

# Why did Congress renew this embattled Pentagon program?

BY LLOYD CHAPMAN, OPINION CONTRIBUTOR - 03/08/17 06:00 PM EST

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Something very interesting happened with the passage of the 2017 [National Defense Authorization Act \(NDAA\)](#). Some unknown member of Congress included language in the bill that renewed the Pentagon's embattled [Comprehensive Subcontracting Plan Test Program \(CSPTP\)](#) until 2027. Why is this so unusual? Every year since 1989 the CSPTP has been renewed one year at a time for the last 27 years and now suddenly, Congress renewed it for a decade.

Why? I think I know. I have been challenging the CSPTP in federal court lately. I think Congress and the Pentagon were afraid all the [negative publicity](#) my litigation has [caused](#) would make it difficult if not impossible to renew the CSPTP in the 2018 NDAA. Their solution: renew it for the next 10 years.

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In 1989, the CSPTP was adopted under the guise of "increasing subcontracting opportunities for small businesses." In reality, the CSPTP was designed to eliminate all transparency for the Pentagon's largest prime contractors. It prevents people like me from obtaining data from the Pentagon that prove they are violating federal contracting law and cheating American small businesses out of billions in federal contracts and subcontracts.

The CSPTP also eliminated any and all penalties for non-compliance with federal small business subcontracting goals. Think of the absurdity of a program that eliminates all transparency in Pentagon small business subcontracting programs and eliminates all penalties for non-compliance with small business subcontracting goals and then test that theory for 38 years to see if it increases opportunities for small businesses.

In 2004, the Government Accountability Office (GAO) released a [report](#) that found there was no evidence the CSPTP had ever helped small businesses. In 2014, the Pentagon finally admitted the CSPTP had actually reduced subcontracting opportunities for small businesses. Pentagon spokesperson

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Maureen Schumann said the CSPTP "has led to an erosion of [the agency's] small business industrial base." The same year, Professor Charles Tiefer, one of the nation's leading experts on federal contracting law, issued a legal opinion on the CSPTP. Tiefer described the CSPTP as a "sham" and "seriously harmful to small businesses." Even the House Armed Services Committee has acknowledged there is no evidence the CSPTP has ever helped small businesses.

When I tried to obtain a copy of the data submitted to the CSPTP by Sikorsky Aircraft under the Freedom of Information Act (FOIA), I had to take the Pentagon to federal court. Both the Pentagon and Sikorsky refused to release the data. If the program has achieved its goal of "increasing subcontracting opportunities for small business" you would think they would be happy to release the data.

Federal District Court Judge William Alsup's comments in the case are very telling. In a Nov. 6, 2014 hearing Judge Alsup stated, "The purpose of the Freedom of Information Act is so the public can see how our government works. Congress passed this law to make small businesses have access to some of these projects, and here is the United States covering it up." In a hearing on Jan. 20, 2015, Judge Alsup stated, "So it would be more like a David and Goliath. You get to come in there again against the big company and against the big government ... They are trying to suppress the evidence."

Congress has renewed a Pentagon program into its 38th year, even though the Department of Defense admitted has harmed small business subcontracting opportunities. Lawmakers renewed a Pentagon program that one of America's leading experts on federal contracting law described as a "sham." They renewed the program even though the GAO and the House Armed Services Committee have both acknowledged there is no evidence the CSPTP has ever helped small businesses. They renewed the CSPTP even after a federal judge accused the government of "covering it up" and trying "to suppress the evidence."

The fact that Congress has renewed an obvious and blatant anti-small business and job killing program into its 38th year of testing is one of the most disappointing examples I have seen on how broken and dysfunctional our government actually is.

Lloyd Chapman is founder and president of the American Small Business League.

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