

CHAPTER 387—SMALL BUSINESS PROGRAMS

Editorial Notes

Subchapter	Sec.
I. General	4901
II. [Reserved]	4991

AMENDMENTS

2022—Pub. L. 117-263, div. A, title VIII, § 856(c), Dec. 23, 2022, 136 Stat. 2726, added item 4902.

Editorial Notes

AMENDMENTS

2021—Pub. L. 117-81, div. A, title XVII, § 1701(i)(10)(A), Dec. 27, 2021, 135 Stat. 2143, amended Pub. L. 116-283, div. A, title XVIII, § 1871(a)(2), Jan. 1, 2021, 134 Stat. 4287, which added this analysis, by adding item for subchapter II.

Statutory Notes and Related Subsidiaries

PILOT PROGRAM FOR STREAMLINED TECHNOLOGY TRANSITION FROM THE SBIR AND STTR PROGRAMS OF THE DEPARTMENT OF DEFENSE

Pub. L. 115-91, div. A, title XVII, § 1710, Dec. 12, 2017, 131 Stat. 1810, authorized the Secretary of Defense to establish a pilot program under which the Department was to award multiple award contracts to certain small business concerns for the purchase of technologies, supplies, or services that the small business concern had developed through the SBIR or STTR program, and provided that such pilot program would terminate on Sept. 30, 2023.

MENTOR-PROTEGE PILOT PROGRAM

Pub. L. 101-510, div. A, title VIII, § 831, Nov. 5, 1990, 104 Stat. 1607, as amended by Pub. L. 102-25, title VII, § 704(c), Apr. 6, 1991, 105 Stat. 119; Pub. L. 102-172, title VIII, § 8064A, Nov. 26, 1991, 105 Stat. 1186; Pub. L. 102-190, div. A, title VIII, § 814(b), Dec. 5, 1991, 105 Stat. 1425; Pub. L. 102-484, div. A, title VIII, §§ 801(h)(4), 807(b)(1), title X, § 1054(d), Oct. 23, 1992, 106 Stat. 2445, 2448, 2503; Pub. L. 103-160, div. A, title VIII, § 813(b)(1), (c), Nov. 30, 1993, 107 Stat. 1703; Pub. L. 104-106, div. A, title VIII, § 824, Feb. 10, 1996, 110 Stat. 399; Pub. L. 104-201, div. A, title VIII, § 802, Sept. 23, 1996, 110 Stat. 2604; Pub. L. 105-85, div. A, title VIII, § 821(a), title X, § 1073(c)(6), Nov. 18, 1997, 111 Stat. 1840, 1904; Pub. L. 106-65, div. A, title VIII, § 811(a)-(d)(1), (e), Oct. 5, 1999, 113 Stat. 706, 707, 709; Pub. L. 106-398, § 1 [[div. A], title VIII, § 807], Oct. 30, 2000, 114 Stat. 1654, 1654A-208; Pub. L. 107-107, div. A, title VIII, § 812, Dec. 28, 2001, 115 Stat. 1181; Pub. L. 108-375, div. A, title VIII, §§ 841(a), (b), 842, Oct. 28, 2004, 118 Stat. 2018, 2019; Pub. L. 112-10, div. A, title VIII, § 8016, Apr. 15, 2011, 125 Stat. 60; Pub. L. 112-81, div. A, title VIII, § 867, title X, § 1062(n), Dec. 31, 2011, 125 Stat. 1526, 1586; Pub. L. 112-239, div. A, title X, § 1076(a)(17), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 113-291, div. A, title X, § 1071(b)(16), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 114-92, div. A, title VIII, § 861(a), Nov. 25, 2015, 129 Stat. 921; Pub. L. 114-328, div. A, title XVIII, §§ 1813(b), 1823, Dec. 23, 2016, 130 Stat. 2652, 2656; Pub. L. 115-91, div. A, title XVII, § 1701(a)(4)(A), Dec. 12, 2017, 131 Stat. 1796, as amended by Pub. L. 116-283, div. A, title X, § 1081(e)(1), Jan. 1, 2021, 134 Stat. 3874; Pub. L. 115-232, div. A, title VIII, § 812(a)(2)(C)(ii), Aug. 13, 2018, 132 Stat. 1846; Pub. L. 116-92, div. A, title VIII, § 872(a)(1), (2), (b), (c), Dec. 20, 2019, 133 Stat. 1526; Pub. L. 116-283, div. A, title XVIII, § 1806(e)(3)(F), Jan. 1, 2021, 134 Stat. 4156, which established the Mentor-Protege Program, was transferred to subchapter I of this chapter and redesignated as section 4902 of this title by Pub. L. 117-263, div. A, title VIII, § 856(a), Dec. 23, 2022, 136 Stat. 2723.

