

DEPARTMENT OF HOMELAND SECURITY MENTOR-
PROTÉGÉ PROGRAM ACT OF 2019

NOVEMBER 22, 2019.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland
Security, submitted the following

R E P O R T

[To accompany H.R. 4727]

The Committee on Homeland Security, to whom was referred the bill (H.R. 4727) to amend the Homeland Security Act of 2002 to establish a mentor-protégé program, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 4727, the “Department of Homeland Security Mentor-Protégé Program Act of 2019,” encourages large business prime contractors to mentor small businesses to help position them to effectively compete for future federal government contracts.

This bill seeks to authorize the Department of Homeland Security’s (DHS) mentor protégé program in which large business prime contractors (mentor firms) provide assistance to small businesses (protégé firms). The mentor protégé program has been in existence at DHS since 2003 but has not been codified in law. Today, the mentor protégé program incentivizes large businesses to provide developmental assistance and subcontracting opportunities to small businesses. Mentor firms are encouraged to offer technical, managerial, and financial assistance to protégé firms through incentives, such as additional credit when being evaluated for future DHS contracts. The firms participating in the program commit to working in a mentor/protégé relationship for a period of no less than three years, fostering the establishment of long-term business relationships between large and small businesses. To ensure that Congress monitors the effectiveness of the program, the bill requires DHS to report annually to Congress on program participation, including the benefits provided to small business participants.

BACKGROUND AND NEED FOR LEGISLATION

The Federal trend towards favoring government-wide vehicles for procurements has implications on the availability of contracting opportunities for small businesses.¹ While government-wide small business contracting goals as a percentage of overall procurements are generally met,² the number of small businesses receiving prime contracts hit a 10 year low in 2018.³ Specifically, Federal agencies awarded contracts to 32 percent fewer small businesses in fiscal year 2018 than in fiscal year 2009.⁴ In contrast, the number of large vendors only fell by 4 percent.⁵ The mentor protégé program is necessary to increase the ability of small businesses to compete for prime contracts and foster innovation and job growth. Building the capacity of small businesses increases the pool of qualified vendors to fulfill the Department of Homeland Security’s contracting needs and enhance America’s security.

HEARINGS

For the purposes of section 103(i) of H. Res 6. of the 116th Congress, the following hearing was used to develop H.R. 4727:

- On May 9, 2019, the Committee held a hearing entitled “FEMA Contracting: Reviewing Lessons Learned from Past Disasters to Improve Preparedness.” The Committee received testimony from Brian Kamoie, Associate Administrator for Mission Support, Federal Emergency Management Agency; Marie Mak, Director, Contracting and National Security Acqui-

¹Jason Miller, *Number of small business prime contractors down by 25 percent since 2010*, Federal News Network, October 16, 2017, <https://federalnewsnetwork.com/reporters-notebook-jason-miller/2017/10/number-of-small-business-prime-contractors-down-by-25-percent-since-2010/> (accessed November 20, 2019).

²Small Business Administration, *Federal Government Achieves Small Business Contracting Goal for Sixth Consecutive Year with Record-Breaking \$120 Billion to Small Businesses*, June 25, 2019, <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/federal-government-achieves-small-business-contracting-goal-sixth-consecutive-year-record-breaking> (accessed November 18, 2019).

³Bloomberg Government, *Federal Supplier Base Continued to Shrink in Fiscal 2018*, May 23, 2019, <https://news.bloombergenvironment.com/federal-contracting/federal-supplier-base-continued-to-shrink-in-fiscal-2018> (accessed November 17, 2019).

⁴Ibid.

⁵Ibid.

sitions, Government Accountability Office; and Katherine Trimble, Deputy Assistant Inspector General for Audits, Department of Homeland Security Office of Inspector General.

COMMITTEE CONSIDERATION

The Committee met on October 23, 2019, with a quorum being present, to consider H.R. 4727 and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by unanimous consent.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 4727.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

CONGRESSIONAL BUDGET OFFICE ESTIMATE NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 4727 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the objective of H.R. 4727 is to increase the

ability of small businesses to compete for federal government contracts and thereby expand the pool of qualified vendors to fulfill the Department of Homeland Security's contracting needs.

ADVISORY ON EARMARKS

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of the rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides that this bill may be cited as the "Department of Homeland Security Mentor-Protégé Program Act of 2019."

