal a modest 8 percent, which is, quite frankly, long overdue.

Finally, the goal increase recognizes small business concern's role in the

economy. Small businesses employ more than 50 percent of all employees in the United States, and this would cause increased competition, resulting in a downward pressure on pricing, which ultimately benefits the taxpayer. Small businesses are the main contributors to major technological paradigm breakthroughs, as opposed to simply advancing the current knowledge in a specific technological field.

I think this is a very good amendment. I, again, want to thank the gentlewoman for offering it.

Ms. BEAN. Mr. Chairman, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. Mr. Chairman, since 1977, the minimum goal for small businesses in the Federal marketplace has been 23 percent of the total value of goods and services acquired. Each year, the administration boasts of how it almost made its target. Unfortunately, in 2005 alone, at least \$12 billion, almost 15 percent of the small business accomplishments, as reported by the Small Business Administration, were actually awarded to large businesses. Agencies have become so single-minded about achieving the minimum goal that they have lost sight of the intent.

The goal is a measurement of commitment to small businesses; and when the goal isn't achieved, small businesses pay the price. Because the minimum has not been met over the past 6 years, small businesses have lost almost \$10 billion in contracting opportunities. This represents nearly 200,000 jobs that could have been created across the country.

Many people have asked me, if the small business contracting goal hasn't been met, why do you support increasing it? As I said, the goal is simply a measurement. There are no penalties to an agency for not achieving it.

It is already the policy of the United States, as set forth in the statute, that small firms shall have the maximum practical opportunity to participate in the performance of contracts let by any Federal agency.

□ 1945

It doesn't say minimum; it says maximum. This is why the Bean-Chabot amendment is so important. It gets us away from the small business goal as ceiling mentality. It ensures that small business participation is maximized, not minimized.

I congratulate Ms. BEAN and Mr. CHABOT for this amendment. It was included when the Committee on Small Business unanimously reported this legislation, and I was disheartened to see that it was diluted as the bill progressed. I am pleased to support this

amendment, and I look forward to working with my colleagues to ensure that this amendment creates new opportunity for small businesses in the Federal marketplace. I thank Ms. BEAN and Mr. CHABOT on their work on this amendment, and I urge adoption of this amendment.

Mr. Chairman, I yield back the balance of my time.

Ms. BEAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois (Mr. BEAN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Ms. VELÁZQUEZ. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Illinois will be postponed.

AMENDMENT NO. 5 OFFERED BY MR. WELCH OF VERMONT

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 110-137.

Mr. WELCH of Vermont. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. WELCH of Vermont:

At the end of title II, insert the following:  
**SEC. 212. SMALL BUSINESS GOALS FOR GREEN SMALL BUSINESS CONCERNS.**

(a) IN GENERAL.—Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended—

(1) in paragraph (1)—

(A) by striking “and small business concerns owned and controlled by women” both places such term appears and inserting “small business concerns owned and controlled by women, and green small business concerns”; and

(B) by inserting before “Notwithstanding the Government-wide goal” the following: “The Government-wide goal for participation by green small business concerns shall be established at not less than 5 percent of the total value of all prime contract and sub-contract awards for each fiscal year.”; and

(2) in paragraph (2)—

(A) by striking “and by small business concerns owned and controlled by women” both places such term appears and inserting “by small business concerns owned and controlled by women, and by green small business concerns”; and

(B) by striking “and small business concerns owned and controlled by women” and inserting “small business concerns owned and controlled by women, and green small business concerns”.

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 3 of that Act (15 U.S.C. 632) is amended by adding at the end the following:

“(s) DEFINITIONS RELATING TO GREEN SMALL BUSINESS CONCERNS.—In this Act, the term ‘green small business concern’ means a small business concern that carries out its activities in an environmentally sound manner. The Administrator shall, in consultation with the Environmental Protection Agency, the General Services Administration, and other appropriate agencies, specify detailed definitions or standards by which a small business concern may be determined

to be a green small business concern for the purposes of this Act.”.

