

part of any procurement technical assistance furnished pursuant to this chapter.

(c) DEFINITIONS.—In this section:

(1) The term “covered contract” means a contract—

(A) awarded to a qualified small business concern as defined pursuant to section 3(a) of the Small Business Act; and

(B) with an estimated annual value—

(i) that will exceed the applicable receipt-based small business size standard; or

(ii) if the contract is in an industry with an employee-based size standard, that will exceed \$70,000,000.

(2) The term “covered small business” means a qualified small business concern as defined pursuant to section 3(a) of the Small Business Act that has entered into a contract with the Department of Defense that includes a contract clause described in subsection (a)(2).

(Added Pub. L. 113–66, div. A, title XVI, §1611(a)(1)(B), Dec. 26, 2013, 127 Stat. 946, §2419; amended Pub. L. 116–92, div. A, title IX, §902(63), Dec. 20, 2019, 133 Stat. 1550; renumbered §4959, Pub. L. 116–283, div. A, title XVIII, §1872(a)(10), Jan. 1, 2021, 134 Stat. 4289; Pub. L. 117–81, div. A, title XVII, §1701(b)(24), (m)(2)(F), Dec. 27, 2021, 135 Stat. 2135, 2145.)

Editorial Notes

REFERENCES IN TEXT

Section 3(a) of the Small Business Act, referred to in subsecs. (a)(2)(A) and (c)(1)(A), (2), is classified to section 632(a) of Title 15, Commerce and Trade.

CODIFICATION

Pub. L. 117–81, div. A, title XVII, §1701(m)(2)(G), Dec. 27, 2021, 135 Stat. 2145, amended Pub. L. 116–283, §1872(a)(11), which had originally transferred section 2417 of this title to this section. After amendment by Pub. L. 117–81, section 1872(a)(11) of Pub. L. 116–283 instead transferred section 2417 to section 4961 of this title.

AMENDMENTS

2021—Pub. L. 116–283, §1872(a)(10), as amended by Pub. L. 117–81, §1701(b)(24), (m)(2)(F), renumbered section 2419 of this title as this section.

2019—Subsec. (a)(1). Pub. L. 116–92 substituted “Under Secretary of Defense for Acquisition and Sustainment” for “Under Secretary of Defense for Acquisition, Technology, and Logistics”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

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.

§ 4961. Administrative and other costs

The Secretary may use, out of the amount appropriated for a fiscal year for operation and

maintenance for the procurement technical assistance program authorized by this chapter—

(1) an amount not exceeding four percent of such amount to defray the expenses of administering the provisions of this chapter during such fiscal year; and

(2) an amount determined appropriate by the Secretary to assist eligible entities in payment of costs of eligible entities—

(A) for meetings, including meetings of an association recognized under section 4954(f),¹ to discuss best practices for the improvement of the operations of procurement technical assistance centers; and

(B) for membership dues for any association of such centers created by eligible entities, training fees and associated travel for training to carry out the purposes of this chapter, and voluntary participation on any committees or board of such an association.

(Added Pub. L. 101–510, div. A, title VIII, §814(a)(1)(B), Nov. 5, 1990, 104 Stat. 1596, §2417; amended Pub. L. 115–232, div. A, title VIII, §859(a), Aug. 13, 2018, 132 Stat. 1892; renumbered §4961 and amended Pub. L. 116–283, div. A, title X, §1081(a)(41), title XVIII, §1872(a)(11), Jan. 1, 2021, 134 Stat. 3873, 4289; Pub. L. 117–81, div. A, title XVII, §1701(b)(24), (m)(2)(G), Dec. 27, 2021, 135 Stat. 2135, 2145; Pub. L. 117–263, div. A, title VIII, §854(a), Dec. 23, 2022, 136 Stat. 2722.)

Editorial Notes

REFERENCES IN TEXT

Section 4954(f), referred to in par. (2)(A), was redesignated as section 4954(e) of this title, and a new subsec. (f) of section 4954 of this title was added, by Pub. L. 118–31, div. A, title VIII, §853(b)(2), (3), Dec. 22, 2023, 137 Stat. 344.

AMENDMENTS

2022—Pub. L. 117–263, §854(a)(1), substituted “Secretary” for “Director of the Defense Logistics Agency” in introductory provisions.

Par. (1). Pub. L. 117–263, §854(a)(2), substituted “four” for “three”.

Par. (2). Pub. L. 117–263, §854(a)(3)(A), substituted “Secretary” for “Director” in introductory provisions. Par. (2)(A). Pub. L. 117–263, §854(a)(3)(B), inserted “, including meetings of an association recognized under section 4954(f),” after “meetings”.

2021—Pub. L. 116–283, §1872(a)(11), as amended by Pub. L. 117–81, §1701(b)(24), (m)(2)(G), renumbered section 2417 of this title as this section.

Par. (2). Pub. L. 116–283, §1081(a)(41), which directed amendment of par. (2) by substituting “entities—” for “entities -”, was executed by making the substitution for “entities —” to reflect the probable intent of Congress.

2018—Pub. L. 115–232, §859(a)(2)–(4), substituted “chapter—” for “chapter,” inserted par. (1) designation before “an amount”, and added par. (2).