Sec. 2. Department of Homeland Security mentor-protégé program

This section amends title VIII of the Homeland Security Act of 2002 to authorize a mentor protégé program within the Department of Homeland Security (DHS or Department) under which a mentor firm enters into an agreement with a protégée firm for the purpose of assisting the protégée firm to compete for prime contracts and subcontracts of the Department.

This section requires the Secretary of Homeland Security to:

- (1) establish eligibility criteria for mentor and protégé firms; and
- (2) establish a process for mentor and protégé firms to jointly submit applications to participate in the program that include—
 - (a) a description of the assistance to be provided by the mentor firm;
 - (b) a schedule with milestones to achieve the assistance to be provided;
 - (c) an estimate of the costs to be incurred by the mentor firm for providing assistance;
 - (d) a commitment to submit reports to the Secretary to assist in evaluating the protégé's developmental progress; and
 - (e) a commitment to inform the Secretary of a change in participation eligibility or voluntary withdrawal.

This section also requires the head of DHS's Office of Small and Disadvantaged Business Utilization to notify applicants of approval or disapproval, and in the case of disapproval, the process for re-submitting an application. The head of the Office of Small and Disadvantaged Business Utilization may rescind the approval of an application if in the best interest of the Department.

This section requires that mentor and protégé firms participate in the program for not less than 36 months. This section allows mentor firms to receive benefits including evaluation credit during the selection process when competing for DHS contracts. A protégé firm may receive technical, managerial, financial, or any other mutually agreed upon benefits from a mentor firm, including a subcontract award. Further, the Secretary may identify additional benefits to be provided.

Not later than one year after the date of the enactment of this Act, and annually thereafter, the head of the Office of Small and Disadvantaged Business Utilization shall submit to the Commit-

tees on Homeland Security and Small Business of the House of Representatives a report that:

(1) identifies each agreement between a mentor firm and a protégé firm, including the number of protégé firms that are small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, women-owned small business concerns, historically Black colleges and universities, and minority institutions of higher education;

(2) describes the type of assistance provided by mentor firms;

(3) identifies contracts within the Department in which a mentor firm serving as the prime contractor provided subcontracts to a protégé firm under the mentor-protégé program; and

(4) assesses the degree to which there has been—

(a) an increase in the technical capabilities of protégé firms; and

(b) an increase in the quantity and estimated value of prime contract and subcontract awards to protégé firms for the period covered by the report.

The bill encourages the participation of Historically Black Colleges and Universities in the program, as is allowed in other mentor-protégé programs at other Federal agencies, such as the National Aeronautics and Space Administration. The Committee believes that this program, as strengthened under this Act, can help reverse the downward trend in the number of small businesses participating in federal contracting.⁶

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Homeland Security Act of 2002”.

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

Sec. 1. Short title; table of contents.

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TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

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Subtitle H—Miscellaneous Provisions

Sec. 871. Advisory committees.

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⁶ Ibid.

Sec. 890A. Cyber crimes center, child exploitation investigations unit, computer forensics unit, and cyber crimes unit.
Sec. 890B. Mentor-protégé program.

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TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

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Subtitle H—Miscellaneous Provisions

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SEC. 890B. MENTOR-PROTÉGÉ PROGRAM.

(a) *ESTABLISHMENT.*—There is established in the Department a mentor-protégé program (in this section referred to as the “Program”) under which a mentor firm enters into an agreement with a protégé firm for the purpose of assisting the protégé firm to compete for prime contracts and subcontracts of the Department.

(b) *ELIGIBILITY.*—The Secretary shall establish criteria for mentor firms and protégé firms to be eligible to participate in the Program, including a requirement that a firm is not included on any list maintained by the Federal Government of contractors that have been suspended or debarred.

(c) *PROGRAM APPLICATION AND APPROVAL.*—

(1) *APPLICATION.*—The Secretary, acting through the Office of Small and Disadvantaged Business Utilization of the Department, shall establish a process for submission of an application jointly by a mentor firm and the protégé firm selected by the mentor firm. The application shall include each of the following:

(A) A description of the assistance to be provided by the mentor firm, including, to the extent available, the number and a brief description of each anticipated subcontract to be awarded to the protégé firm.

(B) A schedule with milestones for achieving the assistance to be provided over the period of participation in the Program.