SUBCHAPTER I—GENERAL

Sec.	
4901.	Department of Defense small business strategy.
4902.	Department of Defense Mentor-Protege Program.

§ 4901. Department of Defense small business strategy

(a) IN GENERAL.—The Secretary of Defense shall implement a small business strategy for the Department of Defense that meets the requirements of this section.

(b) UNIFIED MANAGEMENT STRUCTURE.—As part of the small business strategy described in subsection (a), the Secretary shall ensure that there is a unified management structure within the Department for the functions of the Department relating to—

- (1) programs and activities related to small business concerns (as defined in section 3 of the Small Business Act);
- (2) manufacturing and industrial base policy; and
- (3) any procurement technical assistance program established under chapter 388 of this title.

(c) PURPOSE OF SMALL BUSINESS PROGRAMS.—The Secretary shall ensure that programs and activities of the Department of Defense related to small business concerns are carried out so as to further national defense programs and priorities and the statements of purpose for Department of Defense acquisition set forth in section 801 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115-91; 131 Stat. 1449).

(d) POINTS OF ENTRY INTO DEFENSE MARKET.—The Secretary shall ensure—

- (1) that opportunities for small business concerns to contract with the Department of Defense are identified clearly; and
- (2) that small business concerns are able to have access to program managers, contracting officers, and other persons using the products or services of such concern to the extent necessary to inform such persons of emerging and existing capabilities of such concerns.

(e) ENHANCED OUTREACH UNDER PROCUREMENT TECHNICAL ASSISTANCE PROGRAM MARKET.—The Secretary shall enable and promote activities to provide coordinated outreach to small business concerns through any procurement technical assistance program established under chapter 388 of this title to facilitate small business contracting with the Department of Defense.

(Added Pub. L. 115-232, div. A, title VIII, § 851(a), Aug. 13, 2018, 132 Stat. 1883, § 2283; renumbered § 4901 and amended Pub. L. 116-283, div. A, title XVIII, § 1871(b), Jan. 1, 2021, 134 Stat. 4287.)

Editorial Notes

REFERENCES IN TEXT

Section 3 of the Small Business Act, referred to in subsec. (b)(1), is classified to section 632 of Title 15, Commerce and Trade.

Section 801 of the National Defense Authorization Act for Fiscal Year 2018, referred to in subsec. (c), is section 801 of Pub. L. 115-91, which is set out as a note under section 2302 of this title.

AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2283 of this title as this section and substituted “chapter 388” for “chapter 142” in subssecs. (b)(3) and (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

ACCESSIBILITY AND CLARITY IN COVERED NOTICES FOR SMALL BUSINESS CONCERNS

Pub. L. 118-159, div. A, title VIII, §875, Dec. 23, 2024, 138 Stat. 2014, provided that:

“(a) IN GENERAL.—Each covered notice shall be written in a manner—

“(1) such that a small business concern can easily understand the intent of the covered notice; and

“(2) that—

“(A) is clear, concise, and well-organized; and

“(B) to the maximum extent practicable, follows other best practices appropriate to the subject or field of the covered notice and the intended audience of the covered notice.

“(b) INCLUSION OF KEY WORDS IN COVERED NOTICES.—Each covered notice shall, to the maximum extent practicable, include key words in the description of the covered notice such that a small business concern seeking contract opportunities using the single Government-wide point of entry described under section 1708 of title 41, United States Code, can easily identify and understand such covered notice.

“(c) RULEMAKING.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall issue rules to carry out this section.

“(d) DEFINITIONS.—In this section:

“(1) COVERED NOTICE.—The term ‘covered notice’ means a notice that—

“(A) the Secretary of Defense or a Secretary of a military department publishes on SAM.gov (or any successor website) marketing Federal contract opportunities; and

“(B) pertains to small business concerns, such as a sources sought notice or a solicitation restricted to competition among small business concerns.

