

Chairman NADLER. Nope, not going to do it.

We would welcome an inspector general investigation, for goodness sake. Over 200 affidavits and declarations of wrongdoing, but no investigation in the Congress—no subpoenas, no depositions, no chance for questioning or cross-examination of witnesses.

Why? Why won't they look into it? Why no hearings? Why no investigation?

I think it is because deep down they know there were big problems with this past election. They know the Constitution was violated.

Article I, Section 4: Time, place, and manner for holding elections shall be determined in each State by the legislature thereof.

Article II, Section 1: "Each State shall appoint, in such manner as the legislature thereof may direct. . . ."

Look at Pennsylvania. Pennsylvania law says mail-in ballots by 8 o'clock on election day. Election day ends at 8 o'clock. Mail-in ballots have to be in by 8 o'clock on election day. The Democrat State Supreme Court said: No, we are going to extend the election day till Friday, till 5 o'clock on Friday.

Pennsylvania State law says mail-in ballots require signature verification. The Democrat secretary of state said no. For 2.6 million ballots, she said: We are not going to follow the law.

Pennsylvania law says mail-in ballots can't be processed until election day, but some county commissioner said no and allowed ballots to be cured, to be fixed, to be changed before election day. You can imagine which counties allowed that, you can just imagine. Democrat counties allowed it; Republican counties didn't.

The legislature determines the time, place, and manner of elections, not State supreme courts, not secretaries of states, not county commissioners. All of those entities took actions that directly violated the law, the law that State legislatures enacted, and thereby violated the Constitution.

But Democrats don't care. They don't want to look into it. They would rather just belittle 60 million of our fellow citizens, call them names, say it is a conspiracy, make fun of the very people we are all supposed to represent.

Well, guess what. Tomorrow, those people will get a chance to hear the truth. Tomorrow, those 60 million people, those 80 million people who have their doubts, will not be treated with disrespect; they will be treated with the respect they deserve.

Tomorrow, there will be a debate in the people's House. Tomorrow, the Constitution will be defended, and the American people will see the truth. They will see how Democrats changed the rules in the days and weeks leading up to the election and created chaos in our election process. Tomorrow, they will see what the late Justice Ruth Bader Ginsburg said: The ultimate date of significance is January 6. Tomorrow, the citizens of this great country will see why.

Mrs. CAROLYN B. MALONEY of New York. Mr. Speaker, I have no further speakers. I urge a positive vote on H.R. 23, and I reserve the balance of my time.

Mr. PALMER. Mr. Speaker, I hope we can continue to find bipartisan ways to build on similar good government reforms, such as this bill.

Mr. Speaker, I strongly urge my colleagues to support this commonsense legislation, and I yield back the balance of my time.

Mrs. CAROLYN B. MALONEY of New York. Mr. Speaker, I urge passage of H.R. 23, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Mrs. CAROLYN B. MALONEY) that the House suspend the rules and pass the bill, H.R. 23.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONSTRUCTION CONSENSUS PROCUREMENT IMPROVEMENT ACT OF 2021

Mrs. CAROLYN B. MALONEY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 26) to amend the Consolidated Appropriations Act, 2021, to correct a provision on the prohibition on the use of a reverse auction, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 26

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Construction Consensus Procurement Improvement Act of 2021".

SEC. 2. AMENDMENT.

Section 402 of title IV of division U of the Consolidated Appropriations Act, 2021, is amended to read as follows:

"PROHIBITION ON USE OF A REVERSE AUCTION FOR THE AWARD OF A CONTRACT FOR COMPLEX, SPECIALIZED, OR SUBSTANTIAL DESIGN AND CONSTRUCTION SERVICES

"SEC. 402.

"(a) FINDINGS.—Congress makes the following findings:

"(1) In contrast to a traditional auction in which the buyers bid up the price, sellers bid down the price in a reverse auction.

