

114TH CONGRESS  
2D SESSION

# H. R. 4341

To amend the Small Business Act to improve transparency and clarity for small businesses, to clarify the role of small business advocates, to increase opportunities for competition in subcontracting, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2016

Mr. CHABOT (for himself and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Small Business, and in addition to the Committees on Armed Services, Oversight and Government Reform, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Small Business Act to improve transparency and clarity for small businesses, to clarify the role of small business advocates, to increase opportunities for competition in subcontracting, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Defending America’s Small Contractors Act of 2016”.

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

Sec. 1. Short title.

TITLE I—IMPROVING TRANSPARENCY AND CLARITY FOR SMALL  
 BUSINESSES

Sec. 101. Plain language rewrite of requirements for small business procurements.

Sec. 102. Improving reporting on small business goals.

Sec. 103. Transparency in small business goals.

Sec. 104. Uniformity in procurement terminology.

TITLE II—CLARIFYING THE ROLES OF SMALL BUSINESS  
 ADVOCATES

Sec. 201. Duties of procurement center representatives with respect to reviewing solicitations.

Sec. 202. Responsibilities of Commercial Market Representatives.

Sec. 203. Duties of the Office of Small and Disadvantaged Business Utilization.

Sec. 204. Improving contractor compliance.

TITLE III—STRENGTHENING OPPORTUNITIES FOR COMPETITION  
 IN SUBCONTRACTING

Sec. 301. Good faith in subcontracting.

Sec. 302. Pilot program to provide opportunities for qualified subcontractors to obtain past performance ratings.

TITLE IV—MENTOR-PROTEGE PROGRAMS

Sec. 401. Amendments to the Mentor-Protege Program of the Department of Defense.

Sec. 402. Improving cooperation between the mentor-protege programs of the Small Business Administration and the Department of Defense.

TITLE V—MISCELLANEOUS

Sec. 501. Improving education on small business regulations.

Sec. 502. Protecting task order competition.

Sec. 503. Improvements to size standards for small agricultural producers.

Sec. 504. Uniformity in service-disabled veteran definitions.

Sec. 505. GAO review of the Office of Government Contracting and Business Development of the Small Business Administration.

1 **TITLE I—IMPROVING TRANS-**  
2 **PARENCY AND CLARITY FOR**  
3 **SMALL BUSINESSES**

4 **SEC. 101. PLAIN LANGUAGE REWRITE OF REQUIREMENTS**  
5 **FOR SMALL BUSINESS PROCUREMENTS.**

6 Section 15(a) of the Small Business Act (15 U.S.C.  
7 644(a)) is amended to read as follows:

8 “(a) SMALL BUSINESS PROCUREMENTS.—

9 “(1) IN GENERAL.—For purposes of this Act,  
10 small business concerns shall receive any award or  
11 contract if such award or contract is, in the deter-  
12 mination of the Administrator and the contracting  
13 agency, in the interest of—

14 “(A) maintaining or mobilizing the full  
15 productive capacity of the United States;

16 “(B) war or national defense programs; or

17 “(C) assuring that a fair proportion of the  
18 total purchase and contracts for goods and  
19 services of the Government in each industry  
20 category (as described under paragraph (2)) are  
21 awarded to small business concerns.

22 “(2) INDUSTRY CATEGORY DEFINED.—

23 “(A) IN GENERAL.—In this subsection, the  
24 term ‘industry category’ means a discrete group  
25 of similar goods and services, as determined by

1 the Administrator in accordance with the North  
2 American Industry Classification System codes  
3 used to establish small business size standards  
4 under section 3(a), except that the Adminis-  
5 trator shall limit an industry category to a  
6 greater extent than provided under the North  
7 American Industry Classification codes if the  
8 Administrator receives evidence indicating that  
9 further segmentation of the industry category is  
10 warranted—

11 “(i) due to special capital equipment  
12 needs;

13 “(ii) due to special labor require-  
14 ments;

15 “(iii) due to special geographic re-  
16 quirements, except as provided in subpara-  
17 graph (B); or

18 “(iv) to recognize a new industry.

19 “(B) EXCEPTION FOR GEOGRAPHIC RE-  
20 QUIREMENTS.—The Administrator may not fur-  
21 ther segment an industry category based on ge-  
22 ographic requirements unless—

23 “(i) the Government typically des-  
24 ignates the geographic area where work for

1 contracts for goods or services is to be per-  
2 formed;

3 “(ii) Government purchases comprise  
4 the major portion of the entire domestic  
5 market for such goods or services; and

6 “(iii) it is unreasonable to expect com-  
7 petition from business concerns located  
8 outside of the general geographic area due  
9 to the fixed location of facilities, high mo-  
10 bilization costs, or similar economic fac-  
11 tors.

12 “(3) DETERMINATIONS WITH RESPECT TO  
13 AWARDS OR CONTRACTS.—Determinations made  
14 pursuant to paragraph (1) may be made for indi-  
15 vidual awards or contracts, any part of an award or  
16 contract, or for classes of awards or contracts.