“(2) SMALL BUSINESS CONCERN.—The term ‘small business concern’ has the meaning given the term under section 3 of the Small Business Act (15 U.S.C. 632).”

SMALL BUSINESS BILL OF RIGHTS

Pub. L. 118-159, div. A, title VIII, §876, Dec. 23, 2024, 138 Stat. 2015, provided that:

“(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense, acting through the Small Business Integration Group in the Department of Defense led by the Under Secretary of Defense for Acquisition and Sustainment, shall develop a Small Business Bill of Rights for the Department of Defense and its components.

“(b) PURPOSE.—The Small Business Integration Group in the Department of Defense shall design the Small Business Bill of Rights required under subsection (a) to ensure a healthy partnership between the Department of Defense and the defense industrial base and to encourage small businesses to contract with the Department by ensuring customer service issues and conflicts between the Department and small businesses related to acquisitions by the Department are resolved in an expeditious manner and that small businesses are aware of their rights to assistance under Federal law in resolving such issues.

“(c) CONTENT.—The Bill of Rights required under subsection (a) shall do the following:

“(1) Authorize the Director of Small Business Programs of the Department to establish a resolution process to which all Department of Defense components, members of the small business professional workforce of the Department, and other relevant officials and organizations of the Department, must adhere.

“(2) Authorize the Director of Small Business Programs of the Department, each Director of Small Business Programs of a military department, and members of the small business professional workforce of the Department of Defense to—

“(A) request assistance from members of the acquisition workforce in their component of the Department with the customer service issues and conflicts described in subsection (b);

“(B) require a [sic] timely responses from such members; and

“(C) establish a framework for implementation by the components of the Department, members of the small business professional workforce, and other relevant officials and organizations of the Department providing for fair and reasonable resolution of complaints by small business for issues between small businesses and the Department.

“(3) Ensure that small businesses are informed of—

“(A) the rights of small businesses to assistance under the Small Business Regulatory Enforcement Fairness Act [title II of Pub. L. 104-121] (5 U.S.C. 601 note), the Small Business Act (15 U.S.C. 631 et seq.), chapter 388 of title 10, United States Code, and any other applicable law;

“(B) how to contact each task and delivery ombudsman designated under section 3406(g) of title 10, United States Code;

“(C) how to contact the Office of Small Business Programs of the Department of Defense and the Office of Small Business Programs of each military department; and

“(D) how to contact each advocate for competition in the Department of Defense designated pursuant to section 1705(a) of title 41, United States Code.

“(4) Establish guidance—

“(A) for the acquisition workforce of the Department of Defense on the rights of small businesses under Federal law and the regulations issued thereunder, including the Federal Acquisition Regulation and FAR and the Defense Federal Acquisition Regulation Supplement;

“(B) on the duties and authorities of the task and delivery ombudsmen designated under section 3406(g) of title 10, United States Code, and the advocates for competition in the Department of Defense designated pursuant to section 1705(a) of title 41, United States Code; and

“(C) on a reasonable and practical timeline, as determined by the Undersecretary of Defense for Acquisition and Sustainment, for contracting officers of the Department to response to an inquiry from the Office of Small Business Programs of the Department of Defense or the Office of Small Business Programs of each military department.

“(5) Coordinate assistance under the Bill of Rights with other regulatory compliance assistance to small business concerns, current and desired sets of authorities, roles, and responsibilities across the Offices of Small Business Programs of the Department of Defense, APEX Accelerators, members of the small business professional workforce of the Department of Defense, and other relevant officials or organizations of the Department.

“(d) ANNUAL BRIEFINGS.—

“(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], and annually thereafter, the Director of Small Business Programs of the Department shall provide to the Secretary of Defense and the Committees on Armed

Services of the House of Representatives and the Senate a briefing on the annual metrics collected under paragraph (2) for the year covered by the report.

“(2) COLLECTION OF ANNUAL METRICS.—

“(A) The Office of Small Business Programs of the Department of Defense shall—

“(i) develop annual metrics on the submission of complaints by contractors of the Department of Defense pursuant to the Small Business Bill of Rights required under subsection (a);

“(ii) provide each component of the Department such annual metrics; and

“(iii) collect and consolidate such annual metrics submitted to the Office under subparagraph (B).