"(2) Reverse auctions, while providing value for the vast majority of Federal acquisitions, including certain construction-related acquisitions, are limited in value for complex, specialized, or substantial design and construction services.

"(b) REVERSE AUCTION DEFINED.—In this section, the term 'reverse auction' means, with respect to any procurement by an executive agency, a real-time auction generally conducted through an electronic medium among two or more offerors who compete by submitting bids for a supply or service contract, or a delivery order, task order, or purchase order under the contract, with the ability to submit revised lower bids at any time before the closing of the auction.

"(c) PROHIBITION.—

"(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this section, the Federal Acquisition Regulation shall be amended to prohibit the use of reverse auctions for awarding contracts for complex, specialized, or substantial design and construction services.

"(2) APPLICABILITY TO ACQUISITIONS ABOVE THE SIMPLIFIED ACQUISITION THRESHOLD.—The prohibition on reverse auctions for complex, specialized, or substantial design and construction services shall apply only to acquisitions above the simplified acquisition threshold (SAT) for construction and design services pursuant to part 36 of the Federal Acquisition Regulation.

"(d) RULEMAKING FOR COMPLEX, SPECIALIZED, OR SUBSTANTIAL SERVICES.—Not later than 180 days after the date of the enactment of this section, the Federal Acquisition Regulatory Council shall promulgate a definition of complex, specialized, or substantial design and construction services, which shall include—

"(1) site planning and landscape design;

"(2) architectural and engineering services (as defined in section 1102 of title 40, United States Code);

"(3) interior design;

"(4) performance of substantial construction work for facility, infrastructure, and environmental restoration projects; and

"(5) construction or substantial alteration of public buildings or public works.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to restrict the use of reverse auctions for the procurement of other goods and services except as specifically provided for under this section.

"(f) REPORT.—Not later than two years after the date of the enactment of this section, the Administrator of General Services shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Reform of the House of Representatives a report on the effectiveness of this section in delivering complex, specialized, or substantial design and construction services to the United States Government."

SEC. 3. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York (Mrs. CAROLYN B. MALONEY) and the gentleman from Alabama (Mr. PALMER) each will control 20 minutes.

The Chair recognizes the gentlewoman from New York.

GENERAL LEAVE

Mrs. CAROLYN B. MALONEY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the measure before us.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. CAROLYN B. MALONEY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank Representatives COMER and KHANNA for their work on this bipartisan bill, and I thank Senators PORTMAN and PETERS for their work on last year's Senate companion.

This measure would correct a provision of the Consolidated Appropriations Act for fiscal year 2021 that was incorrectly inserted into the law.

The language of this bill had been carefully crafted by the House Oversight and Reform Committee and the Senate Committee on Homeland Security and Governmental Affairs over many months prior to the agreement to include it in last year's Consolidated Appropriations Act. The bill you see before you today honors that agreement and resolves the drafting error.

The bill would prohibit the use of reverse auctions for the procurement of complex, specialized, or substantial design and construction services procured by the Federal Government.

Such services would include site planning, architectural and engineering services, interior design, construction or substantial alteration of public buildings or public works, and substantial construction work for facility, infrastructure, and environmental restoration projects.

Reverse auctions are generally a valuable tool to ensure the responsible stewardship of taxpayer dollars through the acquisition process.

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In a reverse auction, a buyer seeking a good or service—in this case the Federal Government—solicits bids. Multiple sellers offer bids and the seller with the lowest bid wins the competition.

However, in the specific instance of complex, specialized, or substantial design and construction services, the use of reverse auctions can be problematic. While the lowest price is often the goal for standardized goods and services, it is not the only factor that should be considered for these unique projects.

Quality is also an important evaluation factor, especially for complex services, like design-build contracts for major public buildings or works.

This bill would not prevent contracting officers from considering price in evaluating proposals for complex construction services, just the use of reverse auctions designed to achieve the lowest price without regard to quality.

Mr. Speaker, I urge Members to support this bill, and I reserve the balance of my time.

