

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 1481  
OFFERED BY MR. CHABOT OF OHIO**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Small Contractors Improve Competition Act of 2015”.

4 (b) **TABLE OF CONTENTS.**—The table of contents for  
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Including subcontracting goals in agency responsibilities.
- Sec. 3. Data quality improvement.
- Sec. 4. Notice and justification requirements for bundling or consolidation of contract requirements.
- Sec. 5. Joint venturing and teaming.
- Sec. 6. Limitations on reverse auctions.
- Sec. 7. Revision to the nonmanufacturer rule.
- Sec. 8. Certification requirements for procurement center representatives.
- Sec. 9. Certification requirements for Business Opportunity Specialists.
- Sec. 10. Certification requirements for commercial market representatives.

**6 SEC. 2. INCLUDING SUBCONTRACTING GOALS IN AGENCY  
7 RESPONSIBILITIES.**

8 Section 1633(b) of the National Defense Authoriza-  
9 tion Act for Fiscal Year 2013 (Public Law 112–239; 126  
10 Stat. 2076; 15 U.S.C. 631 note) is amended by striking  
11 “assume responsibility for of the agency’s success in  
12 achieving small business contracting goals and percent-

1 ages” and inserting “assume responsibility for the agen-  
2 cy’s success in achieving each of the small business prime  
3 contracting and subcontracting goals and percentages”.

4 **SEC. 3. DATA QUALITY IMPROVEMENT.**

5 (a) IN GENERAL.—Section 15(s) of the Small Busi-  
6 ness Act (15. U.S.C. 644(s)) is amended—

7 (1) by redesignating paragraph (4) as para-  
8 graph (6); and

9 (2) by inserting after paragraph (3) the fol-  
10 lowing new paragraphs:

11 “(4) IMPLEMENTATION.—Not later than the  
12 first day of fiscal year 2017, the Administrator of  
13 the Small Business Administration shall implement  
14 the plan described in this subsection.

15 “(5) CERTIFICATION.—The Administrator shall  
16 annually provide to the Committee on Small Busi-  
17 ness of the House of Representatives and the Com-  
18 mittee on Small Business and Entrepreneurship of  
19 the Senate certification of the accuracy and com-  
20 pleteness of data reported on bundled and consoli-  
21 dated contracts.”.

22 (b) GAO STUDY.—

23 (1) STUDY.—Not later than the first day of fis-  
24 cal year 2018, the Comptroller General of the  
25 United States shall initiate a study on the effective-

1       ness of the plan described in section 15(s) of the  
2       Small Business Act (15 U.S.C. 644(s)) that shall as-  
3       sess whether contracts were accurately labeled as  
4       bundled or consolidated.

5           (2) CONTRACTS EVALUATED.—For the pur-  
6       poses of conducting the study described in para-  
7       graph (1), the Comptroller General of the United  
8       States—

9           (A) shall evaluate, for work in each of sec-  
10       tors 23, 33, 54, and 56 (as defined by the  
11       North American Industry Classification Sys-  
12       tem), not fewer than 100 contracts in each sec-  
13       tor;

14          (B) shall evaluate only those contracts—

15           (i) awarded by an agency listed in sec-  
16       tion 901(b) of title 31, United States  
17       Code; and

18           (ii) that have a Base and Exercised  
19       Options Value, an Action Obligation, or a  
20       Base and All Options Value (as such terms  
21       are defined in the Federal procurement  
22       data system described in section  
23       1222(a)(4)(A) of title 41, United States  
24       Code, or any successor system); and

1 (C) shall not evaluate contracts that have  
2 used any set aside authority.

3 (3) REPORT.—Not later than 12 months after  
4 initiating the study required by paragraph (1), the  
5 Comptroller General of the United States shall re-  
6 port to the Committee on Small Business of the  
7 House of Representatives and the Committee on  
8 Small Business and Entrepreneurship of the Senate  
9 on the results from such study and, if warranted,  
10 any recommendations on how to improve the quality  
11 of data reported on bundled and consolidated con-  
12 tracts.