“(B) Each component of the Department of Defense shall collect and submit to the Office of Small Business Programs of the Department of Defense the annual metrics.

“(e) IMPLEMENTATION BRIEFING.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Under Secretary of Defense for Acquisition and Sustainment shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing detailing the Small Business Bill of Rights required under subsection (a) and the plan to implement such Small Business Bill of Rights.

“(f) DEFINITIONS.—In this section—

“(1) the term ‘Director of Small Business Programs of the Department’ means the Director of Small Business Programs in the Department of Defense appointed under section 144 of title 10, United States Code;

“(2) the term ‘Director of Small Business Programs of a military department’ means—

“(A) the Director of Small Business Programs in the Department of the Army appointed under section 7024 of title 10, United States Code;

“(B) the Director of Small Business Programs in the Department of the Navy appointed under section 8028 of such title; or

“(C) the Director of Small Business Programs in the Department of the Air Force appointed under section 9024 of such title; and

“(3) the term ‘military department’ has the meaning given such term in section 101(a) of title 10, United States Code.”

SMALL BUSINESS INTEGRATION WORKING GROUP

Pub. L. 117-263, div. A, title VIII, §874, Dec. 23, 2022, 136 Stat. 2741, provided that:

“(a) IN GENERAL.—Not later than 60 days after the enactment of this Act [Dec. 23, 2022], the Secretary of Defense shall issue a charter to establish a small business integration working group that—

“(1) ensures the integration and synchronization of the activities of the military departments and other components of the Department of Defense with respect to small business concerns; and

“(2) convenes not fewer than four times per year.

“(b) MEMBERSHIP.—The small business integration working group chartered under subsection (a) shall be comprised of representatives from each of the following organizations:

“(1) The small business office of each military department.

“(2) The Small Business Innovation Research Program and the Small Business Technology Transfer Program (as such terms are defined in section 9(e) of the Small Business Act (15 U.S.C. 638(e))) of each military department.

“(3) The office of the Under Secretary of Defense for Acquisition and Sustainment.

“(4) The office of the Under Secretary of Defense for Research and Engineering.

“(5) Any other office the Secretary of Defense determines appropriate.

“(c) BRIEFING REQUIRED.—Not later than March 1, 2023, the Secretary of Defense shall brief the Committee on Armed Services of the Senate and the Com-

mittee on Armed Services of the House of Representatives on the establishment and activities of the small business integration working group chartered under subsection (a), the policies enacted by the small business integration working group to allow for the sharing of best practices for maximizing the contributions of small business concerns in the defense industrial base and in acquisitions by the Department of Defense, and practices for conducting oversight of the activities of the military departments and other components of the Department of Defense with respect to small business concerns.

“(d) DEFINITIONS.—In this section:

“(1) MILITARY DEPARTMENT.—The term ‘military department’ has the meaning given such term in section 101(a) of title 10, United States Code.

“(2) SMALL BUSINESS CONCERN.—The term ‘small business concern’ has the meaning given such term under section 3 of the Small Business Act (15 U.S.C. 632).”

DEMONSTRATION OF COMMERCIAL DUE DILIGENCE FOR SMALL BUSINESS PROGRAMS

Pub. L. 117-263, div. A, title VIII, §875, Dec. 23, 2022, 136 Stat. 2742, provided that:

“(a) DEMONSTRATION REQUIRED.—Not later than December 31, 2027, the Secretary of Defense shall establish a program to carry out a demonstration of commercial due diligence tools, techniques, and processes in order to support small businesses in identifying attempts by malicious foreign actors to gain undue access to, or foreign ownership, control, or influence over—

“(1) the small business; or

“(2) any technology a small business is developing pursuant to a contract or other agreement with the Department of Defense.

“(b) ELEMENTS.—The program required under subsection (a) shall include the following:

“(1) The identification of one or more entities to be responsible for the commercial due diligence tools, techniques, and processes that are part of a demonstration under the program and a description of the interactions required between such entity, small businesses, and the government agencies that enforce such tools, techniques, and processes.

“(2) An assessment of commercial due diligence tools, techniques, and processes already in use by each Office of Small Business Programs.