Mr. PALMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 26, the Construction Consensus Procurement Improvement Act of 2021. This bill would prohibit the Federal Government's use of reverse auctions for complex design and construction services. A reverse auction is one where the sellers bid down the price instead of the buyers driving up the price. Most often, the contractor with

the lowest bid wins the contract. While we all wish for the Federal Government to get the lowest price, it is important that these complex projects are done properly, on time, and on budget.

Reverse auctions are not always appropriate for the types of services this bill deals with because design-build or complex construction projects often have variables which cannot be contemplated during the original bidding process.

The use of reverse auctions can often result in products that are subpar and, ultimately, over budget. Often, the winning low bid is nowhere near the final cost to the government after unanticipated factors lead to time and budget overruns.

Specifically, the Office of Federal Procurement Policy found that, for complex design and construction contracts, the expertise required to complete these projects was not built in to reverse auction bids.

Construction projects have a high degree of variability and the reverse auction process often does not yield the low costs intended for the taxpayer. This legislation is tailored to ensure that products and services which do not benefit from the reverse auction process will not be affected.

Going forward, we must continue to fight for the best possible products at the best price to the taxpayer. That includes ensuring benefits are brought to our constituents on time and on budget. This legislation will help to achieve that.

Mr. Speaker, I thank my colleague, Representative RO KHANNA, for his work and support on this legislation. I urge my colleagues to support the bill, and I reserve the balance of my time.

Mrs. CAROLYN B. MALONEY of New York. Mr. Speaker, I reserve the balance of my time.

Mr. PALMER. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky (Mr. COMER).

Mr. COMER. Mr. Speaker, I rise in strong support of my bill, H.R. 26, the Construction Consensus Procurement Improvement Act of 2021.

It is vitally important that the Federal Government procure complex design and construction services that remain on time and on budget. This bill would prevent the Federal reverse auctions procurement process from being used for complex projects. Using reverse auctions for major construction projects only causes problems, such as delays and wasteful spending.

Who pays the price?

The taxpayer.

The Federal Government must be good stewards of taxpayer dollars and get the best possible services for the best price. As ranking member of the Committee on Oversight and Reform, I want to continue to deliver savings to the taxpayer and make stakeholder interaction with the government much easier, and H.R. 26 does just that.

This bill is the result of strong bipartisan, bicameral negotiations and the

hard work of many private sector groups. I thank Senator PORTMAN for his hard work on this legislation last Congress. I am also thankful for the support of my Committee on Oversight and Reform colleague, Mr. KHANNA.

Mr. Speaker, I would also like to particularly thank the Construction Industry Procurement Coalition, the Association of General Contractors, the Design-Build Institute of America, the American Subcontractors Association, and numerous others for their hard work on this legislation.

I look forward to continuing to work with the majority to advance common-sense legislation to make government more efficient and effective. I encourage the Senate to quickly consider this bill and send it to the President's desk.

Mr. Speaker, I urge my House colleagues to support H.R. 26.

Mr. PALMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a sensible and needed bipartisan reform. I am hopeful to see similar bipartisan procurement reform bills this Congress, and I urge my colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

Mrs. CAROLYN B. MALONEY of New York. Mr. Speaker, I urge passage of H.R. 26, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Mrs. CAROLYN B. MALONEY) that the House suspend the rules and pass the bill, H.R. 26.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SETTLEMENT AGREEMENT INFORMATION DATABASE ACT OF 2021

Mrs. CAROLYN B. MALONEY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 27) to amend chapter 3 of title 5, United States Code, to require the publication of settlement agreements, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 27

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Settlement Agreement Information Database Act of 2021".

SEC. 2. INFORMATION REGARDING SETTLEMENT AGREEMENTS ENTERED INTO BY FEDERAL AGENCIES.

(a) REQUIREMENTS FOR SETTLEMENT AGREEMENTS.—Chapter 3 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 307. Information regarding settlement agreements

"(a) DEFINITIONS.—In this section: