

Small firms are projected to lose out on nearly \$301 million daily in new contract work because agencies cannot enter into new contracts during the shutdown.

I urge the President to put America first and agree to reopen the government.

Mr. Speaker, I rise in support of H.R. 226, the Clarity on Small Business Participation and Category Management Act of 2019. H.R. 226 seeks to improve reporting on small business participation in Federal contracting.

This legislation requires the Small Business Administration to report to Congress on the number of small businesses awarded best in class contracts and the dollar amount of such contracts. This information should help us get answers regarding how category management impacts the participation of small businesses, including minority-owned, women-owned, and veteran-owned companies, in the Federal marketplace.

Market research has shown that past contract consolidation efforts by the Federal Government have decreased the number of small prime contracting opportunities in the Federal workplace. In fiscal year 2017, the percentage of contracting dollars that went to small businesses was 24 percent, down from 26 percent in fiscal year 2015. As such, concerns about the impact of category management on small businesses are understandable.

As a longtime advocate for small businesses, I am pleased to cosponsor this legislation, and I thank the gentlewoman from New York for bringing this bill forward.

Mr. Speaker, I urge my colleagues to support small businesses by voting in favor of this legislation.

Mr. CHABOT. Mr. Speaker, before I address just some final points about this bill, I have to respond a bit to the gentleman from Mississippi relative to the shutdown, which we all hope will be resolved as soon as possible.

I don't think anybody in this body wants portions of the government to shut down and people not to be paid during that period of time. Hopefully, they will be paid in the future, but we don't necessarily want to pay people for not working, because we don't want them not to be working in the first place. So we need to get the government back open.

That being said, at this point, there is a standoff because the President and many Members in this body and in the other body believe that it is time for us to enhance our border security, and that is one of the principal issues right now and why the government is not open completely. Most of the government is open. It is a relatively small portion. However, any portion of the government that is closed is too much.

But we do have folks who have been coming across illegally at our southern border, and many believe that we do need to enhance the security at that border. Part of that is a wall, or bar-

rier, or substantial fencing, or one thing or another—whatever you want to call it—and we need to do that. We owe it to the American people to do that. So with that being said, I will just leave it there.

Mr. Speaker, I do believe that we ought to be looking to save taxpayer dollars in the procurement process, and category management may be a tool to do just that. However, we must maintain a vibrant industrial base that has a healthy and growing population of small firms to increase competition, spur innovation, and drive down costs.

This commonsense bill increases oversight on the administration's efforts to streamline the procurement process and aims to ensure small firms are not harmed in that process.

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

Ms. VELÁZQUEZ. Mr. Speaker, let me just respond to the gentleman's comment regarding the shutdown. The fact of the matter is that the President campaigned and told the American people that he will build a wall and that it will be paid for by the Government of Mexico, and that is not what he is telling us now.

Besides, this is the President's shutdown, and he was very proud when he made that comment to Speaker PELOSI and the minority leader, CHUCK SCHUMER.

Mr. Speaker, I am proud of this important legislation to provide much-needed oversight of small business participation in the streamlined acquisition strategy known as category management.

□ 1715

H.R. 226 requires that contracting activity under this new regime be reported in the annual goaling report from agencies to Congress. This data would allow us to better understand how small firms fare under this new system and make adjustments if needed to guarantee an equitable playing field.

This bill protects the small business industrial base by giving a mechanism for much-needed accountability. It is supported by the National Small Business Association, the U.S. Chamber of Commerce, and the National Electrical Contractors Association, which is the voice of the \$171 billion electrical construction industry.

I thank the ranking member for his support of H.R. 226, and I remain committed to ensuring small firms are competitive within the Federal marketplace.

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

Ms. JACKSON LEE. Mr. Speaker, I rise in support of H.R. 226, the "Clarity on Small Business Participation in Category Management," which amends the Small Business Act.

This act would require the Administrator of the Small Business Administration to provide in its business goal report information as to

how many small businesses are participating in the "best in class" vehicles so Congress can ascertain the effectiveness of such contracting vehicles for small firms.

H.R. 226 amends "the Small Business Act to include best in class designations in the annual report on small business goals prepared by the Administrator of the Small Business Administration, and for other purposes."

The report is to include among other things, the number of small business concerns awarded contracts and the dollar amount of such contracts awarded within each such designation to qualified HUBZone small business concerns, small business concerns owned and controlled by women, small business concerns owned and controlled by service-disabled veterans, and small business concerns owned and controlled by social and economically disadvantaged individuals.

Mr. Speaker, 99.9 percent of women-owned businesses are small businesses, whereas the majority of male- and female-owned employer businesses have fewer than five employees, more male-owned small businesses employ five or more employees.

Of the 30 million small businesses nationwide, 8 million are owned by minorities.

Between 2007 and 2012 minority owned small businesses increased in volume by around 38 percent.

Small businesses "are the engines of job creation in the United States."

Small businesses contribute to growth and vitality in many important areas of economic and socioeconomic development.

Small businesses create jobs and job opportunities, spark innovation, and provide opportunities for women and minorities to achieve financial success and independence.

For these reasons, I ask my colleagues to join me in supporting H.R. 226.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. VELÁZQUEZ) that the House suspend the rules and pass the bill, H.R. 226.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. VELÁZQUEZ. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

#### INCENTIVIZING FAIRNESS IN SUBCONTRACTING ACT

Ms. VELÁZQUEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 227) 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.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 227

*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 total dollar value of any subcontracts 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 receive credit for 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 be construed to allow a Federal agency to establish a goaling requirement for lower-tier subcontractors of a prime contractor that is 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 performance on such contract within 30 days of the completion of such performance, 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 30 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 non-payment.

“(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 (or any successor 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 conforming the margins accordingly); 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 gentlewoman from New York (Ms. VELÁZQUEZ) and the gentleman from Ohio (Mr. CHABOT) each will control 20 minutes.

The Chair recognizes the gentlewoman from New York.

GENERAL LEAVE

Ms. VELÁZQUEZ. 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 material on the measure under consideration.

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

There was no objection.

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

Mr. Speaker, I rise in support of H.R. 227, the Incentivizing Fairness in Subcontracting Act.

In fiscal year 2017, the Federal Government purchased goods and services worth over \$508 billion through over 22 million contract actions. Unfortunately, not all this money remained with the original prime contractor and, instead, trickled down to subcontractors.

Subcontractors 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. Today's bill does just that by helping contractors get the credit they need to meet Federal requirements, while also creating a dispute process for nonpayment—a recurring problem for those working with the Federal Government.

By improving the tools that exist for small businesses to become subcontractors, today's measure 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 30 days of completion. Timely payment protects small contractors who do not have the overhead margins to continue operating without being paid.

Today's bill is endorsed by the U.S. Chamber of Commerce, the National Small Business Association, and the National Electrical Contractors Association.

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

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

Mr. Speaker, I rise in support of H.R. 227, the Incentivizing Fairness in Subcontracting Act.

I, again, would like to thank Chairwoman VELÁZQUEZ as well as the gentleman from Mississippi, TRENT KELLY, for their leadership on this important bipartisan legislation.

As this committee has established time and again, small businesses play a vital role in the health and strength of the Federal marketplace. A vibrant small business community promotes innovation and competition, which results in better quality products and services provided at a lower cost to the taxpayer. Therefore, it is critically important that strong incentives exist to entice new small businesses to consider doing business in the Federal space.

One of the primary methods small businesses use to gain a foothold in Federal contracting is through subcontracting. As such, they rely on large prime contractors to make these opportunities available and to receive payment in a timely manner. This often creates an imbalance of power with the large prime contractor having the advantage.

This bill provides small businesses with more leverage by establishing a new measure of accountability on large prime contractors. Small subcontractors may seek redress with the Federal agency small business advocate to resolve any nonpayment issues stemming from the large prime contractor. Unresolved payment issues will reflect poorly on the prime contractor's record, which will impact the prime contractor's ability to win future contracts.

This bill establishes an important safeguard to discourage large prime contractors from taking advantage of their small subcontractors. The result will be a stronger and healthier industrial base, which is good for government. It is also, importantly, good for the taxpayer. I urge my colleagues to support this commonsense legislation.

Mr. Speaker, in closing, I want to thank the gentlewoman, again, for her leadership on this, as well as Mr. KELLY.

As we have discussed, this legislation provides an important safeguard to discourage large prime contractors from taking advantage of their small subcontractors. Given how important

small subcontractors are to the Federal procurement process, it is critical we ensure that they have an adequate system of redress should they have legitimate issues with the prime contractors. Once again, we are looking out for the little guy, which is what this committee does, and I think we all really appreciate that.

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

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

Mr. Speaker, I am pleased to introduce this piece of legislation which protects our small contractors by updating the subcontracting goaling regime through increased flexibility and accountability.

Establishing incentives to count low-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 where they are located.

I want to thank the gentleman from Mississippi (Mr. KELLY) for cosponsoring this critical legislation and for all his work on this issue while serving on the Small Business Committee, and I would like to also take this opportunity to thank the ranking member.

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

Ms. JACKSON LEE. Mr. Speaker, I rise in support of H.R. 227, which amends the Small Business Act to specify what credit is given for certain subcontractors and to provide a dispute process for non-payment to subcontractors.

Mr. Speaker, it is of the utmost importance that we pass this legislation to ensure subcontractors receive the credit and payment for performance that they have earned.

Between 2010 and 2016, Texas' population grew at the second-greatest rate in the country, accompanied by increased demand for residential, retail and commercial space.

With this increased demand came an increase in small businesses and the need for subcontractors across the state.

This fact alone explains why H.R. 227 is so important not only to small businesses throughout the country but specifically the small businesses and subcontractors in Texas that deserve compensation for their performance in a timely manner.

The Houston Chapter of the American Subcontractors Association (ASA-HC) is a collective voice for a diverse membership that was created in order to ensure quality, safety and ethics in construction trades.

ASA-HC advocates for legislative reform and provides educational opportunities for the subcontracting community.