13 **SEC. 4. NOTICE AND JUSTIFICATION REQUIREMENTS FOR**  
14 **BUNDLING OR CONSOLIDATION OF CON-**  
15 **TRACT REQUIREMENTS.**

16 (a) NOTICE OF CONTRACT CONSOLIDATION FOR AC-  
17 QUISTION STRATEGIES.—Section 44(c)(2) of the Small  
18 Business Act (15 U.S.C. 657q(c)(2)) is amended by add-  
19 ing at the end the following:

20 “(C) NOTICE.—Not later than 7 days after  
21 making a determination that an acquisition  
22 strategy involving a consolidation of contract  
23 requirements is necessary and justified under  
24 subparagraph (A), the senior procurement exec-  
25 utive or Chief Acquisition Officer shall publish

1 a notice on a public website that such deter-  
2 mination has been made. Any solicitation for a  
3 procurement related to the acquisition strategy  
4 may not be published earlier than 7 days after  
5 such notice is published. Along with the publi-  
6 cation of the solicitation, the senior procure-  
7 ment executive or Chief Acquisition Officer  
8 shall publish a justification for the determina-  
9 tion, which shall include the information in sub-  
10 paragraphs (A) through (E) of paragraph (1).”.

11 (b) NOTICE OF CONTRACT CONSOLIDATION FOR  
12 PROCUREMENT STRATEGIES.—Section 15(e)(3) of such  
13 Act (15 U.S.C. 644(e)(3)) is amended to read as follows:

14 “(3) STRATEGY SPECIFICATIONS.—If the head  
15 of a contracting agency determines that an acquisi-  
16 tion plan for a procurement involves a substantial  
17 bundling of contract requirements, the head of a  
18 contracting agency shall publish a notice on a public  
19 website that such determination has been made not  
20 later than 7 days after making such determination.  
21 Any solicitation for a procurement related to the ac-  
22 quisition plan may not be published earlier than 7  
23 days after such notice is published. Along with the  
24 publication of the solicitation, the head of a con-  
25 tracting agency shall publish a justification for the

1 determination, which shall include following informa-  
2 tion:

3 “(A) The specific benefits anticipated to be  
4 derived from the bundling of contract require-  
5 ments and a determination that such benefits  
6 justify the bundling.

7 “(B) An identification of any alternative  
8 contracting approaches that would involve a  
9 lesser degree of bundling of contract require-  
10 ments.

11 “(C) An assessment of—

12 “(i) the specific impediments to par-  
13 ticipation by small business concerns as  
14 prime contractors that result from the  
15 bundling of contract requirements; and

16 “(ii) the specific actions designed to  
17 maximize small business participation as  
18 subcontractors (including suppliers) at var-  
19 ious tiers under the contract or contracts  
20 that are awarded to meet the require-  
21 ments.”.

22 (c) TECHNICAL AMENDMENT.—Section 44(c)(1) of  
23 such Act (15 U.S.C. 657q(c)(1)) is amended by striking  
24 “Subject to paragraph (4), the head” and inserting “The  
25 head”.

1 **SEC. 5. JOINT VENTURING AND TEAMING.**

2 (a) JOINT VENTURE OFFERS FOR BUNDLED OR  
3 CONSOLIDATED CONTRACTS.—Section 15(e)(4) of the  
4 Small Business Act (15 U.S.C. 644(e)(4)) is amended to  
5 read as follows:

6 “(4) CONTRACT TEAMING.—

7 “(A) IN GENERAL.—In the case of a solici-  
8 tation of offers for a bundled or consolidated  
9 contract that is issued by the head of an agen-  
10 cy, a small business concern may submit an  
11 offer that provides for use of a particular team  
12 of subcontractors or a joint venture of small  
13 business concerns for the performance of the  
14 contract.

15 “(B) EVALUATION OF OFFERS.—The head  
16 of the agency shall evaluate the offer of a team  
17 or a joint venture of small business concerns in  
18 the same manner as other offers, with due con-  
19 sideration to the capabilities of all of the pro-  
20 posed subcontractors or members of the joint  
21 venture as follows:

22 “(i) TEAMS.—When evaluating an  
23 offer of a small business prime contractor  
24 whose offer includes a proposed team of  
25 small business subcontractors, the head of  
26 the agency shall consider the capabilities

1 and past performance of each first tier  
2 subcontractor that is part of the team as  
3 the capabilities and past performance of  
4 the team.

5 “(ii) JOINT VENTURES.—When evalu-  
6 ating an offer of a joint venture of small  
7 business concerns, if the joint venture does  
8 not have sufficient capabilities or past per-  
9 formance to be considered for award of a  
10 contract opportunity, the head of the agen-  
11 cy shall consider the capabilities and past  
12 performance of each member of the joint  
13 venture as the capabilities past perform-  
14 ance of the joint venture.

15 “(C) STATUS AS A SMALL BUSINESS CON-  
16 CERN.—Participation of a small business con-  
17 cern in a team or a joint venture under this  
18 paragraph shall not affect the status of that  
19 concern as a small business concern with re-  
20 spect to the performance of a contract described  
21 in subparagraph (A).”.

22 (b) TEAM AND JOINT VENTURES OFFERS FOR MUL-  
23 TIPLE AWARD CONTRACTS.—Section 15(q)(1) of such Act  
24 (15 U.S.C. 644(q)(1)) is amended—



1           (1) in the heading, by inserting “AND JOINT  
2 VENTURE” before “REQUIREMENTS”;

3           (2) by striking “Each Federal agency” and in-  
4 serting the following:

5                   “(A) IN GENERAL.—Each Federal agen-  
6 cy”; and

7           (3) by adding at the end the following new sub-  
8 paragraphs:

9                   “(B) TEAMS.—When evaluating an offer of  
10 a small business prime contractor whose offer  
11 includes a proposed team of small business sub-  
12 contractors for any multiple award contract  
13 above the substantial bundling threshold of the  
14 Federal agency, the head of the agency shall  
15 consider the capabilities and past performance  
16 of each first tier subcontractor that is part of  
17 the team as the capabilities and past perform-  
18 ance of the offeror.

19                   “(C) JOINT VENTURES.—When evaluating  
20 an offer of a joint venture of small business  
21 concerns for any multiple award contract above  
22 the substantial bundling threshold of the Fed-  
23 eral agency, if the joint venture does not have  
24 sufficient capabilities or past performance to be  
25 considered for award of a contract opportunity,

1 the head of the agency shall consider the capa-  
2 bilities and past performance of each member of  
3 the joint venture as the capabilities and past  
4 performance of the joint venture.

5 “(D) USE OF SMALL BUSINESS TEAMS OR  
6 JOINT VENTURES.—

7 “(i) IN GENERAL.— For contracts  
8 awarded under section 8(a), 8(m), 15(a),  
9 15(j), 31, or 36 to a small business team  
10 or a joint venture of small business con-  
11 cerns, the contracting officer shall certify  
12 annually to the Administration, for each  
13 year the contract is in effect, that each  
14 small business concern member of such  
15 team or joint venture has the same status  
16 of a small business concern, small business  
17 concern owned and controlled by service-  
18 disabled veterans, qualified HUBZone  
19 small business concern, small business con-  
20 cern owned and controlled by socially and  
21 economically disadvantaged individuals, or  
22 small business concern owned and con-  
23 trolled by women, as applicable, that such  
24 concern had at the time the contract was  
25 awarded.

1                   “(ii) EXCEPTION.—The requirements  
2                   of clause (i) shall not apply to a contract  
3                   awarded to a joint venture of small busi-  
4                   ness concerns that is a protege under a  
5                   mentor-protege program approved pursu-  
6                   ant to section 45.”.

7           (c) RULEMAKING.—Not later than 1 year after the  
8           date of enactment of this section, the Administrator of the  
9           Small Business Administration shall issue any regulations  
10          necessary to carry out the amendments made by this sec-  
11          tion.

