

Statement of the Hon. Nydia Velázquez
Member Day
National Defense Authorization Act for FY2020

Thank you, Chairman Smith, Ranking Member Thornberry, and Members of this Committee for allowing me the opportunity to provide a statement on the FY2020 National Defense Authorization Act. I am honored to advance bipartisan legislation that will benefit small businesses alongside my colleague Ranking Member Chabot and support all the bills in the Small Business Committee package equally. I will highlight the Democratic bills in the package as they touch on a wide spectrum of small business needs.

Access to capital is the lifeblood of every small business. Since 1958, the Small Business Investment Company (SBIC) program has been an integral part of SBA's mission to provide small businesses with capital and create jobs. It achieves this purpose by partnering private and public investments in early stage start-up businesses.

Last year, the SBIC Program provided more than \$5.5 billion in financing to approximately 1,150 small businesses and helped create or sustain over 106,000 jobs. It has afforded America's small businesses an invaluable opportunity to grow their innovative ideas.

Moreover, some of the nation's most successful corporations such as Apple, Tesla and FedEx, received early-stage financing from SBICs. Without it, they may not be the companies they are today.

While the SBIC program has immensely increased the flow of capital to worthy small companies, we can do more to ensure they can meet growing demand. That is why I appreciate Congresswoman Chu's introduction of H.R. 116, which will strengthen and grow the SBIC program by letting banks and federal savings associations invest up to 15 percent of their holdings into SBICs. This increase in capital, at no cost to the taxpayer, provides entrepreneurs with enhanced opportunities to grow their businesses and create jobs.

As we contemplate our country's infrastructure, we must protect the interest of the small businesses at the heart of building our roads and bridges. The Miller Act is a statute that was put in place to protect subcontractors through payment bond and protect U.S. taxpayers through performance bonds. Many subcontractors and suppliers on federal projects are small businesses. These small businesses often find that their only avenue in to the federal procurement arena is as subcontractors and suppliers. Surety bonds, in the form of payment bonds, ensure that they get properly

paid, whether the general contractor on the project pays them or not. Such protections cannot be allowed to be compromised as a result of periodic adjustments for inflation.

Each adjustment, which may occur every five years, in turn means that there is an increase in the threshold so that many more federal subcontractors and suppliers perform work on federal projects without the protection of payment bonds. Performance bonds protect the taxpayer from loss if the contractor on a federal project defaults. Periodic adjustments to address inflation should not be the reason to decrease the protection provided by performance bonds to the U.S. taxpayers. H.R. 224 amends 41 USC §1908 (b)(2)(B) to provide payment protections afforded small businesses performing work on federal construction projects by exempting construction contracts that must be bonded under the Miller Act (40 USC 3131, 3132, 3133, and 3134) from periodic inflation.

Congress recognized that certain protections should not be subject to this periodic adjustment. Specifically, Davis Bacon is excluded from the application of this periodic review to protect the payment of wages to laborers on federal projects. The same basis applies to excluding the application to surety bonds to protect payments to subcontractors and suppliers performing work on federal construction projects.

In fiscal year 2017, the Federal government purchased goods and services worth over \$508 billion through over 22 million contract actions. Within this framework, subcontracts are growing in importance as an avenue for small businesses to work with the government. Therefore, it is important that barriers to entry are reduced and that the right mechanisms are put in place to safeguard the interests of small business subcontractors.

H.R. 227 does just that by clarifying that, as part of their subcontracting plans, large prime contractors have the ability to receive subcontracting credit for small businesses at lower tiers. Furthermore, it creates a dispute process for nonpayment – a reoccurring problem for those working with the federal government.

By improving the tools that exist for small businesses to become subcontractors – like counting lower tier subcontracts— H.R. 227 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 don't have the overhead margins to continue operating without being paid.

Finally, in the spirit of providing adequate oversight and furthering the participation that small businesses rightfully deserve in the \$500-billion-a-year federal marketplace, Ranking Member Chabot and I came together to author H.R. 226, "Clarity on Small Business Participation in Category Management Act of 2019."

Category management is believed by some to be the best strategy to get agencies the lowest price. However, my committee has heard otherwise, and the data supports it: Small contractors on the multiple award schedule consistently provide lower prices to agencies than those offered through category management.

Despite this, agencies have increased the use of category management, which not just increases costs to the federal government but also limits contracts to small vendors. In our committee hearings last year, we heard that more and more contracts are being consolidated and put out of the reach of small businesses as a result of category management.

This bill is a commonsense first step to address the need of small vendors, particularly minority-, women-, and veteran-owned small businesses to remain competitive in the federal marketplace.

By requiring that contracting activity under this new regime of category management be reported in the annual goaling report from agencies to Congress, today's bill protects the industrial base by creating a mechanism for much needed accountability. H.R. 226 gives us the ability to analyze the data, so we can truly understand the role category management is playing in the marketplace and make changes accordingly.

After summarizing all these bipartisan bills, I strongly encourage the complete Small Business package's inclusion in the 2020 NDAA, including those highlighted by Ranking Member Chabot.

I want to thank you all again for allowing me to provide a statement and I urge the inclusion of all bills presented to the House Armed Services Committee to bolster the presence and economic health of our country's small businesses.