17 “(4) INCREASING PRIME CONTRACTING OPPOR-  
18 TUNITIES FOR SMALL BUSINESS CONCERNS.—

19 “(A) DESCRIPTION OF COVERED PRO-  
20 POSED PROCUREMENTS.—The requirements of  
21 the paragraph shall apply to a proposed pro-  
22 curement that includes in its statement of work  
23 goods or services currently being supplied or  
24 performed by a small business concern and, as  
25 determined by the Administrator—

1           “(i) is in a quantity or of an esti-  
2           mated dollar value which makes the par-  
3           ticipation of a small business concern as a  
4           prime contractor unlikely;

5           “(ii) in the case of a proposed pro-  
6           curement for construction, if such pro-  
7           posed procurement seeks to bundle or con-  
8           solidate discrete construction projects; or

9           “(iii) is a solicitation that involves an  
10          unnecessary or unjustified bundling of con-  
11          tract requirements.

12          “(B) NOTICE TO PROCUREMENT CENTER  
13          REPRESENTATIVES.—With respect to proposed  
14          procurements described in subparagraph (A), at  
15          least 30 days before issuing a solicitation and  
16          concurrent with other processing steps required  
17          before issuing the solicitation, the contracting  
18          agency shall provide a copy of the proposed pro-  
19          curement to the procurement center representa-  
20          tive of the contracting agency (as described in  
21          subsection (l)) along with a statement explain-  
22          ing—

23                 “(i) why the proposed procurement  
24                 cannot be divided into reasonably small  
25                 lots (not less than economic production

1 runs) to permit offers on quantities less  
2 than the total requirement;

3 “(ii) why delivery schedules cannot be  
4 established on a realistic basis that will en-  
5 courage the participation of small business  
6 concerns in a manner consistent with the  
7 actual requirements of the Government;

8 “(iii) why the proposed procurement  
9 cannot be offered to increase the likelihood  
10 of the participation of small business con-  
11 cerns;

12 “(iv) in the case of a proposed pro-  
13 curement for construction, why the pro-  
14 posed procurement cannot be offered as  
15 separate discrete projects; or

16 “(v) why the agency has determined  
17 that the bundling of contract requirements  
18 is necessary and justified.

19 “(C) ALTERNATIVES TO INCREASE PRIME  
20 CONTRACTING OPPORTUNITIES FOR SMALL  
21 BUSINESS CONCERNS.—If the procurement cen-  
22 ter representative believes that the proposed  
23 procurement will make the participation of  
24 small business concerns as prime contractors  
25 unlikely, the procurement center representative,

1 within 15 days after receiving the statement de-  
2 scribed in subparagraph (B), shall recommend  
3 to the contracting agency alternative procure-  
4 ment methods for increasing prime contracting  
5 opportunities for small business concerns.

6 “(D) FAILURE TO AGREE ON AN ALTER-  
7 NATIVE PROCUREMENT METHOD.—If the pro-  
8 curement center representative and the con-  
9 tracting agency fail to agree on an alternative  
10 procurement method, the Administrator shall  
11 submit the matter to the head of the appro-  
12 priate department or agency for a determina-  
13 tion.

14 “(5) CONTRACTS FOR SALE OF GOVERNMENT  
15 PROPERTY.—With respect to a contract for the sale  
16 of Government property, small business concerns  
17 shall receive any such contract if, in the determina-  
18 tion of the Administrator and the disposal agency,  
19 the award of such contract is in the interest of as-  
20 suring that a fair proportion of the total sales of  
21 Government property be made to small business con-  
22 cerns.

23 “(6) OTHER REQUIREMENTS.—

24 “(A) SALE OF ELECTRICAL POWER OR  
25 OTHER PROPERTY.—Nothing in this subsection



1 shall be construed to change any preferences or  
2 priorities established by law with respect to the  
3 sale of electrical power or other property by the  
4 Federal Government.

5 “(B) COSTS EXCEEDING FAIR MARKET  
6 PRICE.—A contract may not be awarded under  
7 this subsection if the cost of the contract to the  
8 awarding agency exceeds a fair market price.”.