12   **SEC. 6. LIMITATIONS ON REVERSE AUCTIONS.**

13          (a) SENSE OF CONGRESS.—It is the sense of Con-  
14          gress that, when used appropriately, reverse auctions may  
15          improve the Federal Government’s procurement of com-  
16          mercially available commodities by increasing competition,  
17          reducing prices, and improving opportunities for small  
18          businesses.

19          (b) LIMITATIONS ON REVERSE AUCTIONS.—The  
20          Small Business Act (15 U.S.C. 631 et seq.) is amended—

21                  (1) by redesignating section 47 (15 U.S.C. 631  
22                  note) as section 48; and

23                  (2) by inserting after section 46 the following  
24                  new section:

1 **“SEC. 47. LIMITATIONS ON REVERSE AUCTIONS.**

2 “(a) PROHIBITION ON USING REVERSE AUCTIONS  
3 FOR COVERED CONTRACTS.—In the case of a covered con-  
4 tract described in subsection (c), reverse auction methods  
5 may not be used if the award of the contract is to be made  
6 under—

7 “(1) section 8(a);

8 “(2) section 8(m);

9 “(3) section 15(a);

10 “(4) section 15(j);

11 “(5) section 31; or

12 “(6) section 36.

13 “(b) LIMITATIONS ON USING REVERSE AUCTIONS.—  
14 In the case of the award of a contract to be made under  
15 paragraphs (1) through (6) of subsection (a) that is not  
16 a covered contract, reverse auction methods may be used  
17 pursuant to the following requirements:

18 “(1) DECISIONS REGARDING USE OF A RE-  
19 VERSE AUCTION.—A contracting officer shall make  
20 the following decisions, which may not be delegated  
21 to any person except for another contracting officer  
22 who meets the training requirements of paragraph  
23 (2):

24 “(A) A decision to use reverse auction  
25 methods as part of the competition for award of  
26 a contract.

1           “(B) Any decision made after the decision  
2           described in subsection (A) regarding the ap-  
3           propriate evaluation criteria, the inclusion of  
4           vendors, the acceptability of vendor submissions  
5           (including decisions regarding timeliness), and  
6           the selection of the winner.

7           “(2) TRAINING REQUIRED.—Only a contracting  
8           officer who has received training on the appropriate  
9           use and supervision of reverse auction methods of  
10          contracting may supervise or use such methods in a  
11          procurement for a contract. The training shall be  
12          provided by, or similar to the training provided by,  
13          the Defense Acquisition University as described in  
14          section 824 of the Carl Levin and Howard P. ‘Buck’  
15          McKeon National Defense Authorization Act for  
16          Fiscal Year 2015 (Public Law 113–291).

17          “(3) NUMBER OF OFFERS; REVISIONS TO  
18          BIDS.—A Federal agency may not award a contract  
19          using a reverse auction method if only one offer is  
20          received or if offerors do not have the ability to sub-  
21          mit revised bids with lower prices throughout the  
22          course of the auction.

23          “(4) TECHNICALLY ACCEPTABLE OFFERS.—A  
24          Federal agency awarding a contract using a reverse  
25          auction method shall evaluate the technical accept-

1 ability of offers only as technically acceptable or un-  
2 acceptable.

3 “(5) USE OF PRICE RANKINGS.—A Federal  
4 agency may not award a contract using a reverse  
5 auction method if at any time during the award  
6 process the Federal agency misinforms an offeror  
7 about the price ranking of the offeror’s last offer  
8 submitted in relation to offers submitted by other  
9 offerors.

10 “(6) USE OF THIRD-PARTY AGENTS.—If a Fed-  
11 eral agency uses a third party agent to assist with  
12 the award of contracts using a reverse auction meth-  
13 od, the Federal agency shall ensure that—

14 “(A) inherently governmental functions (as  
15 such term is used in section 2303 of title 41,  
16 United States Code) are not performed by pri-  
17 vate contractors, including by the third party  
18 agent;

19 “(B) information on the past contract per-  
20 formance of offerors created by the third party  
21 agent and shared with the Federal agency is  
22 collected, maintained, and shared in compliance  
23 with section 1126 of title 41, United States  
24 Code;

1           “(C) information on whether an offeror is  
2           a responsible source (as defined in section 113  
3           of title 41, United States Code) that is created  
4           by the third party agent and shared with the  
5           Federal agency is shared with the offeror and  
6           complies with section 8(b)(7) of this Act; and

7           “(D) disputes between the third party  
8           agent and an offeror may not be used to justify  
9           a determination that an offeror is not a respon-  
10          sible source (as defined in section 113 of title  
11          41, United States Code) or to otherwise restrict  
12          the ability of an offeror to compete for the  
13          award of a contract or task or delivery order.