“(3) The development of methods to analyze the commercial due diligence tools, techniques, and processes that are part of a demonstration under the program to—

“(A) monitor and assess attempts described in subsection (a);

“(B) provide information on such attempts to applicable small businesses; and

“(C) allow small businesses that are subject to such attempts to provide information about such attempts to the Secretary of Defense.

“(4) The development of training and resources for small businesses that can be shared directly with such businesses or through a procurement technical assistance program established under chapter 388 of title 10, United States Code.

“(5) The implementation of performance measures to assess the effectiveness of such program.

“(c) BRIEFING REQUIRED.—Not later than April 1, 2023, the Secretary of Defense shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an interim briefing on the program required under subsection (a) that includes the following:

“(1) An identification of any entity described in subsection (b)(1).

“(2) A description of the methodology for executing any demonstrations under the program, including any analytical tools or metrics identified to support such a demonstration.

“(3) A description of any identified instances of attempts described in subsection (a).

“(4) An identification of improvements or gaps in resources, capabilities, or authorities, and other lessons learned from any demonstrations under the program.

“(d) ASSESSMENT.—Not later than March 1, 2028, the Secretary shall submit to the congressional defense committees a report on the program required under subsection (a), including any identified instances of attempts described in such subsection, any lessons learned, and any recommendations for legislative action related to such program.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘foreign ownership, control, or influence’ has the meaning given in section 847 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116-92; 133 Stat. 1505; 10 U.S.C. 4819 note).

“(2) The term ‘Office of Small Business Programs’ means—

“(A) the Office of Small Business Programs of the Department of Defense established under section 144 of title 10, United States Code;

“(B) the Office of Small Business Programs of the Department of the Army established under section 7024 of such title;

“(C) the Office of Small Business Programs of the Department of the Navy established under section 8028 of such title; and

“(D) the Office of Small Business Programs of the Department of the Air Force established under section 9024 of such title.”

REPORT ON UNFUNDED PRIORITIES OF THE SMALL BUSINESS INNOVATION RESEARCH AND SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM

Pub. L. 117-81, div. A, title VIII, § 865, Dec. 27, 2021, 135 Stat. 1853, provided that:

“(a) IN GENERAL.—Not later than 10 days after the date on which the budget of the President for fiscal years 2022 through 2032 is submitted to Congress pursuant to section 1105 of title 31, United States Code, each Secretary of a military department and the Under Secretary of Defense for Research and Engineering shall submit to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on unfunded priorities of the Department of Defense related to high-priority Small Business Innovation Research and Small Business Technology Transfer projects.

“(b) ELEMENTS.—

“(1) IN GENERAL.—Each report under subsection (a) shall include identification of not more than five unfunded priority projects and the following information for each such unfunded priority project:

“(A) A summary description of the unfunded priority project, including the objectives to be achieved if such project were to be funded (either in whole or in part).

“(B) The additional amount of funds recommended to achieve the objectives identified under subparagraph (A).

“(C) Account information with respect to such unfunded priority project, including, as applicable, the following:

“(i) Line item number, in the case of applicable procurement accounts.

“(ii) Program element number, in the case of applicable research, development, test, and evaluation accounts.

“(iii) Subactivity group, in the case of applicable operation and maintenance accounts.

“(2) PRIORITY.—Each Secretary of a military department and the Under Secretary of Defense for Research and Engineering shall ensure that the unfunded priorities covered by a report submitted under subsection (a) are listed in the order of urgency of priority.

“(c) DEFINITIONS.—In this section:

“(1) UNFUNDED PRIORITY.—The term ‘unfunded priority’, with respect to a fiscal year, means a specific

project related to a project successfully funded under Phase II of the Small Business Innovation Research or Small Business Technology Transfer program that—

“(A) is not funded in the budget of the President for that fiscal year, as submitted to Congress pursuant to section 1105 of title 31, United States Code;

“(B) has the potential to—

“(i) advance the national security capabilities of the United States;

“(ii) provide new technologies or processes, or new applications of existing technologies or processes, that will enable new alternatives to existing programs; and

“(iii) provide future cost savings; and

“(C) would have been recommended for funding through the budget referred to in subparagraph (A) if—

“(i) additional resources had been available to fund the program, activity, or mission requirement to which the specific project relates; or

“(ii) the program, activity, or mission requirement for such specific project had emerged before the budget was formulated.