9 **SEC. 102. IMPROVING REPORTING ON SMALL BUSINESS**  
10 **GOALS.**

11 Section 15(h)(2)(E) of the Small Business Act (15  
12 U.S.C. 644(h)(2)(E)) is amended—

13 (1) in clause (i)—

14 (A) in subclause (III), by striking “and” at  
15 the end; and

16 (B) by adding at the end the following new  
17 subclauses:

18 “(V) that were purchased by an  
19 other entity after the initial contract  
20 was awarded and as a result of the  
21 purchase, would no longer be deemed  
22 to be small business concerns for pur-  
23 poses of the initial contract; and

24 “(VI) that were awarded using a  
25 procurement method that restricted

1 competition to small business concerns  
2 owned and controlled by service-dis-  
3 abled veterans, qualified HUBZone  
4 small business concerns, small busi-  
5 ness concerns owned and controlled by  
6 socially and economically disadvan-  
7 taged individuals, small business con-  
8 cerns owned and controlled by women,  
9 or a subset of any such concerns;”;

10 (2) in clause (ii)—

11 (A) in subclause (IV), by striking “and” at  
12 the end; and

13 (B) by adding at the end the following new  
14 subclauses:

15 “(VI) that were purchased by an-  
16 other entity after the initial contract  
17 was awarded and as a result of the  
18 purchase, would no longer be deemed  
19 to be small business concerns owned  
20 and controlled by service-disabled vet-  
21 erans for purposes of the initial con-  
22 tract; and

23 “(VII) that were awarded using a  
24 procurement method that restricted  
25 competition to qualified HUBZone

1 small business concerns, small busi-  
2 ness concerns owned and controlled by  
3 socially and economically disadvan-  
4 taged individuals, small business con-  
5 cerns owned and controlled by women,  
6 or a subset of any such concerns;”;

7 (3) in clause (iii)—

8 (A) in subclause (V), by striking “and” at  
9 the end; and

10 (B) by adding at the end the following new  
11 subclauses:

12 “(VII) that were purchased by  
13 another entity after the initial con-  
14 tract was awarded and as a result of  
15 the purchase, would no longer be  
16 deemed to be qualified HUBZone  
17 small business concerns for purposes  
18 of the initial contract; and

19 “(VIII) that were awarded using  
20 a procurement method that restricted  
21 competition to small business concerns  
22 owned and controlled by service-dis-  
23 abled veterans, small business con-  
24 cerns owned and controlled by socially  
25 and economically disadvantaged indi-

1           viduals, small business concerns  
2           owned and controlled by women, or a  
3           subset of any such concerns;”;

4           (4) in clause (iv)—

5                 (A) in subclause (V), by striking “and” at  
6           the end; and

7                 (B) by adding at the end the following new  
8           subclauses:

9                         “(VII) that were purchased by  
10                        another entity after the initial con-  
11                        tract was awarded and as a result of  
12                        the purchase, would no longer be  
13                        deemed to be small business concerns  
14                        owned and controlled by socially and  
15                        economically disadvantaged individ-  
16                        uals for purposes of the initial con-  
17                        tract; and

18                        “(VIII) that were awarded using  
19                        a procurement method that restricted  
20                        competition to small business concerns  
21                        owned and controlled by service-dis-  
22                        abled veterans, qualified HUBZone  
23                        small business concerns, small busi-  
24                        ness concerns owned and controlled by

1 women, or a subset of any such con-  
2 cerns;”;

3 (5) in clause (v)—

4 (A) in subclause (IV), by striking “and” at  
5 the end;

6 (B) in subclause (V), by inserting “and” at  
7 the end; and

8 (C) by adding at the end the following new  
9 subclause:

10 “(VI) that were purchased by an-  
11 other entity after the initial contract  
12 was awarded and as a result of the  
13 purchase, would no longer be deemed  
14 to be small business concerns owned  
15 by an Indian tribe other than an Alas-  
16 ka Native Corporation for purposes of  
17 the initial contract;”;

18 (6) in clause (vi)—

19 (A) in subclause (IV), by striking “and” at  
20 the end;

21 (B) in subclause (V), by inserting “and” at  
22 the end; and

23 (C) by adding at the end the following new  
24 subclause:

1           “(VI) that were purchased by an-  
2           other entity after the initial contract  
3           was awarded and as a result of the  
4           purchase, would no longer be deemed  
5           to be small business concerns owned  
6           by a Native Hawaiian Organization  
7           for purposes of the initial contract;”;

8           (7) in clause (vii)—

9           (A) in subclause (IV), by striking “and” at  
10          the end;

11          (B) in subclause (V), by striking “and” at  
12          the end; and

13          (C) by adding at the end the following new  
14          subclause:

15                 “(VI) that were purchased by an-  
16                 other entity after the initial contract  
17                 was awarded and as a result of the  
18                 purchase, would no longer be deemed  
19                 to be small business concerns owned  
20                 by an Alaska Native Corporation for  
21                 purposes of the initial contract; and”;  
22                 and

23          (8) in clause (viii)—

24                 (A) in subclause (VII), by striking “and”  
25                 at the end;

1 (B) in subclause (VIII), by striking “and”  
2 at the end; and

3 (C) by adding at the end the following new  
4 subclauses:

5 “(IX) that were purchased by an-  
6 other entity after the initial contract  
7 was awarded and as a result of the  
8 purchase, would no longer be deemed  
9 to be small business concerns owned  
10 and controlled by women for purposes  
11 of the initial contract; and

12 “(X) that were awarded using a  
13 procurement method that restricted  
14 competition to small business concerns  
15 owned and controlled by service-dis-  
16 abled veterans, qualified HUBZone  
17 small business concerns, small busi-  
18 ness concerns owned and controlled by  
19 socially and economically disadvan-  
20 taged individuals, or a subset of any  
21 such concerns; and”.