(2) **POLICY.**—Section 8(d) of that Act (15 U.S.C. 637(d)) is amended—

(A) in paragraph (1) (in both places such term appears), paragraph (3)(A) (in both places such term appears), paragraph (4)(D), paragraph (6)(A), paragraph (6)(C), paragraph (6)(F), and paragraph (10)(B) by striking “and small business concerns owned and controlled by women” and inserting “small business concerns owned and controlled by women, and green small business concerns”;

(B) in paragraph (3)(F) by striking “or a small business concern owned and controlled by women” and inserting “a small business concern owned and controlled by women, or a green small business concern”; and

(C) in paragraph (4)(E) by striking “and for small business concerns owned and controlled by women” and inserting “for small business concerns owned and controlled by women, and for green small business concerns”.

(3) **REPORTS ON GOALS.**—Section 15(h) of that Act (15 U.S.C. 644(h)) is amended, in each of paragraphs (1), (2)(A), (2)(D), and (2)(E) by striking “and small business concerns owned and controlled by women” and inserting “small business concerns owned and controlled by women, and green small business concerns”.

(4) **PENALTIES.**—Section 16 of that Act (15 U.S.C. 645) is amended in each of subsections (d)(1) and (e) by striking “or a ‘small business concern owned and controlled by women’” and inserting “a ‘small business concern owned and controlled by women’, or a ‘green small business concern’”.

The Acting CHAIRMAN. Pursuant to House Resolution 383, the gentleman from Vermont (Mr. WELCH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Vermont.

Mr. WELCH of Vermont. Mr. Chairman, I yield myself such time as I may consume.

I first congratulate the gentlelady from New York and the gentleman from Ohio on the incredible hard-working committee that is producing more legislation that is good for the American people, and I think just about everybody else in Congress, so all of us appreciate your good work. And it is all about the fact that they recognize, as I think we all do, that small businesses are the backbone of our Nation's economy. They must have the opportunity to compete for Federal contracts.

This underlying legislation establishes broad parameters and goals to make small business opportunities available to folks in this country who have not had access to that opportunity. The purpose of this amendment is to establish a goal that will give an opportunity for businesses that are green to have access to these contracts.

Small businesses in my State of Vermont create two out of every three jobs, and it is critical that small businesses be encouraged to develop and supply products and services in an environmentally sound way. My amendment would take a step towards encouraging green businesses by recognizing that those practices of compa-

nies can be considered in Federal Government contracts. This isn't just because it is the right thing to do for the environment, it is because there is a growing recognition that if we take on the challenge of cleaning up our environment, it can be pro-high-tech, pro-growth policies that will accomplish that, and I urge favorable consideration.

Mr. Chairman, I yield to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy, and it is a pleasure to work with him in cosponsoring this amendment.

Mr. Chairman, the Federal Government is the largest consumer of energy in the world. If we harness the ability of our Federal agencies in terms of what they do with energy, what they do with procurement, we have an opportunity to revolutionize the business practices in this country in a way that doesn't require a lot of new rules and regulations and fees. It is simply leading by example.

It has been my privilege early in my career to do work dealing with minority enterprises, with women-owned enterprises, with small business; because, as the gentleman from Vermont mentions, these are areas that are tremendously underserved, but there is a great deal of energy and vitality and it has made our economy stronger. This is the next logical addition to that portfolio of activities.

By giving a preference to procurement with small businesses that are environmentally sound, it is going to help nurture an explosion of new technology, of new business opportunities, and, most important, most important, it is going to help to bring these activities to scale. It is going to make best green practices more cost effective. It is going to be a better value for the taxpayer. It is the cheapest way to improve the environment. And, ultimately, it is going to strengthen our economy, because areas in the European Union, in Canada and, dare I say, even in Asia dealing with China and Japan, progress is being made. This is going to help us. It is going to give a better value to the taxpayers. It is going to jump start these.

I look in Portland at TerraClean, Ecos Consulting, Rejuvenation House Parts, ecological small businesses. If this is enacted, they will be able to do a better job in the future.

Mr. Chairman, I appreciate the gentleman's courtesy and leadership.

Mr. WELCH of Vermont. Mr. Chairman, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, while not opposed to the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. Mr. Chairman, we accept this amendment by Mr. WELCH,

which proposes a 5 percent goal for Federal contracting with green small businesses. I look forward to working with my colleague on this amendment, which encourages the government to reward small businesses that meet higher environmental standards.