14          “(c) DEFINITIONS.—In this section:

15           “(1) CONTRACTING OFFICER.—The term ‘con-  
16           tracting officer’ has the meaning given that term in  
17           section 2101(1) of title 41, United States Code.

18           “(2) COVERED CONTRACT.—The term ‘covered  
19           contract’ means a contract—

20           “(A) for design and construction services;

21           “(B) for goods purchased to protect Fed-  
22           eral employees, members of the Armed Forces,  
23           or civilians from bodily harm; or

1           “(C) for goods or services other than those  
2 goods or services described in subparagraph (A)  
3 or (B)—

4           “(i) to be awarded based on factors  
5 other than price and technical responsi-  
6 bility; or

7           “(ii) if awarding the contract requires  
8 the contracting officer to conduct discus-  
9 sions with the offerors about their offer.

10           “(3) DESIGN AND CONSTRUCTION SERVICES.—

11           The term ‘design and construction services’ means—

12           “(A) site planning and landscape design;

13           “(B) architectural and interior design;

14           “(C) engineering system design;

15           “(D) performance of construction work for  
16 facility, infrastructure, and environmental res-  
17 toration projects;

18           “(E) delivery and supply of construction  
19 materials to construction sites;

20           “(F) construction, alteration, or repair, in-  
21 cluding painting and decorating, of public build-  
22 ings and public works; and

23           “(G) architectural and engineering services  
24 as defined in section 1102 of title 40, United  
25 States Code.



1           “(4) REVERSE AUCTION.—The term ‘reverse  
2           auction’ means, with respect to procurement by an  
3           agency, an auction between a group of offerors who  
4           compete against each other by submitting offers for  
5           a contract or task or delivery order with the ability  
6           to submit revised offers with lower prices throughout  
7           the course of the auction.”.

8   **SEC. 7. REVISION TO THE NONMANUFACTURER RULE.**

9           (a) PROCUREMENT CONTRACTS.—Section 8(a)(17)  
10          of the Small Business Act (15 U.S.C. 637(a)(17)) is  
11          amended—

12                 (1) in subparagraph (A), by striking “any pro-  
13                 curement contract” and all that follows through  
14                 “section 15” and inserting “any procurement con-  
15                 tract, which contract has as its principal purpose the  
16                 supply of a product to be let pursuant to this sub-  
17                 section or subsection (m), or section 15(a), 31, or  
18                 36,”; and

19                 (2) by adding at the end the following new sub-  
20                 paragraph:

21                         “(C) LIMITATION.—This paragraph shall not  
22                         apply to a contract that has as its principal purpose  
23                         the acquisition of services or construction.”.

24           (b) SUBCONTRACTOR CONTRACTS.—Section 46(a)(4)  
25          of such Act (15 U.S.C. 657s(a)(4)) is amended by striking

1 “for supplies from a regular dealer in such supplies” and  
2 inserting “which is principally for supplies from a regular  
3 dealer in such supplies, and which is not a contract prin-  
4 cipally for services or construction”.

5 (c) PUBLICATION OF CLASS WAIVERS.—The Admin-  
6 istrator of the Small Business Administration shall pub-  
7 lish a list of waivers to the requirements of section  
8 8(a)(17) of the Small Business Act (15 U.S.C.  
9 637(a)(17)) granted for a class of products as an appendix  
10 to section 121.406 of title 13, Code of Federal Regulations  
11 (or any successor regulation).