22 **SEC. 103. TRANSPARENCY IN SMALL BUSINESS GOALS.**

23 Section 15(g) of the Small Business Act is amended  
24 by adding at the end the following new paragraph:

1           “(4) DETERMINATIONS OF THE TOTAL VALUE  
2           OF CONTRACT AWARDS.—For purposes of the goals  
3           established under paragraphs (1) and (2), the total  
4           value of contract awards for a fiscal year may not  
5           be determined in a manner that excludes the value  
6           of a contract based on—

7                     “(A) where the contract is awarded;

8                     “(B) where the contract is performed;

9                     “(C) whether the contract is mandated by  
10           Federal law to be performed by an entity other  
11           than a small business concern;

12                    “(D) whether funding for the contract is  
13           made available in an appropriations Act, if the  
14           contract is subject to the requirements of chap-  
15           ter 33 of title 41, United States Code, or chap-  
16           ter 137 of title 10, United States Code, and the  
17           Federal Acquisition Regulation; or

18                    “(E) whether the contract is otherwise  
19           subject to the Federal Acquisition Regulation.”.

20 **SEC. 104. UNIFORMITY IN PROCUREMENT TERMINOLOGY.**

21           (a) IN GENERAL.—Section 15(j)(1) of the Small  
22           Business Act (15 U.S.C. 644(j)(1)) is amended by striking  
23           “greater than \$2,500 but not greater than \$100,000” and  
24           inserting “greater than the micro-purchase threshold de-



1 fined in section 1902(a) of title 41, United States Code,  
2 but not greater than the simplified acquisition threshold”.

3 (b) TECHNICAL AMENDMENT.—Section 3(m) of the  
4 Small Business Act (15 U.S.C. 632(m)) is amended to  
5 read as follows:

6 “(m) DEFINITIONS PERTAINING TO CON-  
7 TRACTING.—In this Act:

8 “(1) PRIME CONTRACT.—The term ‘prime con-  
9 tract’ has the meaning given such term in section  
10 8701(4) of title 41, United States Code.

11 “(2) PRIME CONTRACTOR.—The term ‘prime  
12 contractor’ has the meaning given such term in sec-  
13 tion 8701(5) of title 41, United States Code.

14 “(3) SIMPLIFIED ACQUISITION THRESHOLD.—  
15 The term ‘simplified acquisition threshold’ has the  
16 meaning given such term in section 134 of title 41,  
17 United States Code.

18 “(4) TOTAL PURCHASE AND CONTRACTS FOR  
19 PROPERTY AND SERVICES.—The term ‘total pur-  
20 chases and contracts for property and services’ shall  
21 mean total number and total dollar amount of con-  
22 tracts and orders for property and services.”.

1 **TITLE II—CLARIFYING THE**  
2 **ROLES OF SMALL BUSINESS**  
3 **ADVOCATES**

4 **SEC. 201. DUTIES OF PROCUREMENT CENTER REPRESENT-**  
5 **ATIVES WITH RESPECT TO REVIEWING SO-**  
6 **LICITATIONS.**

7 Section 15(l)(2) of the Small Business Act (15  
8 U.S.C. 644(l)(2)(D)) is amended—

9 (1) by redesignating subparagraphs (E)  
10 through (I) as subparagraphs (F) through (J), re-  
11 spectively; and

12 (2) by inserting after subparagraph (D) the fol-  
13 lowing new subparagraph:

14 “(E) review any solicitation for a contract  
15 or task order without regard to whether the  
16 contract or task order or part of the contract  
17 or task order is set aside for small business  
18 concerns, whether 1 or more contract or task  
19 order awards are reserved for small business  
20 concerns under a multiple award contract, or  
21 whether or not the solicitation would result in  
22 a bundled or consolidated contract (as defined  
23 in subsection (s)) or a bundled or consolidated  
24 task order;”.

1 **SEC. 202. RESPONSIBILITIES OF COMMERCIAL MARKET**  
2 **REPRESENTATIVES.**

3 Section 4(h) of the Small Business Act (as added by  
4 section 865 of the National Defense Authorization Act for  
5 Fiscal Year 2016 (Public Law 114–92)) is amended—

6 (1) in the subsection heading, by striking “CER-  
7 TIFICATION REQUIREMENTS FOR”;

8 (2) in paragraph (2), by redesignating subpara-  
9 graphs (A) and (B) as clauses (i) and (ii), respec-  
10 tively (and conforming the margins accordingly);

11 (3) by amending clause (ii) (as so redesignated)  
12 to read as follows:

13 “(B) APPLICATION.—The requirements of  
14 clause (i) shall be included in any initial job  
15 posting for the position of a commercial market  
16 representative and shall apply to any person ap-  
17 pointed as a commercial market representative  
18 after November 25, 2015.”;

19 (4) in clause (i) (as so redesignated), by strik-  
20 ing “paragraph (2)” and inserting “subparagraph  
21 (A)”;

22 (5) by redesignating paragraphs (1) and (2) as  
23 subparagraphs (A) and (B), respectively (and con-  
24 forming the margins accordingly);

1           (6) in subparagraph (A) (as so redesignated),  
2           by striking “paragraph (2)” and inserting “subpara-  
3           graph (B)”; and

4           (7) by inserting before subparagraph (A) (as so  
5           redesignated) the following:

6           “(1) DUTIES.—The principal duties of a Com-  
7           mercial Market Representative employed by the Ad-  
8           ministrator and reporting to the senior official ap-  
9           pointed by the Administrator with responsibilities  
10          under sections 8, 15, 31, and 36 (or the designee of  
11          such official) shall be to advance the policies estab-  
12          lished in section 8(d)(1) relating to subcontracting.  
13          Such duties shall include—

14               “(A) helping prime contractors to find  
15               small business concerns that are capable of per-  
16               forming subcontracts;

17               “(B) for contractors awarded contracts  
18               containing the clause described in section  
19               8(d)(3), providing—

20                       “(i) counseling on the contractor’s re-  
21                       sponsibility to maximize subcontracting op-  
22                       portunities for small business concerns;

23                       “(ii) instruction on methods and tools  
24                       to identify potential subcontractors that  
25                       are small business concerns; and

1           “(iii) assistance to increase awards to  
2           subcontractors that are small business con-  
3           cerns through visits, training, and reviews  
4           of past performance;

5           “(C) providing counseling on how a small  
6           business concern may promote its capacity to  
7           contractors awarded contracts containing the  
8           clause described in section 8(d)(3); and

9           “(D) conducting periodic reviews of con-  
10          tractors awarded contracts containing the  
11          clause described in section 8(d)(3) to assess  
12          compliance with subcontracting plans required  
13          under section 8(d)(6).

14          “(2) CERTIFICATION REQUIREMENTS.—”.

15 **SEC. 203. DUTIES OF THE OFFICE OF SMALL AND DIS-**  
16 **ADVANTAGED BUSINESS UTILIZATION.**

17          Section 15(k) of the Small Business Act (15 U.S.C.  
18          644(k)), as amended by section 870 of the National De-  
19          fense Authorization Act for Fiscal Year 2016 (Public Law  
20          114–92), is amended—

21                 (1) by striking “section 8, 15 or 44” and in-  
22                 serting “section 8, 15, 31, 36, or 44”;

23                 (2) by striking “sections 8 and 15” each place  
24                 such term appears and inserting “sections 8, 15, 31,  
25                 36, and 44”;

1           (3) in paragraph (10), by striking “section  
2 8(a)” and inserting “section 8, 15, 31, or 36”;

3           (4) by redesignating paragraphs (15), (16), and  
4 (17) as paragraphs (16), (17), and (18), respec-  
5 tively;

6           (5) by inserting after paragraph (14) the fol-  
7 lowing new paragraph:

8           “(15) shall review purchases made by the agen-  
9 cy greater than the micro-purchase threshold defined  
10 in section 1902(a) of title 41, United States Code,  
11 and less than the simplified acquisition threshold to  
12 ensure that the purchases have been made in compli-  
13 ance with the provisions of this Act and have been  
14 properly recorded in the Federal Procurement Data  
15 System, if the method of payment is a purchase card  
16 issued by the Department of Defense pursuant to  
17 section 2784 of title 10, United States Code, or by  
18 the head of an executive agency pursuant to section  
19 1909 of title 41, United States Code;”;

20           (6) in paragraph (17) (as so redesignated)—

21           (A) in subparagraph (B), by striking  
22 “and” at the end;

23           (B) in subparagraph (C), by striking the  
24 period at the end and inserting “; and”; and

1 (C) by adding at the end the following new  
2 subparagraph:

3 “(D) any failure of the agency to comply  
4 with section 8, 15, 31, or 36.”.

5 **SEC. 204. IMPROVING CONTRACTOR COMPLIANCE.**

6 (a) REQUIREMENTS FOR THE OFFICE OF SMALL AND  
7 DISADVANTAGED BUSINESS UTILIZATION.—Section 15(k)  
8 of the Small Business Act (15 U.S.C. 644(k)(8)), as  
9 amended by section 204, is further amended—

10 (1) by redesignating paragraphs (16), (17), and  
11 (18) as paragraphs (17), (18), and (19), respec-  
12 tively; and

13 (2) by inserting after paragraph (15) the fol-  
14 lowing new paragraph:

15 “(16) shall provide assistance to a small busi-  
16 ness concern awarded a contract or subcontract  
17 under this Act or under title 10 or title 41, United  
18 States Code, with finding resources for education  
19 and training on compliance with contracting regula-  
20 tions (including the Federal Acquisition Regulation)  
21 after award of such a contract or subcontract.”.

