

Mr. Speaker, I thank Mr. KNIGHT and Ms. CLARKE for this leading bipartisan legislation, which takes a critical step toward addressing the challenge that small contractors face when entering the middle market.

The primary objective of the SBA's small business programs is to encourage the growth and vibrancy of the Federal supplier base, boost competition, protect against supplier consolidation, and spur innovation. These noble goals are thwarted when small businesses find themselves competing in the open market prematurely before they have the tools they need to succeed.

Given the increasing size of Federal contract awards made today, one or two big awards won by a small contractor could easily force them out of the category of small business. Since many do not have the infrastructure or competitiveness to go head to head against firms many times their size, they often fail or become consumed into a larger competitor's supply chain. These results contravene the mission and purpose of the small business programs, further widening the divide between large and small contractors.

Competitiveness takes time, hard work, and significant resources to build. However, difficult as it is to build competitiveness, it is just as easily lost. H.R. 6330 provides a solution to this problem, allowing small businesses extra time to potentially retain their "small" size status while they continue to develop their competitive edge.

Mr. Speaker, I urge my colleagues to support H.R. 6330, and I reserve the balance of my time.

Ms. VELAZQUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6330, the Small Business Runway Extension Act of 2018.

Over the years, Congress has created numerous Federal programs, set-asides, tax preferences, and SBA loan programs to help small businesses succeed. However, the advantages conferred by this program have led to heated debate over who is truly a small business and what an acceptable small business size standard is.

The answer is an important one, as it can be underinclusive, thereby pushing a firm outside the standard, or it can be overinclusive, allowing large firms to compete in these programs. The end result is the same: small firms deprived of Federal contracting opportunities.

This bill addresses the pressure placed on those businesses not able to compete against large entities from being prematurely placed outside their size standard by providing a more inclusive review of 5 years of their gross receipts.

Mr. Speaker, I urge Members to support this very important legislation, and I reserve the balance of my time.

Mr. CHABOT. Mr. Speaker, I yield such time as he may consume to the

gentleman from California (Mr. KNIGHT) and thank him for his leadership in this important measure.

Mr. KNIGHT. Mr. Speaker, I thank my chairman for his support on this and many other issues that we see in our Small Business Committee.

Mr. Speaker, I urge my colleagues to support H.R. 6330, the Small Business Runway Extension Act of 2018.

This bill is simple. It is common-sense. It is a measure designed to promote the sustainability, growth, and development of small Federal contractors into the open marketplace.

Under existing law, the Small Business Administration calculates the size of a company by taking the average of the past 3 years of gross receipts. A company's average must be within established industry parameters set by the SBA in order to be considered a small business and be eligible to receive access to SBA's small business programs, resources, and assistance.

My bill is very simple. It extends that time period out to 5 years. This additional time allows all small businesses an opportunity to mature before graduating out of the SBA's small business programs.

Over the course of this Congress, we have conducted hearings, held roundtables, and heard stories of the overwhelming mid-market challenges forcing many successful small contractors to close their doors or stall their growth. Prospects for a newly graduated firm successfully integrating into the open marketplace are rapidly declining due to the widening gap between small and large contractors.

Small firms are opting out—either voluntarily or, in many cases, involuntarily—from joining the Federal marketplace because of this rift. This outcome depletes our industrial base, reduces competition, and inhibits economic growth.

Mr. Speaker, do we really want our small businesses to look at their ability to expand and their ability to be a larger and more prosperous business and say: I can't do this because I am going to move out of the SBA, so what I should do is maybe close my doors or just restrict our growth.

That is not what America is all about. That is not what we want out of our small businesses. We want them to expand. We want them to bring new and innovative things to the marketplace. And we want them to expand and have jobs for our kids and for the next generation.

Mr. Speaker, I think that this is a reasonable look at what we are trying to do, and I urge support of H.R. 6330.

Ms. VELAZQUEZ. Mr. Speaker, I yield back the balance of my time.

Mr. CHABOT. Mr. Speaker, I yield myself such time as I may consume to close.

Mr. Speaker, this legislation gives small businesses more time to adjust to not being a small business anymore. We want our small businesses to thrive and grow and break through to the

mid-tier and big business strata. Oftentimes, that is difficult.

H.R. 6330 gives these firms just a little more time to adapt to their new business environment, so they can compete more efficiently and continue to grow and create more jobs for more Americans.

I again thank Mr. KNIGHT for his leadership on this.