“(2) PHASE II; SMALL BUSINESS INNOVATION RESEARCH; SMALL BUSINESS TECHNOLOGY TRANSFER.—The terms ‘Phase II’, ‘Small Business Innovation Research’, and ‘Small Business Technology Transfer’ have the meanings given such terms, respectively, in section 9(e) of the Small Business Act (15 U.S.C. 638(e)).”

INITIATIVES TO SUPPORT SMALL BUSINESSES IN THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE

Pub. L. 116-283, div. A, title VIII, § 861, Jan. 1, 2021, 134 Stat. 3775, provided that:

“(a) IN GENERAL.—The Secretary of Defense, acting through the Assistant Secretary of Defense for Industrial Base Policy (established under section 903 of this Act [amending section 138 of this title]) and other appropriate officials, in carrying out the activities described under [former] subchapter II of chapter 148 of title 10, United States Code [see chapter 382 of this title], shall establish initiatives to increase the effectiveness of the Department of Defense in specifically leveraging small businesses to eliminate gaps and vulnerabilities in the national technology and industrial base (as defined in section 2500 of title 10, United States Code [now 10 U.S.C. 4801]) and expand the number of small businesses in the national technology and industrial base.

“(b) INITIATIVES.—

“(1) UPDATES FOR SMALL BUSINESS STRATEGY.—Not later than October 1, 2022, and biennially thereafter, [sic] shall update the small business strategy required under section 2283 of title 10, United States Code [now 10 U.S.C. 4901], and provide such updated strategy to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

“(2) IMPLEMENTATION PLAN.—

“(A) IN GENERAL.—Not later than March 1, 2023, and biennially thereafter, the Secretary of Defense shall develop an implementation plan consistent with the most recent small business strategy developed under such section 2283 [now 4901], and provide such plan to the congressional defense committees.

“(B) ELEMENTS.—The implementation plan described in subparagraph (A) shall include an identification of the following:

“(i) Organizations responsible for implementation activities.

“(ii) Metrics to evaluate progress of implementation activities.

“(iii) Resources to support implementation activities.

“(iv) Outcomes achieved as a result of executing the previous small business strategy developed under such section 2283 [now 4901].

“(3) MECHANISMS TO ASSESS AND SUPPORT SMALL BUSINESSES IN NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—The Secretary of Defense shall—

“(A) establish policies, procedures, and information repositories to identify small businesses in the defense supply chain, including—

“(i) small businesses participating in an acquisition program of a military department or Defense Agency (as defined in section 101(11) of title 10, United States Code [now 10 U.S.C. 101(a)(11)]);

“(ii) small businesses contracting with the Defense Logistics Agency; and

“(iii) other small businesses in the national technology and industrial base;

“(B) establish policies and procedures to assess the financial status of critical small businesses; and

“(C) enter into an agreement with the acquisition research organization within a civilian college or university that is described under section 2361a(a) of title 10, United States Code [now 10 U.S.C. 4142(a)] (commonly referred to as the ‘Acquisition Innovation Research Center’), to analyze mechanisms that could be established to allow the Secretary of Defense to provide direct financial support to critical small businesses that require additional financial assistance, including critical small businesses that are—

“(i) contracting with the Defense Logistics Agency;

“(ii) subcontractors (at any tier); or

“(iii) in critical technology sectors.

“(c) REPORTS.—

“(1) REPORT ON ACTIVITIES.—Not later than October 1, 2021, the Assistant Secretary of Defense for Industrial Base Policy shall submit to the appropriate committees a report on activities undertaken pursuant to this section.

“(2) IMPLEMENTATION PLAN FOR 2019 SMALL BUSINESS STRATEGY.—Not later than June 1, 2021, the Secretary of Defense shall submit an implementation plan for the small business strategy required under section 2283 of title 10, United States Code [now 10 U.S.C. 4901], and dated October 1, 2019, including an identification of specific responsible individuals and organizations, milestones and metrics, and resources to support activities identified in the implementation plan.

“(d) SMALL BUSINESS DEFINED.—In this section, the term ‘small business’ has the meaning given by the Secretary of Defense, except that such term shall include prime contractors and subcontractors (at any tier).”