22 (b) REQUIREMENTS UNDER THE MENTOR-PROTEGE  
23 PROGRAM OF THE DEPARTMENT OF DEFENSE.—Section  
24 831(e)(1) of the National Defense Authorization Act for

1 Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1607;  
2 10 U.S.C. 2302 note) is amended—

3 (1) in subparagraph (B), by striking “and” at  
4 the end;

5 (2) in subparagraph (C), by striking the period  
6 at the end and inserting “; and”; and

7 (3) by inserting at the end the following new  
8 subparagraph:

9 “(D) the assistance the mentor firm will  
10 provide to the protege firm in understanding  
11 contract regulations of the Federal Government  
12 and the Department of Defense (including the  
13 Federal Acquisition Regulation and the Defense  
14 Federal Acquisition Regulation Supplement)  
15 after award of a subcontract under this section,  
16 if applicable.”.

17 (c) RESOURCES FOR SMALL BUSINESS CONCERNS.—  
18 Section 15 of the Small Business Act (15 U.S.C. 644) is  
19 amended by adding at the end the following new sub-  
20 section:

21 “(t) POST-AWARD COMPLIANCE RESOURCES.—The  
22 Administrator shall provide to small business development  
23 centers (as defined in section 21) and entities partici-  
24 pating in the Procurement Technical Assistance Coopera-  
25 tive Agreement Program under chapter 142 of title 10,



1 United States Code, and shall make available on the  
2 website of the Administration, a list of resources for small  
3 business concerns seeking education and assistance on  
4 compliance with contracting regulations (including the  
5 Federal Acquisition Regulation) after award of a contract  
6 or subcontract.”.

7 (d) REQUIREMENTS FOR PROCUREMENT CENTER  
8 REPRESENTATIVES.—Section 15(l)(2) of the Small Busi-  
9 ness Act (15 U.S.C. 644(l)(2)) is amended—

10 (1) by redesignating subparagraph (J) as sub-  
11 paragraph (K);

12 (2) in subparagraph (I), by striking “and” at  
13 the end; and

14 (3) by inserting after subparagraph (I) the fol-  
15 lowing new subparagraph:

16 “(J) assist small business concerns with  
17 finding resources for education and training on  
18 compliance with contracting regulations (includ-  
19 ing the Federal Acquisition Regulation) after  
20 award of a contract or subcontract; and”.

21 (e) REQUIREMENTS UNDER THE MENTOR-PROTEGE  
22 PROGRAM OF THE SMALL BUSINESS ADMINISTRATION.—  
23 Section 45(b)(3) of the Small Business Act (15 U.S.C.  
24 657r(b)(3)) is amended by adding at the end the following  
25 new subparagraph:

1           “(K) The extent to which assistance with  
2           compliance with the requirements of contracting  
3           with the Federal Government after award of a  
4           contract or subcontract under this section.”.

5 **TITLE III—STRENGTHENING OP-**  
6 **PORTUNITIES FOR COMPETI-**  
7 **TION IN SUBCONTRACTING**

8 **SEC. 301. GOOD FAITH IN SUBCONTRACTING.**

9           (a) **TRANSPARENCY IN SUBCONTRACTING GOALS.**—  
10 Section 8(d)(9) of the Small Business Act (15 U.S.C.  
11 637(d)(9)) is amended—

12           (1) by striking “(9) The failure” and inserting  
13           the following:

14           “(9) **MATERIAL BREACH.**—The failure”;

15           (2) in subparagraph (A), by striking “or” at  
16           the end;

17           (3) in subparagraph (B), by inserting “or” at  
18           the end; and

19           (4) by inserting after subparagraph (B) the fol-  
20           lowing:

21           “(C) assurances provided under paragraph  
22           (6)(E),”.

23           (b) **AUTHORITY OF THE ADMINISTRATOR OF THE**  
24 **SMALL BUSINESS ADMINISTRATION.**—Section 8(d)(11) of

1 the Small Business Act (15 U.S.C. 637(d)(11)) is amend-  
2 ed—

3 (1) by striking “(11) In the case of” and insert-  
4 ing the following:

5 “(11) AUTHORITY OF ADMINISTRATOR.—In the  
6 case of”; and

7 (2) in subparagraph (B), by striking “, which  
8 shall be advisory in nature,”.