Mr. Speaker, I urge my colleagues to support this bipartisan piece of legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. CHABOT) that the House suspend the rules and pass the bill, H.R. 6330.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### INCENTIVIZING FAIRNESS IN SUBCONTRACTING ACT

Mr. CHABOT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6367) to amend the Small Business Act to specify what credit is given for certain subcontractors and to provide a dispute process for non-payment to subcontractors, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6367

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

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Incentivizing Fairness in Subcontracting Act".*

#### SEC. 2. SMALL BUSINESS LOWER-TIER SUBCONTRACTING.

*Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—*

*(1) by amending paragraph (16) to read as follows:*

*“(16) CREDIT FOR CERTAIN SMALL BUSINESS CONCERN SUBCONTRACTORS.—*

*“(A) IN GENERAL.—For purposes of determining whether or not a prime contractor has attained the percentage goals specified in paragraph (6)—*

*“(i) if the subcontracting goals pertain only to a single contract with the Federal agency, the prime contractor may elect to receive credit for small business concerns performing as first tier subcontractors or subcontractors at any tier pursuant to the subcontracting plans required under paragraph (6)(D) in an amount equal to the dollar value of work awarded to such small business concerns; and*

*“(ii) if the subcontracting goals pertain to more than one contract with one or more Federal agencies, or to one contract with more than one Federal agency, the prime contractor may only count first tier subcontractors that are small business concerns.*

*“(B) COLLECTION AND REVIEW OF DATA ON SUBCONTRACTING PLANS.—The head of each contracting agency shall ensure that—*

*“(i) the agency collects and reports data on the extent to which contractors of the agency meet the goals and objectives set forth in subcontracting plans submitted pursuant to this subsection; and*

*“(ii) the agency periodically reviews data collected and reported pursuant to subparagraph*

(A) for the purpose of ensuring that such contractors comply in good faith with the requirements of this subsection and subcontracting plans submitted by the contractors pursuant to this subsection.

“(C) **RULE OF CONSTRUCTION.**—Nothing in this paragraph shall permit lower-tier subcontracting goaling requirements of prime contractors that are eligible to receive lower-tier subcontracting credit under this paragraph.”; and

(2) by adding at the end the following:

“(18) **DISPUTE PROCESS FOR NON-PAYMENT TO SUBCONTRACTORS.**—

“(A) **NOTICE TO AGENCY.**—With respect to a contract with a Federal agency, a subcontractor of a prime contractor on such contract may, if the subcontractor has not received payment for work performed within 90 days of the completion of such work, notify the Office of Small and Disadvantaged Business Utilization (“OSDBU”) of the Federal agency and the prime contractor of such lack of payment, if such notice is provided to the agency within the 15-day period following the end of such 90 days.

“(B) **AGENCY DETERMINATION.**—

“(i) **IN GENERAL.**—Upon receipt of a notice described under subparagraph (A), the OSDBU shall verify whether such lack of payment has occurred and determine whether such lack of payment is due to an undue restriction placed on the prime contractor by an action of the Federal agency.

“(ii) **RESPONSE DURING DETERMINATION.**—During the period in which the OSDBU is making the determination under clause (i), the prime contractor may respond to both the subcontractor and the OSDBU with relevant verifying documentation to either prove payment or allowable status of nonpayment.

“(C) **CURE PERIOD.**—If the OSDBU verifies the lack of payment under subparagraph (B) and determines that such lack of payment is not due to an action of the Federal agency, the OSDBU shall notify the prime contractor and provide the prime contractor with a 15-day period in which the prime contractor may make the payment owed to the subcontractor.

“(D) **RESULT OF NONPAYMENT.**—If, after notifying the prime contractor under subparagraph (C), the OSDBU determines that the prime contractor has not fully paid the amount owed within the 15-day cure period described under subparagraph (C), the OSDBU shall ensure that such failure to pay is reflected in the Contractor Performance Assessment Reporting system.”.

### **SEC. 3. MAINTENANCE OF RECORDS WITH RESPECT TO CREDIT UNDER A SUBCONTRACTING PLAN.**

Section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)) is amended—

(1) by redesignating subparagraphs (G) and (H) as subparagraphs (H) and (I), respectively; and

(2) by inserting after subparagraph (F) the following:

“(G) a recitation of the types of records the successful offeror or bidder will maintain to demonstrate that procedures have been adopted to substantiate the credit the successful offeror or bidder will elect to receive under paragraph (16)(A)(i);”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. CHABOT) and the gentlewoman from New York (Ms. VELÁZQUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio.

#### **GENERAL LEAVE**

Mr. CHABOT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous materials on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

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

Mr. Speaker, before we begin discussion of this legislation, I would like to thank Mr. LAWSON from Florida and Mr. KELLY from Mississippi for their leadership in addressing an issue that is a cause of great concern for small subcontractors; namely, prime contractor compliance with their subcontracting plans.

Large prime contractors have a statutory obligation to develop and submit a subcontracting plan as part of their bid and proposal package. In this plan, prime contractors are required to outline their intention to award a certain percentage of subcontracting dollars to small businesses.