PILOT PROGRAM FOR DEVELOPMENT OF TECHNOLOGY-ENHANCED CAPABILITIES WITH PARTNERSHIP INTERMEDIARIES

Pub. L. 116-92, div. A, title VIII, § 851, Dec. 20, 2019, 133 Stat. 1510, as amended by Pub. L. 117-81, div. A, title VIII, § 852, Dec. 27, 2021, 135 Stat. 1846, provided that:

“(a) ESTABLISHMENT.—The Secretary of Defense may authorize the Commander of the United States Special Operations Command to use funds described in subsection (b) for a pilot program under which the Commander shall make, through the use of a partnership intermediary, covered awards to small business concerns to develop technology-enhanced capabilities for special operations forces.

“(b) FUNDS.—

“(1) IN GENERAL.—The funds described in this subsection are funds transferred to the Commander of the United States Special Operations Command to carry out the pilot program established under this section from funds available to be expended by each covered entity pursuant to section 9(f) of the Small Business Act (15 U.S.C. 638(f)).

“(2) LIMITATIONS.—

“(A) FISCAL YEAR.—A covered entity may not transfer to the Commander an amount greater than 10 percent of the funds available to be expended by such covered entity pursuant to such section 9(f) for a fiscal year.

“(B) AGGREGATE AMOUNT.—The aggregate amount of funds to be transferred to the Commander may not exceed \$20,000,000.

“(c) PARTNERSHIP INTERMEDIARIES.—

“(1) AUTHORIZATION.—The Commander may modify an existing agreement with a partnership intermediary to assist the Commander in carrying out the pilot program under this section, including with respect to the award of contracts and agreements to small business concerns.

“(2) LIMITATION.—None of the funds described in subsection (b) may be used to pay a partnership intermediary for any costs associated with the pilot program.

“(3) DATA.—With respect to a covered award made under this section, the Commander shall gather data on the role of the partnership intermediary to include the—

“(A) staffing structure;

“(B) funding sources; and

“(C) methods for identifying and evaluating small business concerns eligible for a covered award.

“(d) REPORT.—

“(1) ANNUAL REPORT.—Not later than October 1 of each year until October 1, 2026, the Commander of the United States Special Operations Command, in coordination with the Under Secretary of Defense for Research and Engineering, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Small Business of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate a report including—

“(A) a description of each agreement with a partnership intermediary entered into pursuant to this section;

“(B) for each covered award made under this section—

“(i) a description of the role served by the partnership intermediary;

“(ii) the amount of funds obligated;

“(iii) an identification of the small business concern that received such covered award;

“(iv) a description of the use of such covered award;

“(v) a description of the role served by the program manager (as defined in section 1737 of title 10, United States Code) of the covered entity with respect to the small business concern that received such covered award, including a description of interactions and the process of the program manager in producing a past performance evaluation of such concern; and

“(vi) the benefits achieved as a result of the use of a partnership intermediary for the pilot program established under this section as compared to previous efforts of the Commander to increase participation by small business concerns in the development of technology-enhanced capabilities for special operations forces; and

“(C) a plan detailing how each covered entity will apply lessons learned from the pilot program to improve processes for directly working with and supporting small business concerns to develop technology-enhanced capabilities for special operations forces.

“(2) FINAL REPORT.—The final report required under this subsection shall include, along with the requirements of paragraph (1), a recommendation regarding—

“(A) whether and for how long the pilot program established under this section should be extended; and

“(B) whether to increase funding for the pilot program, including a justification for such an increase.

“(e) TERMINATION.—The authority to carry out a pilot program under this section shall terminate on September 30, 2025.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘covered award’ means an award made under the Small Business Innovation Research Program.

“(2) The term ‘covered entity’ means—

“(A) the Army;

“(B) the Navy;

“(C) the Air Force;

“(D) the Marine Corps;

“(E) the Space Force; and

“(F) any element of the Department of Defense that makes awards under the Small Business Innovation Research Program.

“(3) The term ‘partnership intermediary’ has the meaning given the term in section 23(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3715(c)).

“(4) The term ‘small business concern’ has the meaning given the term under section 3 of the Small Business Act (15 U.S.C. 632).