I thank the gentleman from Vermont for his work on this legislation, and I urge adoption of the amendment.

Mr. Chairman, I yield to the ranking member, Mr. CHABOT, for any comments that he might have.

Mr. CHABOT. I thank the gentlelady. We have no objection and support the amendment, and thank the gentleman for offering it.

Ms. VELÁZQUEZ. Mr. Chairman, I yield back the balance of my time.

Mr. WELCH of Vermont. Mr. Chairman, I thank the gentlelady and the gentleman, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. WELCH).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. WYNN

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 110-137.

Mr. WYNN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. WYNN:

At the end of title II, add the following:

**SEC. 2. STUDY ON PROVIDING FINANCIAL INCENTIVES TO CONTRACTORS THAT MEET MINORITY AND DISADVANTAGED BUSINESS ENTERPRISE GOALS.**

The Administrator of the Small Business Administration shall carry out a study on the feasibility and desirability of providing financial incentives to contractors operating under contracts from a federal agency that achieve the percentage goals set forth in said contracts' subcontracting plans for the utilization of small business concerns owned and controlled by socially and economically disadvantaged individuals. The Administrator shall submit to Congress a report on the results of the study, together with any findings, conclusions, and recommendations that the Administrator considers appropriate.

The CHAIRMAN. Pursuant to House Resolution 383, the gentleman from Maryland (Mr. WYNN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maryland.

Mr. WYNN. Mr. Chairman, let me begin by thanking the gentlelady, the chairman of the Committee on Small Business, for her leadership over the years on this very important issue.

The amendment I am introducing this evening would require that the Small Business Administration study the feasibility and desirability of providing financial incentives to encourage prime contractors to meet their goals for subcontracting with socially and economically disadvantaged businesses.

Specifically, the amendment would commission the SBA to study different

types of financial incentives that could help or encourage prime contractors to meet their goals set forth in their subcontracting claims for the utilization of small business companies owned and controlled by socially and economically disadvantaged individuals.

Ironically, you heard earlier this evening about the problem of prime contractors failing to utilize small minority and economically disadvantaged businesses. Given the constitutional constraints that we as legislators have in legislating mandates for achieving these goals for minority and disadvantaged businesses, I believe that we must come up with creative and viable alternatives that can help encourage greater participation in the Federal contracting process by these businesses.

One such method to encourage greater participation by small minority and economically disadvantaged businesses would be to devise a means of rewarding prime contractors who meet their small business contracting goals rather than penalizing them. This is similar to the incentives placed in contracts for meeting deadlines and staying within budget.

My amendment would simply require that SBA study and report to Congress about different types of financial incentives that could be implemented that would encourage prime contractors to meet their goals for increasing opportunity for socially and economically disadvantaged businesses. This would allow us to encourage DB participation rather than attempting to penalize contractors who fail to meet their goals. This is an approach that offers more carrot and less stick.

Mr. Chairman, I yield to the gentlelady, the chairwoman of the committee.

Ms. VELÁZQUEZ. Mr. Chairman, I thank the gentleman for yielding.

We are prepared to accept this amendment. Many times the proposed solution to a problem, particularly in the Federal procurement environment, is the assessment of penalties. Sometimes this works. Sometimes it doesn't. I have found that when it works best, it is also accompanied by incentives for good performance.

The gentleman from Maryland begins this process. It is a worthy endeavor, and I am pleased to support the gentleman's amendment. I want to thank him for the work that he is doing on this legislation, and I urge adoption of the amendment.

Mr. CHABOT. Mr. Chairman, we accept the amendment, and we thank the gentleman from Maryland for his leadership on this as he has shown such great leadership on so many other issues as well.

Mr. WYNN. I thank the gentleman for his kind comments and for his support of the amendment, and, of course, I thank the gentlelady for supporting the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. WYNN). The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MS. JACKSON-LEE OF TEXAS

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 110-137.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Ms. JACKSON-LEE of Texas:

Section 103, strike "concern." and insert "concern, and shall make available to the public on the website of the Administration the action taken and the result achieved."