Unfortunately, it has been a challenge to ensure that prime contractors are held accountable to these plans. Recently, the Department of Defense Inspector General's Office issued a report that found post-award compliance activities, specifically the oversight of subcontracting plans, is not a high priority for contracting officers. This finding is not limited to the military and can be generalized to apply across the Federal Government.

As the number of prime contracts suitable for small business continues to decline, subcontracting becomes increasingly important for small contractors trying to gain a foothold in the Federal market.

H.R. 6367, as amended, proposes to strengthen subcontracting measures by requiring large primes to maintain records proving they are subcontracting to small businesses, as required by their subcontracting plans.

Furthermore, this bill establishes an alternative avenue of redress for small subcontractors, allowing them to engage the appropriate Federal agency's small business advocate office if they believe payment is being withheld unfairly by a large prime contractor.

Because of these important measures undertaken to protect small contractors, I urge my colleagues to support H.R. 6367, as amended. I also, again, thank my colleagues for their leadership in this measure, and I reserve the balance of my time.

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

Mr. Speaker, I rise in support of H.R. 6367, the Incentivizing Fairness in Subcontracting Act of 2018.

Mr. Speaker, in fiscal year 2017, the Federal Government purchased goods and services worth over \$508 billion through over 22 million contract actions. Yet, not all this money stayed with the original prime contractor and, instead, trickles down to subcontractors.

Subcontracts are growing in importance as an avenue for small businesses to work with the government, so it is

important that barriers to entry are reduced. By improving the tools that exist for small businesses to become subcontractors, today's measures will draw in more small businesses that are not regular government contractors.

This is a critical step to expanding the industrial base and including more small firms. Most importantly, it ensures more small contractors have just recourse through the Office of Small and Disadvantaged Business Utilization if payment is not received within 90 days of completion. Timely payment protects small contractors who do not have the overhead margins to continue operating without being paid.

Mr. Speaker, I urge Members to support this legislation, and I reserve the balance of my time.

Mr. CHABOT. Mr. Speaker, I have no further speakers on this particular legislation, and I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. LAWSON), the ranking member of the Subcommittee on Health and Technology and sponsor of the bill.

Mr. LAWSON of Florida. Mr. Speaker, I rise to support my bill, H.R. 6367, the Incentivizing Fairness in Subcontracting Act of 2018.

This bill will clarify what credit is given for certain subcontractors and to provide a dispute process for nonpayment to subcontractors. Simply put, this bill will help contractors receive the credit they need to satisfy Federal requirements.

Small businesses put in a tremendous amount of effort to receive Federal contracting jobs. There are tons of requirements, paperwork, and costs that go into applying and being awarded these opportunities.

Unfortunately, even after a Federal contract is awarded, small businesses still struggle. Whether it is a delay in payment due to the lack of an administrative dispute process or not being able to count lower tier subcontractors toward goals, many contractors face obstacles during the implementation of their contracts, creating the need for safe harbors to guarantee that they can move forward in the most effective and efficient manner.

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H.R. 6367 will do just that. This is a bill that provides the clarity and resources needed to help contractors work at full capacity.

This bill is endorsed by the National Electrical Contractors Association, an association whose 4,000 members are 85 percent small businesses. NECA is the voice of about a \$160 billion industry responsible for bringing electrical power, lighting, and communication to buildings and communities across the United States.

I am proud to work with Ranking Member VELÁZQUEZ, the chairman, and the Congressman from Mississippi (Mr. KELLY). This is an important step in

guaranteeing that our contractors are treated fairly when carrying out their contracts.

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

Ms. VELÁZQUEZ. Mr. Speaker, I yield myself such time as I may consume, and I am prepared to close.

Mr. Speaker, I thank the gentleman from Florida (Mr. LAWSON) and his cosponsor, Mr. KELLY, for introducing this important legislation. H.R. 6367 protects our small contractors by updating the subcontracting goaling regime through increased flexibility and accountability.

Establishing incentives to count lower-tier subcontracting awards and a dispute process for subcontractors to utilize in the event of nonpayment ensures a healthy Federal procurement marketplace.

Today's legislation spreads the economic power of Federal procurement to more companies and the communities they are located.

Mr. Speaker, I urge Members to support this bill, and I yield back the balance of my time.

Mr. CHABOT. Mr. Speaker, I yield myself such time as I may consume to close.

Mr. Speaker, as we have discussed, there are less prime contracting opportunities that are available for small businesses nowadays. It is in the subcontracting arena that is often the best and only way for a small contractor to engage with the Federal Government, but the lack of accountability and Federal oversight harms small subcontractors that rely on these opportunities to survive.