(C) An estimate of the costs to be incurred by the mentor firm for providing assistance under the Program.

(D) Attestation that Program participants will submit to the Secretary reports at times specified by the Secretary to assist the Secretary in evaluating the protégé firm’s developmental progress.

(E) Attestations that Program participants will inform the Secretary in the event of change in eligibility or voluntary withdrawal from the Program.

(2) *APPROVAL.*—Not later than 60 days after receipt of an application pursuant to paragraph (1), the head of the Office of

Small and Disadvantaged Business Utilization shall notify applicants of approval or, in the case of disapproval, the process for resubmitting an application for reconsideration.

(3) *RESCISSION.—The head of the Office of Small and Disadvantaged Business Utilization may rescind the approval of an application under this subsection if it determines that such action is in the best interest of the Department.*

(d) *PROGRAM DURATION.—A mentor firm and protégé firm approved under subsection (c) shall enter into an agreement to participate in the Program for a period of not less than 36 months.*

(e) *PROGRAM BENEFITS.—A mentor firm and protégé firm that enter into an agreement under subsection (d) may receive the following Program benefits:*

(1) *With respect to an award of a contract that requires a subcontracting plan, a mentor firm may receive evaluation credit for participating in the Program.*

(2) *With respect to an award of a contract that requires a subcontracting plan, a mentor firm may receive credit for a protégé firm performing as a first tier subcontractor or a subcontractor at any tier in an amount equal to the total dollar value of any subcontracts awarded to such protégé firm.*

(3) *A protégé firm may receive technical, managerial, financial, or any other mutually agreed upon benefit from a mentor firm, including a subcontract award.*

(4) *Any other benefits identified by the Secretary.*

(f) *REPORTING.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the head of the Office of Small and Disadvantaged Business Utilization shall submit to the Committees on Homeland Security and Small Business of the House of Representatives a report that—*

(1) *identifies each agreement between a mentor firm and a protégé firm entered into under this section, including number of protégé firm participants that are—*

(A) *small business concerns;*

(B) *small business concerns owned and controlled by veterans;*

(C) *small business concerns owned and controlled by service-disabled veterans;*

(D) *qualified HUBZone small business concerns;*

(E) *small business concerns owned and controlled by socially and economically disadvantaged individuals;*

(F) *women-owned small business concerns;*

(G) *historically Black colleges and universities; and*

(H) *minority institutions of higher education;*

(2) *describes the type of assistance provided by mentor firms to protégé firms;*

(3) *identifies contracts within the Department in which a mentor firm serving as the prime contractor provided subcontracts to a protégé firm under the Program; and*

(4) *assesses the degree to which there has been—*

(A) *an increase in the technical capabilities of protégé firms; and*

(B) *an increase in the quantity and estimated value of prime contract and subcontract awards to protégé firms for the period covered by the report.*

(g) *DEFINITIONS.—In this section:*

(1) *HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term “historically Black college or university” means any of the historically Black colleges and universities referred to in section 2323 of title 10, United States Code, as in effect on March 1, 2018.*

(2) *MENTOR FIRM.—The term “mentor firm” means a for-profit business concern that is not a small business concern that—*

(A) has the ability to assist and commits to assisting a protégé to compete for Federal prime contracts and sub-contracts; and

(B) satisfies any other requirements imposed by the Secretary.

(3) *MINORITY INSTITUTION OF HIGHER EDUCATION.—The term “minority institution of higher education” means an institution of higher education with a student body that reflects the composition specified in section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058(b)).*

(4) *PROTÉGÉ FIRM.—The term “protégé firm” means a small business concern, a historically Black college or university, or a minority institution of higher education that—*

(A) is eligible to enter into a prime contract or sub-contract with the Department; and

(B) satisfies any other requirements imposed by the Secretary.

(5) *SMALL BUSINESS ACT DEFINITIONS.—The terms “small business concern”, “small business concern owned and controlled by veterans”, “small business concern owned and controlled by service-disabled veterans”, “qualified HUBZone small business concern”, and “small business concern owned and controlled by women” have the meaning given such terms, respectively, under section 3 of the Small Business Act (15 U.S.C. 632). The term “small business concern owned and controlled by socially and economically disadvantaged individuals” has the meaning given such term in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)).*

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