The CHAIRMAN. Pursuant to House Resolution 383, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Let me thank the distinguished Chair for yielding and let me also thank the distinguished chairwoman and ranking member for their leadership on this very important issue of small business, and thank them for the series of bills that have come to the floor that are like building blocks in helping small businesses across America. I would like to thank the majority committee staff for working with my staff. I would like to thank Mr. Tsehai for working on I think an important issue.

Let me quickly say that this amendment comes from experience of some of the frustration that small businesses will express coming to your office. The Federal Government is big, and the refuge for small businesses is the SBA. They look for incentives. They look for instruction. They look for guidance. And so my amendment simply says that when there is a dispute and there is a response by the FDA and an action is taken, any action with regard to any disagreement between the SBA and contract procurement agency, this resolve should be put on the Web site.

This is an important part of educating small businesses about their action and gives them an empowerment. And I say that in the backdrop of so many businesses that were housed in Houston who fled New Orleans after Hurricane Katrina. Many businesses were there. They were looking to get restarted back in New Orleans. And the confusion of not being able to access what happened in their request or what happened in a dispute led me to believe that more information on the Web site of the SBA would be extremely helpful.

So I ask my colleagues to support this amendment. It simply provides an opportunity for the Small Business Administration to post on their Web site any action taken and the result achieved with regards to any disagreement between the SBA and any contract procurement agency.

I yield to the chairwoman of the full committee, Congresswoman VELÁZQUEZ.

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Ms. VELÁZQUEZ. I thank the gentlelady for yielding.

We accept this amendment which will require the Administrator of SBA to make public the actions taken on behalf of small businesses or trade associations with regard to bundled contracts. More importantly, it will publicize the results of their actions.

I look forward to working with my colleague on this amendment which will add transparency to the bundling appeals process.

I, again, want to thank the gentlewoman from Texas for her work. I urge adoption of the amendment, and I yield to Ranking Member CHABOT.

Mr. CHABOT. I thank the chairwoman for yielding.

I want to thank the gentlelady from Texas for offering this very helpful amendment. We've looked over it, and we think it's a very good amendment. I've had the pleasure to serve on the Judiciary Committee with the gentlelady for the past 13 years. I've agreed with some amendments. Unfortunately, oftentimes, I've disagreed with her amendments. But it's very nice to be able to agree with one that the gentlelady has offered. So we thank the gentlelady for offering it.

Ms. JACKSON-LEE of Texas. Thank you very much. I thank the chairwoman and the ranking member. And, Mr. Chairman, it's always good when light comes into this place and we have consensus; and I'd ask my colleagues to support this amendment.

I thank the Chairman and Ranking Member for allowing me to explain my amendment to H.R. 1873, the "Small Business Fairness in Contracting Act."

My amendment, which enjoys full support from Chairwoman VELÁZQUEZ, brings transparency, accountability and responsiveness to the process of procuring federal contracts. By mandating that the Small Business Administration (SBA) post on their Web site any action taken and the result achieved, with regards to any disagreement between the SBA and the contract procurement agency, individuals can be assured that their government is open and honest. The purpose of this amendment is to ensure transparency and accountability of the SBA to the small businesses it was designed to protect and assist.

My amendment is straightforward. My amendment is vital. My amendment is essential. And my amendment is bipartisan.

We may not realize the impact that small businesses have on our lives, but they represent the sole diner that is open on a late night trip, the catering service that turns a family gathering into a lifetime of memories, or the mechanic that will not allow your first car to die.

In conclusion, we the members of the 110th Congress are sending the right message to the American people and small business owners that we are committed to eliminating waste, fraud, and abuse.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MS. JACKSON-LEE OF TEXAS

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 110-137.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Ms. JACKSON-LEE of Texas:

Section 104, strike "Senate," and insert "Senate, and any other committee of the House and Senate that has jurisdiction over the agency concerned."

The SPEAKER pro tempore. Pursuant to House Resolution 383, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. I thank the distinguished chairman for his yielding to me and appreciate his leadership in the Speaker's chair this evening.

Let me again express my appreciation to the chairwoman of the full Committee on Small Business and, as well, the ranking member for their assistance in this amendment and their staff and my staff as well.