This is a lose-lose situation for both America's small businesses seeking to do work for the Federal Government and for the government itself. We want our citizens to get the best bang for their buck, and the more competition there is, the better it is for all of us. The greater oversight reforms in this legislation take a big step in ensuring small firms are protected.

I once again thank the gentleman from Florida (Mr. LAWSON) for his leadership on this measure, and I urge my colleagues to support this bipartisan, commonsense piece of legislation.

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

The SPEAKER pro tempore (Mr. PALMER). The question is on the motion offered by the gentleman from Ohio (Mr. CHABOT) that the House suspend the rules and pass the bill, H.R. 6367, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### ENCOURAGING SMALL BUSINESS INNOVATORS

Mr. CHABOT. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 6368) to encourage R&D small business set-asides, to encourage SBIR and STTR participants to serve as mentors under the Small Business Administration's mentor-protege program, to promote the use of interagency contracts, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6368

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Encouraging Small Business Innovators".

#### SEC. 2. INCLUDING TESTING AND EVALUATION IN THE DEFINITION OF R&D.

Section 9(e)(5) of the Small Business Act (15 U.S.C. 638(e)(5)) is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) by striking "means any activity" and inserting the following: "means—

"(A) any activity"; and

(3) by adding at the end the following: "and "(B) any testing or evaluation in connection with such an activity;"

#### SEC. 3. ENCOURAGING PARTICIPATION IN THE MENTOR-PROTEGE PROGRAM.

Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

"(tt) ENCOURAGING PARTICIPATION IN THE MENTOR-PROTEGE PROGRAM.—The Administrator shall provide an increase to the past performance rating of any small business concern that has participated in the SBIR or STTR program that serves as a mentor under section 45 to a small business concern that seeks to participate in the SBIR or STTR program."

#### SEC. 4. PROMOTING THE USE OF GOVERNMENT-WIDE AND OTHER INTERAGENCY CONTRACTS.

(a) PROMOTING INTERAGENCY ACQUISITIONS.—Section 865 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417) is amended—

(1) in subsection (b)(1)—

(A) by striking "all interagency acquisitions";

(B) in subparagraph (A)—

(i) by adding "all interagency assisted acquisitions" before "include"; and

(ii) by adding "and" at the end;

(C) by striking subparagraph (B);

(D) by redesignating subparagraph (C) as subparagraph (B);

(E) in subparagraph (B), as so redesignated, by adding "all interagency assisted acquisitions" before "include"; and

(2) in subsection (d), by adding at the end the following:

"(5) The term 'assisted acquisition' means a type of interagency acquisition where a servicing agency performs acquisition activities on a requesting agency's behalf, such as awarding and administering a contract, task order, or delivery order."

(b) GSA ASSISTANCE WITH CERTAIN SMALL BUSINESS CONTRACT AWARDS.—

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by section 4, is further amended by adding at the end the following:

"(uu) GSA ASSISTANCE WITH CERTAIN SMALL BUSINESS CONTRACT AWARDS.—The Administrator of the General Services Administration may assist another agency with the process of awarding a contract to a small business concern under the SBIR or STTR

program or under a small business set-aside."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. CHABOT) and the gentlewoman from New York (Ms. VELÁZQUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio.

#### GENERAL LEAVE

Mr. CHABOT. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous materials on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

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

Mr. Speaker, this bipartisan legislation was introduced by the gentleman from New York (Mr. ESPAILLAT) and cosponsored by the gentleman from South Carolina (Mr. NORMAN), so it is bipartisan. I thank the gentlemen, both of them, for their leadership on this important issue.

This legislation would make small but important changes to the Small Business Innovation Research, or SBIR, and the Small Business Technology Transfer, or STTR, programs.

A healthy and vibrant Federal marketplace is important to our Nation. Competition breeds innovation, which is critical in our national defense to save lives on the battlefield or healthcare advancements to improve and prolong lives.

The SBIR and STTR programs are often one of the first places small innovators and manufacturers venture into the Federal contracting arena. The process can be daunting for small firms completely new to contracting with the Federal Government.

H.R. 6368 provides an avenue for more experienced SBIR and STTR companies to mentor newer companies to help them adjust to how the Federal Government does business. By doing so, it aims to strengthen the industrial base by bringing new firms into the contracting process.

The bill also rewards mentors with a past-performance rating boost so they can be more advantaged when applying for a full research and development set-aside or sole-source contracts going forward outside of the program.

Additionally, this legislation provides clarity in the use of government-side interagency acquisitions permitted through the fiscal year 2009 National Defense Authorization Act, or NDAA, by updating and harmonizing the terminology used in acquisitions.

Finally, the bill expressly allows the GSA, General Services Administration, to assist agencies with contract awards and vehicle creation for small businesses receiving sole-source or set-aside contracts in the SBIR and STTR programs.