



### **Backgrounder: Small Contractors Improve Competition Act of 2015**

H.R. 1481, the Small Contractors Improve Competition Act of 2015 (SCICA) aims to address problems small businesses face accessing the federal market. When small businesses can't or won't compete, taxpayers suffer due to higher prices, fewer new jobs, less innovation, and a weakened industrial base. SCICA promotes a vibrant, competitive, small business sector by addressing: (1) small business goaling; (2) contract bundling and consolidation; (3) enhanced competition; (4) Small Business Administration (SBA) personnel; and (5) size standards.

The Committee is concerned that the small business goaling process is being misused to the detriment of small businesses, with agencies receiving an "A" grade from SBA when many prime and subcontracting goals are not being met. Even worse, the number of small businesses participating in federal procurement has fallen by over 100,000 companies, and the number of contract actions being awarded to small businesses has fallen by nearly 60 percent in four years. This speaks to a greater problem in the industrial base—a declining participation rate. Indeed, SBA's Office of Advocacy identified 23 industries in which the government spends over \$500 million per year, but where less than 10 percent of procurements are awarded to small businesses. To address these problems, SCICA requires that the Administration: (1) work to increase the number of industries in which small businesses compete for contracts; (2) hold agency executives accountable for small business subcontracting goals; and (3) redirect the scorecard to reflect prime contracting, subcontracting, and the small business participation rate.

Contract bundling and consolidation continue to unnecessarily prevent small businesses from competing for federal contracts. Cases examined by the Committee identified contracts where thousands of small businesses were displaced and no longer allowed to compete for federal work. The Committee worries that this lack of competition will ultimately result in higher prices and in a lack of businesses able to properly service the federal market. Therefore, SCICA requires that agencies implement a plan to ensure bundled or consolidated contracts are identified, justified, mitigated, and tracked. Additionally, SCICA requires that agencies publish bundling and consolidation justifications with a solicitation.

The Committee is concerned that the procurement practices are limiting the ability of small businesses to compete and thereby undermining the federal procurement process. Therefore, SCICA ensures that small businesses receive due consideration when joint venturing or teaming in response to bundled, consolidated and multiple award contracts. Recognizing that reverse auctions can be a useful cost saving method when used appropriately, but that when used inappropriately, reverse auctions may place taxpayers, warfighters and small businesses at risk, SCICA imposes commonsense restrictions on reverse auctions, such as requiring that the

procurements are never used to buy complex goods and services that require technical evaluations. Finally, SCICA protects service contractors again from the irrational application of the Nonmanufacturer rule – a rule Congress only intended to have apply to contracts for goods in order to prevent fraudulent contracts passing off large business products as small business products.

In an effort to allow SBA to operate more efficiently, SCICA also addresses the training requirements for SBA's contracting advocates to make it easier to get qualified people into crucial jobs. Further, SCICA codifies SBA's Office of Hearings and Appeals (OHA) to protect the independence of this administrative tribunal.

Finally, SCICA provides small businesses with a remedy when SBA's size standard regulations fail to follow the Small Business Act. Currently, small businesses must go to court to challenge SBA's size standards. SCICA would allow them to bring appeals to OHA – a far less burdensome process for small businesses. As these size standards are key to the ability of small businesses to compete for contracts, and therefore to the health of the industrial base, this provision provides small contractors with a much needed administrative remedy and holds SBA accountable.