12 (d) RULEMAKING.—

13 (1) IN GENERAL.—Not later than 1 year after  
14 the date of enactment of this section, the Adminis-  
15 trator of the Small Business Administration shall  
16 issue any rules necessary to carry out the amend-  
17 ments made by this section.

18 (2) REPORT.—Not later than 1 year after the  
19 issuance of the rules required in paragraph (1), the  
20 Comptroller General shall—

21 (A) review the compliance of the Small  
22 Business Administration with the application of  
23 the requirements of section 8(a)(17) of the  
24 Small Business Act (15 U.S.C. 637(a)(17));  
25 and

1 (B) submit a report to the Committee on  
2 Small Business of the House of Representatives  
3 and the Committee on Small Business and En-  
4 trepreneurship of the Senate with any rec-  
5 ommendations on how to increase compliance  
6 with such requirements.

7 **SEC. 8. CERTIFICATION REQUIREMENTS FOR PROCURE-**  
8 **MENT CENTER REPRESENTATIVES.**

9 Section 15(l)(5)(A)(iii) of the Small Business Act (15  
10 U.S.C. 644(l)(5)(A)(iii)) is amended by striking “except  
11 that” and all that follows through the period at the end  
12 and inserting the following: “except that—

13 “(I) any person serving in such a  
14 position on or before January 3,  
15 2013, may continue to serve in that  
16 position for a period of 5 years begin-  
17 ning on such date without the re-  
18 quired certification; and

19 “(II) any person hired for such  
20 position after January 3, 2013, may  
21 have up to one calendar year from the  
22 date of employment to obtain the re-  
23 quired certification.”.

1 **SECTION 9. CERTIFICATION REQUIREMENTS FOR BUSI-**  
2 **NESS OPPORTUNITY SPECIALISTS.**

3 (a) IN GENERAL.—Section 4 of the Small Business  
4 Act (15 U.S.C. 633) is amended by adding at the end the  
5 following new subsection:

6 “(g) CERTIFICATION REQUIREMENTS FOR BUSINESS  
7 OPPORTUNITY SPECIALISTS.—A Business Opportunity  
8 Specialist described under section 7(j)(10)(D) shall have  
9 a Level I Federal Acquisition Certification in Contracting  
10 (or any successor certification) or the equivalent Depart-  
11 ment of Defense certification, except that—

12 “(1) a Business Opportunity Specialist who was  
13 serving on or before January 3, 2013, may continue  
14 to serve as a Business Opportunity Specialist for a  
15 period of 5 years beginning on such date without  
16 such a certification; and

17 “(2) any person hired as a Business Oppor-  
18 tunity Specialist after January 3, 2013, may have  
19 up to one calendar year from the date of employ-  
20 ment to obtain the required certification.”.

21 (b) CONFORMING AMENDMENT.—Section  
22 7(j)(10)(D)(i) of such Act (15 U.S.C. 636(j)(10)(D)(i)) is  
23 amended by striking the second sentence.

1 **SEC. 10. CERTIFICATION REQUIREMENTS FOR COMMER-**  
2 **CIAL MARKET REPRESENTATIVES.**

3 Section 4 of the Small Business Act (15 U.S.C. 633),  
4 as amended by section 9 of this Act, is further amended  
5 by adding at the end the following new subsection:

6 “(h) CERTIFICATION REQUIREMENTS FOR COMMER-  
7 CIAL MARKET REPRESENTATIVES.—A commercial market  
8 representative referred to in section 15(q)(3) shall have  
9 a Level I Federal Acquisition Certification in Contracting  
10 (or any successor certification) or the equivalent Depart-  
11 ment of Defense certification, except that—

12 “(1) a commercial market representative who  
13 was serving on or before the date of enactment of  
14 the Small Contractors Improve Competition Act of  
15 2015 may continue to serve as a commercial market  
16 representative for a period of 5 years beginning on  
17 such date without such a certification; and

18 “(2) any person hired as a commercial market  
19 representative after the date of enactment of the  
20 Small Contractors Improve Competition Act of 2015  
21 may have up to one calendar year from the date of  
22 employment to obtain the required certification.”.

