

## House-Passed Small Business Contracting Legislation

Many small business provisions passed the House of Representatives on June 5, 2014, as part of H.R. 4435, the National Defense Authorization Act for FY 2015. These provisions are intended to help small businesses compete for federal contracts, thereby increasing competition, reducing price, encouraging innovation, and strengthening the industrial base. The following chart lists the relevant section of H.R. 4435, provides the information for any stand alone bill, and a brief summary of the provision.

<b>Section of H.R. 4435, as passed by the House</b>	<b>Other Legislation (Sponsor)</b>	<b>Summary</b>
Sec. 805 – Maximizing competition in design-build contracts.	H.R. 2750 (Graves)	Makes it easier for small construction contractors to compete for design-build contracts by requiring agencies to use a two-phase acquisition process.
Sec. 811 – Three-year extension of and amendments to test program for negotiation of comprehensive small business subcontracting plans.	n/a	<p>The Comprehensive Subcontracting Program (CSP) is a pilot program intended to increase meaningful opportunities for small business participation as subcontractors on large Department of Defense (DoD) contracts. First authorized in 1990, the DoD has never analyzed the efficacy of the CSP. This provision extends the pilot program by 3 years while increasing transparency and accountability by:</p> <ul style="list-style-type: none"> <li>• Requiring that large businesses provide more data on the distribution of subcontracts under the program;</li> <li>• Holding large businesses accountable for a bad faith effort to meet subcontracting goals; and</li> <li>• Requiring the DoD to study the program and make a recommendation on its continuation.</li> </ul>
Sec. 812 – Improving opportunities for service-disabled veteran-owned small businesses.	H.R. 2882 (Coffman)	<p>Reduces the bureaucracy faced by Service-Disabled Veteran-Owned Small Business (SDVOSB) seeking to compete for contracts under the Department of Veterans Affairs’ (VA) Vet First program by:</p> <ul style="list-style-type: none"> <li>• Creating a unified definition of SDVOSB for SBA and VA programs;</li> <li>• Transferring responsibility for determining if firms are small from VA to SBA, which will save time and money; and</li> <li>• Requiring that appeals be on the record and decided by administrative judges.</li> </ul>

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Section of H.R. 4435, as passed by the House	Other Legislation (Sponsor)	Summary
Sec. 813 – Plan for improving data on bundled and consolidated contracts.	H.R. 4094 (Graves)	Contract consolidation and bundling involve taking separate contracts and combining them into one large contract. When this saves the government money, it is considered justified bundling or consolidation, and the contracts provide for subcontracting opportunities for small businesses to mitigate any adverse effects. However, when bundling isn't justified, it simply reduces the level of competition. Therefore, this provision creates consequences for failing to properly classify contracts as bundled or consolidated, so that mitigation strategies will be implemented.
Sec. 814 – Authority to provide education to small businesses on certain requirements of Arms Export Control Act	n/a	Small Business Development Centers and Procurement Technical Assistance Centers may provide small business with assistance complying with certain export control laws.
Sec. 815 – Prohibition on reverse auctions for covered contracts	H.R. 2751 (Hanna)	<p>In reverse auctions, the government has companies bid against each by continually offering lower prices in order to win the contract. While this form of competition can be an effective way to save taxpayer dollars when used properly, improper use can result in inadequate competition or inferior quality goods and services. This provision encourages the use of reverse auctions when appropriate, but limits their use when the procurement is awarded pursuant to the Small Business Act, or the VA's Vets First program; and</p> <ul style="list-style-type: none"> <li>• Is for a service, including construction services, or if it is for a product where technical factors need to be compared; or</li> <li>• Only has one company bidding; or</li> <li>• Only has one round of bidding.</li> </ul>

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Sec. 816 – Improving Federal Surety Bonds	H.R. 776 (Hanna)	<p>Surety bonds act as a guarantee that a construction contractor will complete a federal project and pay its subcontractors. This provision strengthens these protections by:</p> <ul style="list-style-type: none"> <li>• Raising the guarantee rate for the SBA surety bond program at no cost to the taxpayer, allowing more small businesses to compete for construction contracts; and</li> <li>• Strengthening taxpayer protections on the use of individual sureties.</li> </ul>
Sec. 817 – Publication of required justification that consolidation of contract requirements	n/a	<p>Federal strategic sourcing is an attempt to leverage the government’s buying power. When done well, it allows small businesses to compete and saves taxpayer dollars. When not used properly, it excludes small businesses from the federal marketplace for five years or more, often driving them out of business. To improve the quality of federal strategic sourcing, this provision:</p> <ul style="list-style-type: none"> <li>• Requires that GAO study FSSI’s affect on the small business base; and</li> <li>• Requires that that consolidation/bundling justifications be published prior to issuance of an RFP.</li> </ul>
Sec. 818 – Small business prime and subcontract participation goals raised; accounting of subcontractors	H.R. 4093 (Graves)	<p>The government is required to provide small businesses with the maximum practicable opportunity to compete for federal contracts. As a proxy for maximum practicable opportunity, Congress set aspirational goals for what percentage of work should go to small businesses. This provision increases these goals, and inserts some commonsense into reporting by:</p> <ul style="list-style-type: none"> <li>• Raising the prime contracting goal from 23% to 25%;</li> <li>• Establishing a statutory subcontracting goal of 40%, rather than the administrative goal of 35.9%; and</li> <li>• Requiring that only prime contracts count towards the prime contract goal.</li> </ul>