This amendment is one that reflects, again, that small businesses are small businesses, and they need our assistance. They also work with a number of agencies, and those agencies have contracting procurement offices. Those, of course, are challenges for many small businesses, one, to have a road map of how to get a procurement from a large, if you will, government agency. Many times, there may be disputes.

This amendment simply says that any disagreement between the SBA and the contracting procurement agency, the appropriate House and Senate committees with jurisdiction over the matter should be informed. This includes the Committees on Small Business and Oversight and Government Reform. This, of course, is designed to ensure that both the SBA and the procuring agency are accountable and forthcoming to the committees which have jurisdiction over the procuring agency as it relates to small businesses and meeting SBA and congressionally mandated goals. Of course, this emphasizes the fact to make sure that we do have the widespread of small businesses, women-owned businesses, minority-owned businesses.

My amendment is simple; my amendment is, I think, helpful; and my amendment is necessary and bipartisan. Small businesses are the backbone of our society, and they represent an American dream for numerous families and provide much-needed revenue to the local municipalities they live in.

So I therefore ask that that amendment be accepted.

I thank the Chairman and Ranking Member for allowing me to explain my amendment to H.R. 1873, the "Small Business Fairness in Contracting Act."

My amendment has the full support of Chairwoman Velázquez and mandates that whenever there is a disagreement between the SBA and the contracting procurement agency, the appropriate House and Senate committees with jurisdiction over the matter are informed. This includes the Committees on Small Business and Oversight & Government Reform. This amendment is designed to ensure that both the SBA and the procuring agency are accountable and forthcoming to the committees which have jurisdiction over the procuring agency, (as it relates to small businesses and meeting SBA and congressionally mandated goals.)

My amendment is simple. My amendment is important. My amendment is necessary. And my amendment is bi-partisan.

Small businesses are the backbone of our society. They represent the American dream for numerous families, and provide much needed revenue to the local municipalities they serve. The very nature of small businesses tend to create a bond between customer and shop owner that can not be duplicated within the confines of our super-malls, or on the never ending maze we call the internet. Small business owners value the relationship they share with their customers, and tend to go above and beyond the normal call of duty to meet their clients' needs.

Mr. Chairman, I would yield to the distinguished gentlelady from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Mr. Chairman, I want to thank the gentlelady for yielding.

We are prepared to accept this amendment. The gentlelady's amendment provides a measure of enforcement. It requires agencies to send copies of letters in which they have disagreed with the SBA's attempts to maximize the usage of small businesses on bundled contracts to the relevant authorizing committee.

The committees will soon become familiar with the extent to which agencies within their jurisdiction are bundling contracts and will have a better handle on the extent of this problem.

I urge adoption of this amendment, and I yield to the ranking member, Mr. CHABOT.

Mr. CHABOT. I thank the gentlelady for yielding, and I want to again commend the gentlewoman for offering a helpful amendment. And we accept this amendment as well.

Ms. JACKSON-LEE of Texas. I thank both the chairwoman and the ranking member. I ask my colleagues to support this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

Ms. VELÁZQUEZ. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Ms. SUTTON) having assumed the chair, Mr. LINCOLN DAVIS of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 1873) to reauthorize the programs and activities of the Small Business Administration relating to procurement, and for other purposes, had come to no resolution thereon.

#### AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1873, SMALL BUSINESS FAIRNESS IN CONTRACTING ACT

Ms. VELÁZQUEZ. Madam Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of H.R. 1873, including corrections in spelling, punctuation, section numbering and cross-referencing, and the insertion of appropriate headings.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

#### CONTINUATION OF THE NATIONAL EMERGENCY BLOCKING PROPERTY OF CERTAIN PERSONS AND PROHIBITING THE EXPORT OF CERTAIN GOODS TO SYRIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 110-33)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice, stating that the national emergency declared in Executive Order 13338 of May 11, 2004, and expanded in scope in Executive Order 13399 of April 25, 2006, authorizing the blocking of property of certain persons and prohibiting the exportation and reexportation of certain goods to Syria, is to continue in effect beyond May 11, 2007.

The actions of the Government of Syria in supporting terrorism, interfering in Lebanon, pursuing weapons of mass destruction and missile programs, and undermining United States and