“(5) The term ‘Small Business Innovation Research Program’ has the meaning given the term in section 9(e) of the Small Business Act (15 U.S.C. 638(e)).

“(6) The term ‘technology-enhanced capability’ means a product, concept, or process that improves the ability of a member of the Armed Forces to achieve an assigned mission.”

IMPLEMENTATION

Pub. L. 115-232, div. A, title VIII, §851(b), Aug. 13, 2018, 132 Stat. 1884, provided that:

“(1) DEADLINE.—The Secretary of Defense shall develop the small business strategy required by section 2283 of title 10, United States Code [now 10 U.S.C. 4901], as added by subsection (a), not later than 180 days after the date of the enactment of this Act [Aug. 13, 2018].

“(2) NOTICE TO CONGRESS AND PUBLICATION.—Upon completion of the development of the small business strategy pursuant to paragraph (1), the Secretary shall—

“(A) transmit the strategy to Congress; and

“(B) publish the strategy on a public website of the Department of Defense.”

§ 4902. Department of Defense Mentor-Protege Program

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall establish a program to be known as the “Mentor-Protege Program”.

(b) PURPOSE.—The purpose of the program is to provide incentives for major Department of Defense contractors to furnish disadvantaged small business concerns with assistance designed to—

(1) enhance the capabilities of disadvantaged small business concerns to perform as subcontractors and suppliers under Department of Defense contracts and other contracts and subcontracts; and

(2) increase the participation of such business concerns as subcontractors and suppliers under Department of Defense contracts, other Federal Government contracts, and commercial contracts.

(c) PROGRAM PARTICIPANTS.—(1) A business concern meeting the eligibility requirements set out in subsection (d) may enter into agreements under subsection (e) and furnish assistance to disadvantaged small business concerns upon making application to the Secretary of Defense and being approved for participation in the program by the Secretary. A business concern participating in the program pursuant to such an approval shall be known, for the purposes of the program, as a “mentor firm”.

(2) A disadvantaged small business concern eligible for the award of Federal contracts may obtain assistance from a mentor firm upon enter-

ing into an agreement with the mentor firm as provided in subsection (e). A disadvantaged small business concern may not be a party to more than one agreement concurrently, and the authority to enter into agreements under subsection (e) shall only be available to such concern during the 5-year period beginning on the date such concern enters into the first such agreement. A disadvantaged small business concern receiving such assistance shall be known, for the purposes of the program, as a “protege firm”.

(3) In entering into an agreement pursuant to subsection (e), a mentor firm may rely in good faith on a written representation of a business concern that such business concern is a disadvantaged small business concern. The Small Business Administration shall determine the status of such business concern as a disadvantaged small business concern in the event of a protest regarding the status of such business concern. If at any time the business concern is determined by the Small Business Administration not to be a disadvantaged small business concern, assistance furnished such business concern by the mentor firm after the date of the determination may not be considered assistance furnished under the program.

(d) MENTOR FIRM ELIGIBILITY.—

(1) Subject to subsection (c)(1), a mentor firm may enter into an agreement with one or more protege firms under subsection (e) and provide assistance under the program pursuant to that agreement if the mentor firm—

(A) is eligible for award of Federal contracts; and

(B) demonstrates that it—

(i) is qualified to provide assistance that will contribute to the purpose of the program;

(ii) is of good financial health and character and does not appear on a Federal list of debarred or suspended contractors; and

(iii) can impart value to a protege firm because of experience gained as a Department of Defense contractor or through knowledge of general business operations and government contracting, as demonstrated by evidence that—

(I) during the fiscal year preceding the fiscal year in which the mentor firm enters into the agreement, the total amount of the Department of Defense contracts awarded such mentor firm and the subcontracts awarded such mentor firm under Department of Defense contracts was equal to or greater than \$25,000,000; or

(II) the mentor firm demonstrates the capability to assist in the development of protege firms, and is approved by the Secretary of Defense pursuant to criteria specified in the regulations prescribed pursuant to subsection (j).

(2) A mentor firm may not enter into an agreement with a protege firm if the Administrator of the Small Business Administration has made a determination finding affiliation between the mentor firm and the protege firm.

(3) If the Administrator of the Small Business Administration has not made such a de-