Since ASA-HC's founding in 1966, more than 2,500 member companies throughout the United States, and more than 160 members in Houston benefit from the advocacy ASA offers to its members.

These hard-working Americans deserve nothing less than our maximal support for this bill.

Not only do these Americans deserve our support for H.R. 227, they deserve our maximum efforts to end the government shutdown.

Thousands of subcontractors whose pay comes from federal contracts have little hope of recouping the pay they lost when the government is not operating.

Julie Burr, a single mom from Kansas City, struggles to support her family during this shutdown.

She has been out of work and cannot receive pay for the two weeks prior to the shutdown because there is no one to process her time sheet.

She has taken extra shifts in her side job as a seasonal employee at Barnes and Noble, but it only makes up 25 percent of what her normal pay would be and she has had to ask for an extension on her rent payment, which was due on the first of the month.

Ethan James, a 21 year old minimum-wage contractor can only realistically miss three to four days of work before his standard of living is compromised.

He now risks missing his rent payment because he is not receiving the checks he depends on to sustain himself.

These hardworking Americans deserve more, we cannot afford to drag our feet on such an important issue.

I urge my colleagues to join me in voting for H.R. 227 and standing true to our nation's commitment to supporting and protecting small businesses and subcontractors.

I include in the RECORD a new article entitled "During Shutdown, Janitors, Security Guards and Other Federal Contractors receive no back pay."

[From ABC News, January 2, 2019]

**DURING SHUTDOWN, JANITORS, SECURITY GUARDS, AND OTHER FEDERAL CONTRACTORS RECEIVE NO BACK PAY**

(By Stephanie Ebbs and Anne Flaherty)

While hundreds of thousands of federal workers will have to wait for back pay after the government shutdown ends, thousands more whose pay comes from federal contracts have little hope of recouping the pay they lose when the government isn't operating. Some contractors are turning to other means to make up for the lost income, like taking extra shifts at a second job.

Julie Burr, an administrative assistant for the Department of Transportation in Kansas City, said she doesn't expect any compensation for the time she's been out of work during the shutdown and that she can't even get paid for the two weeks before it started because there's no one to process her time sheet.

"I'm just trying to take one day at a time honestly," Burr said in a phone interview. "I keep turning on the news and think maybe today's the day something will happen."

She said she's taken extra shifts in her side job as a seasonal employee at Barnes and Noble but it only makes up 25 percent of what her normal pay would be and she's had to ask for an extension on her rent payment, which was due on the first of the month.

Burr even set up a GoFundMe page to try and help with some of the expenses and is concerned that even if she can set up a payment plan it could hurt her credit score.

"I'm a single mom . . . we aren't a two income family or anything. It's just me, and I'm kind of trying to make things meet and if it comes to the point of selling items in the house I'll do that," she said.

During previous government shutdowns, Congress has passed resolutions approving back pay for most federal workers. But con-

tract workers like custodians and security officers, whose hourly wages are funded by private companies, don't get paid unless they work.

According to 32BJ SEIU, that means sudden unemployment with no end in sight for the 370 Smithsonian security officers in Washington D.C. protecting the popular museums—which house everything from Judy Garland's ruby red slippers from "The Wizard of Oz" to Charles Lindbergh's Spirit of St. Louis airplane—as well as the 50 security officers who work for Smithsonian museums in New York.

32BJ SEIU is a large property service workers' union that estimates some 2,000 of its members are facing potential paycheck disruptions as a result of the shutdown, including some 70 custodians at the Agriculture Department alone.

Most of those workers aren't eligible for back pay because they are paid by private companies with government contracts instead of being government employees.

It's a particularly ironic twist for federal workers caught in the showdown between President Donald Trump and congressional Democrats over funding for a border wall.

The union said that almost of all of its members are African-American or Latino and many don't support Trump's efforts to build a border wall.

"A true focus on America would mean support for the hardworking men and women who keep our government safe, clean and running every day while supporting their own families and communities across the country," said Jaime Contreras, a 32BJ SEIU vice president, in a statement.

"I wish everybody would just sit down and come to a compromise," she said.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. VELAZQUEZ) that the House suspend the rules and pass the bill, H.R. 227.

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.

#### SMALL BUSINESS ADVOCACY IMPROVEMENTS ACT OF 2019

Ms. VELAZQUEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 128) to clarify the primary functions and duties of the Office of Advocacy of the Small Business Administration, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 128

*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 "Small Business Advocacy Improvements Act of 2019".

#### SEC. 2. AMENDMENT TO PRIMARY FUNCTIONS AND DUTIES OF THE OFFICE OF ADVOCACY OF THE SMALL BUSINESS ADMINISTRATION.

(a) PRIMARY FUNCTIONS.—Section 202 of Public Law 94-305 (15 U.S.C. 634b) is amended—

(1) in paragraph (1), by inserting "and the international economy" after "economy";

(2) in paragraph (9), by striking "complete" and inserting "compete"; and

(3) in paragraph (12), by striking "serviced-disabled" and inserting "service-disabled".