

**COMMITTEE ON
SMALL BUSINESS**

RANKING DEMOCRAT
SUBCOMMITTEE ON
CONTRACTING AND WORKFORCE

SUBCOMMITTEE ON
AGRICULTURE, ENERGY AND TRADE

**COMMITTEE ON
FOREIGN AFFAIRS**

SUBCOMMITTEE ON
MIDDLE EAST AND NORTH AFRICA



**CONGRESSIONAL ASIAN PACIFIC
AMERICAN CAUCUS**
BOARD MEMBER

CHAIR
TASK FORCE ON
ECONOMIC DEVELOPMENT

CONGRESSIONAL KIDS SAFETY CAUCUS
CO-CHAIR

Grace Meng

Congress of the United States

Sixth District, New York

April 9, 2014

<http://www.meng.house.gov>

www.facebook.com/repgracemeng

Twitter: @repgracemeng

Statement on: FY2015 NDAA: Design-Build Efficiency and Jobs Act of 2013, H.R. 2750; Security in Bonding Act of 2013, H.R. 776; Commonsense Construction Contracting Act of 2013, H.R. 2751

Chairman McKeon, Ranking Member Smith, and Members of the Committee:

Thank you for allowing me to testify on three bipartisan pieces of legislation that have the support of the House Small Business Committee. These commonsense proposals would increase the level of fairness that should be expected in any programs the government is involved in.

Combined, they help small businesses avoid unnecessary expenses when seeking a government contract, ensure the federal government is not being ripped-off, and most importantly, remove from the federal procurement system the bad actors who corrupt it for those playing by the rules.

Since I have only a few minutes, and three bills to cover, my remarks will be brief. The Design-Build Efficiency and Jobs Act of 2013, H.R. 2750, would clarify when agencies should use a two-step process to buy design-build services. Design-build contracts offer well documented benefits to the government, but can be very expensive to bid on, especially if the team is led by a small architect or engineer.

Indeed, submitting a full proposal on one of these contracts routinely costs over a quarter million dollars. Given that most architects make less than a million each year, this excludes well qualified firms from bidding – some have joked that they would be better served by taking the money to a casino.

H.R. 2750 addresses this problem by allowing any qualified company to submit a technical proposal, which is significantly less expensive than a full blown proposal. After the agency evaluates these technical qualifications, only the top 5 firms will be asked to submit a full proposal – therefore, they aren't wasting bid and proposal dollars and time on contracts they have no chance of winning. The government also benefits from this approach, which has already been adopted by the Corps of Engineers. By having more companies submit initial proposals, the government gets a better pool of initial competitors. However, since the government only needs to evaluate 5 full proposals, the government saves time and effort overall. This is truly a win-win approach.

The Security in Bonding Act of 2013, H.R. 776, addresses abuses of the surety bond process. Surety bonds are required whenever a company is doing construction work for the federal government, and these bonds ensure that the work is completed properly and that all subcontractors are paid. Unfortunately, there are well-documented cases where bad actors do not have the resources necessary to back the bonds they issue, placing both the government and small subcontractors at risk. H.R. 776 requires that bonds be worth the paper they are printed on, and that small businesses have access to quality surety bonds. This is a zero cost solution that protects all parties to federal construction projects.

The Commonsense Construction Contracting Act of 2013, H.R. 2751, improves the use of an often-abused procurement method: reverse auctions. Although reverse auctions may be acceptable for commodities or small items, several Corps of Engineers studies show that they are unacceptable in the construction industry. The practice should be ended immediately.

The legislation is supported by subcontractors and prime contractors alike, and would result in a higher quality project for any federal agency. Reverse auctions are a prime example of failing businesses competing in a race to the bottom. They will bid on projects at impractical levels in an attempt to keep the business afloat for a few more months. The projects, if completed, are shoddy. The Army Corps of Engineers has stopped using reverse auctions for construction services, but this legislation would ensure that ban is in place among all the federal agencies.

Thank you for your consideration of these bills. I hope you will strongly consider them for inclusion in this year's Defense Authorization.