Pub. L. 115–232, §859(a)(1), inserted “and other” after “Administrative” in section catchline.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

¹ See References in Text note below.

Amendment by section 1872(a)(11) of 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.

EFFECTIVE DATE

Pub. L. 101-510, div. A, title VIII, §814(b), Nov. 5, 1990, 104 Stat. 1597, provided that: "Section 2417 of title 10, United States Code [now 10 U.S.C. 4961], as added by subsection (a), shall apply with respect to fiscal year 1991 and each fiscal year thereafter."

CHAPTER 389—LOAN GUARANTEE PROGRAMS

Subchapter I. Defense Export Loan Guarantees 4971
II. Critical Infrastructure Protection Loan Guarantees 4981

SUBCHAPTER I—DEFENSE EXPORT LOAN GUARANTEES

Sec. 4971. Establishment of loan guarantee program.
4972. Transferability.
4973. Limitations.
4974. Fees charged and collected.
4975. Definitions.

§ 4971. Establishment of loan guarantee program

(a) ESTABLISHMENT.—In order to meet the national security objectives in section 4811(a) of this title, the Secretary of Defense shall establish a program under which the Secretary may issue guarantees assuring a lender against losses of principal or interest, or both principal and interest, arising out of the financing of the sale or long-term lease of defense articles, defense services, or design and construction services to a country referred to in subsection (b).

(b) COVERED COUNTRIES.—The authority under subsection (a) applies with respect to the following countries:

(1) A member nation of the North Atlantic Treaty Organization (NATO).

(2) A country designated as of March 31, 1995, as a major non-NATO ally pursuant to section 2350a(i)(3) of this title, as in effect on that date.

(3) A country in Central Europe that, as determined by the Secretary of State—

(A) has changed its form of national government from a nondemocratic form of government to a democratic form of government since October 1, 1989; or

(B) is in the process of changing its form of national government from a nondemocratic form of government to a democratic form of government.

(4) A noncommunist country that was a member nation of the Asia Pacific Economic Cooperation (APEC) as of October 31, 1993.

(c) AUTHORITY SUBJECT TO PROVISIONS OF APPROPRIATIONS.—The Secretary may guarantee a loan under this subchapter only to such extent or in such amounts as may be provided in advance in appropriations Acts.

(Added Pub. L. 104-106, div. A, title XIII, §1321(a)(1), Feb. 10, 1996, 110 Stat. 475, §2540; amended Pub. L. 108-375, div. A, title X, §1084(d)(21), Oct. 28, 2004, 118 Stat. 2062; renum-

bered §4971 and amended Pub. L. 116-283, div. A, title XVIII, §§1873(b), (c)(1), 1883(b)(2), Jan. 1, 2021, 134 Stat. 4290, 4294.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, §1873(b), (c)(1), renumbered section 2540 of this title as this section.

Subsec. (a). Pub. L. 116-283, §1883(b)(2), substituted "section 4811(a)" for "section 2501(a)".

2004—Subsec. (b)(2). Pub. L. 108-375 inserted "as in effect on that date" before period at end.

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.

AUTHORITY TO ISSUE LOAN GUARANTEES

Pub. L. 108-287, title VIII, §8065, Aug. 5, 2004, 118 Stat. 985, as amended by Pub. L. 116-283, div. A, title XVIII, §1873(d), Jan. 1, 2021, 134 Stat. 4290; Pub. L. 117-81, div. A, title XVII, §1702(b)(3), Dec. 27, 2021, 135 Stat. 2155, provided that: "To the extent authorized by subchapter I of chapter 389 of title 10, United States Code, for the current fiscal year and hereafter the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: Provided, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed \$15,000,000,000: Provided further, That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: Provided further, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations [now Committee on Foreign Affairs] in the House of Representatives on the implementation of this program: Provided further, That amounts charged for administrative fees and deposited to the special account provided for under section 4974(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter I of chapter 389 of title 10, United States Code."

[Pub. L. 116-283, §1873(d), and Pub. L. 117-81, §1702(b)(3), made identical amendments to section 8065 of Pub. L. 108-287, set out above, substituting "subchapter I of chapter 389" for "subchapter VI of chapter 148" in two places and "section 4974(d)" for "section 2540c(d)". The amendment by Pub. L. 117-81 was effective as if included in title XVIII of Pub. L. 116-283, thus making the amendments effective simultaneously.]

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108-87, title VIII, §8066, Sept. 30, 2003, 117 Stat. 1087.

Pub. L. 107-248, title VIII, §8067, Oct. 23, 2002, 116 Stat. 1551.

Pub. L. 107-117, div. A, title VIII, §8073, Jan. 10, 2002, 115 Stat. 2264.

Pub. L. 106-259, title VIII, §8071, Aug. 9, 2000, 114 Stat. 690.

Pub. L. 106-79, title VIII, §8075, Oct. 25, 1999, 113 Stat. 1246.

Pub. L. 105-262, title VIII, §8075, Oct. 17, 1998, 112 Stat. 2314.

Pub. L. 105-56, title VIII, §8081, Oct. 8, 1997, 111 Stat. 1237.

Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8093], Sept. 30, 1996, 110 Stat. 3009-71, 3009-107.