9 (c) REVIEW AND ACCEPTANCE OF SUBCONTRACTING  
10 PLANS.—Section 8(d) of the Small Business Act (15  
11 U.S.C. 637(d)) is amended by adding at the end the fol-  
12 lowing:

13 “(17) REVIEW AND ACCEPTANCE OF SUBCON-  
14 TRACTING PLANS.—

15 “(A) DEFINITION.—In this paragraph, the  
16 term ‘covered small business concerns’ means—

17 “(i) small business concerns;

18 “(ii) qualified HUBZone small busi-  
19 ness concerns;

20 “(iii) small business concerns owned  
21 and controlled by veterans;

22 “(iv) small business concerns owned  
23 and controlled by service-disabled veterans;

24 “(v) small business concerns owned  
25 and controlled by socially and economically

1           disadvantaged individuals, as defined in  
2           paragraph (3)(C); and

3           “(vi) small business concerns owned  
4           and controlled by women.

5           “(B) DELAYED ACCEPTANCE OF PLAN.—

6           Except as provided in subparagraph (E), if a  
7           procurement center representative or commer-  
8           cial market representative determines that a  
9           subcontracting plan required under paragraph  
10          (4) or (5) fails to provide the maximum prac-  
11          ticable opportunity for covered small business  
12          concerns to participate in the performance of  
13          the contract to which the plan applies, the rep-  
14          resentative may delay acceptance of the plan in  
15          accordance with subparagraph (C).

16          “(C) PROCESS FOR DELAYED ACCEPT-  
17          ANCE.—

18          “(i) IN GENERAL.—Except as pro-  
19          vided in clause (ii), a procurement center  
20          representative or commercial market rep-  
21          resentative who makes a determination  
22          under subparagraph (B) with respect to a  
23          subcontracting plan may delay acceptance  
24          of the plan for a 30-day period by pro-  
25          viding written notice of the determination

1 to the head of the procuring activity of the  
2 contracting agency that includes rec-  
3 ommendations for altering the plan to pro-  
4 vide the maximum practicable opportunity  
5 described in that subparagraph.

6 “(ii) EXCEPTION.—In the case of the  
7 Department of Defense—

8 “(I) a procurement center rep-  
9 resentative or commercial market rep-  
10 resentative who makes a determina-  
11 tion under subparagraph (B) with re-  
12 spect to a subcontracting plan may  
13 delay acceptance of the plan for a 15-  
14 day period by providing written notice  
15 of the determination to appropriate  
16 personnel of the Department of De-  
17 fense that includes recommendations  
18 for altering the plan to provide the  
19 maximum practicable opportunity de-  
20 scribed in that subparagraph; and

21 “(II) the authority of a procure-  
22 ment center representative or com-  
23 mercial market representative to delay  
24 acceptance of a subcontracting plan as  
25 provided in subparagraph (B) does

1 not include the authority to delay the  
2 award or performance of the contract  
3 concerned.

4 “(D) DISAGREEMENTS.—If a procurement  
5 center representative or commercial market rep-  
6 resentative delays the acceptance of a subcon-  
7 tracting plan under subparagraph (C) and does  
8 not reach agreement with the head of the pro-  
9 curing activity of the contracting agency to  
10 alter the plan to provide the maximum prac-  
11 ticable opportunity described in subparagraph  
12 (B) not later than 30 days after the date on  
13 which written notice was provided, the disagree-  
14 ment shall be submitted to the head of the con-  
15 tracting agency by the Administrator for a final  
16 determination.

17 “(E) EXCEPTION.—A procurement center  
18 representative or commercial market represent-  
19 ative may not delay the acceptance of a subcon-  
20 tracting plan if the head of the contracting  
21 agency certifies that the need of the agency for  
22 the supplies or services is of such an unusual  
23 and compelling urgency that the United States  
24 would be seriously injured unless the agency is  
25 permitted to accept the subcontracting plan.”.

1 (d) GOOD FAITH COMPLIANCE.—Not later than 270  
2 days after the date of enactment of this Act, the Adminis-  
3 trator of the Small Business Administration shall issue  
4 regulations providing examples of activities that would be  
5 considered a failure to make a good faith effort to comply  
6 with the requirements imposed on an entity (other than  
7 a small business concern as defined under section 3 of the  
8 Small Business Act (15 U.S.C. 632)) that is awarded a  
9 prime contract containing the clauses required under  
10 paragraph (4) or (5) of section 8(d) of the Small Business  
11 Act (15 U.S.C. 637(d)).

12 **SEC. 302. PILOT PROGRAM TO PROVIDE OPPORTUNITIES**  
13 **FOR QUALIFIED SUBCONTRACTORS TO OB-**  
14 **TAIN PAST PERFORMANCE RATINGS.**

15 Section 8(d) of the Small Business Act (15 U.S.C.  
16 637(d)), as amended by section 301, is further amended  
17 by adding at the end the following new paragraph:

18 “(18) PILOT PROGRAM PROVIDING PAST PER-  
19 FORMANCE RATINGS FOR OTHER SMALL BUSINESS  
20 SUBCONTRACTORS.—

21 “(A) ESTABLISHMENT.—The Adminis-  
22 trator shall establish a pilot program for a  
23 small business concern performing as a first  
24 tier subcontractor for a covered contract (as de-  
25 fined in paragraph 13(A)) to request a past

1 performance rating in the system used by the  
2 Federal Government to monitor or record con-  
3 tractor past performance.

4 “(B) APPLICATION.—A small business con-  
5 cern described in subparagraph (A) shall sub-  
6 mit an application to the appropriate official for  
7 a past performance rating. Such application  
8 shall include written evidence of the past per-  
9 formance factors for which the small business  
10 concern seeks a rating and a suggested rating.

11 “(C) DETERMINATION.—The appropriate  
12 official shall submit the application from the  
13 small business concern to the contracting officer  
14 (or a designee of such officer) for the covered  
15 contract and to the prime contractor for review.  
16 The contracting officer (or designee) and the  
17 prime contractor shall, not later than 30 days  
18 after receipt of the application, submit to the  
19 appropriate official a response regarding the  
20 application.

21 “(i) AGREEMENT ON RATING.—If the  
22 contracting officer (or designee) and the  
23 prime contractor agree on a past perform-  
24 ance rating, or if either the contracting of-  
25 ficer (or designee) or the prime contractor



1 fail to respond and the responding indi-  
2 vidual agrees with the rating of the appli-  
3 cant small business concern, the appro-  
4 priate official shall enter the agreed-upon  
5 past performance rating in the system de-  
6 scribed in subparagraph (A).

7 “(ii) DISAGREEMENT ON RATING.—If  
8 the contracting officer (or designee) and  
9 the prime contractor fail to respond within  
10 30 days or if they disagree about the rat-  
11 ing, or if either the contracting officer (or  
12 designee) or the prime contractor fail to  
13 respond and the responding individual dis-  
14 agrees with the rating of the applicant  
15 small business concern, the contracting of-  
16 ficer (or designee) or the prime contractor  
17 shall submit a notice contesting the appli-  
18 cation to appropriate official. The appro-  
19 priate official shall follow the requirements  
20 of subparagraph (D).

21 “(D) PROCEDURE FOR RATING.—Not later  
22 than 14 calendar days after receipt of a notice  
23 under subparagraph (C)(ii), the appropriate of-  
24 ficial shall submit such notice to the applicant  
25 small business concern. Such concern may sub-

1           mit comments, rebuttals, or additional informa-  
2           tion relating to the past performance of such  
3           concern not later 14 calendar days after receipt  
4           of such notice. The appropriate official shall  
5           enter the into the system described in subpara-  
6           graph (A) a rating that is neither favorable nor  
7           unfavorable along with the initial application  
8           from the small business concern, the responses  
9           of the contracting officer (or designee) and the  
10          prime contractor, and any additional informa-  
11          tion provided by the small business concern.

12           “(E) USE OF INFORMATION.—A small  
13          business subcontractor may use a past perform-  
14          ance rating given under this paragraph to es-  
15          tablish its past performance for a prime con-  
16          tract.

17           “(F) DURATION.—The pilot program es-  
18          tablished under this paragraph shall terminate  
19          3 years after the date on which the first small  
20          business concern receives a past performance  
21          rating for performance as a first tier subcon-  
22          tractor.

23           “(G) REPORT.—The Comptroller General  
24          of the United States shall begin an assessment  
25          of the pilot program 1 year after the establish-

1           ment of such program. Not later than 6 months  
2           after beginning such assessment, the Comp-  
3           troller General shall submit a report to the  
4           Committee on Small Business and Entrepre-  
5           neurship of the Senate and the Committee on  
6           Small Business of the House of Representa-  
7           tives, which shall include—

8                   “(i) the number of small business con-  
9                   cerns that have received past performance  
10                  ratings under the pilot program;

11                  “(ii) the number of applications in  
12                  which the contracting officer (or designee)  
13                  or the prime contractor contested the ap-  
14                  plication of the small business concern;

15                  “(iii) any suggestions or recommenda-  
16                  tions the Comptroller General or the small  
17                  business concerns participating in the pro-  
18                  gram have to address disputes between the  
19                  small business concern, the contracting of-  
20                  ficer (or designee), and the prime con-  
21                  tractor on past performance ratings; and

22                  “(iv) any suggestions or recommenda-  
23                  tion the Comptroller General has to im-  
24                  prove the operation of the pilot program.

1           “(H) APPROPRIATE OFFICIAL DEFINED.—  
2           In this paragraph, the term ‘appropriate offi-  
3           cial’ means a Commercial Market Representa-  
4           tive or other individual designated by the senior  
5           official appointed by the Administrator with re-  
6           sponsibilities under sections 8, 15, 31, and  
7           36.”.

## 8           **TITLE IV—MENTOR-PROTEGE** 9           **PROGRAMS**

### 10       **SEC. 401. AMENDMENTS TO THE MENTOR-PROTEGE PRO-** 11       **GRAM OF THE DEPARTMENT OF DEFENSE.**

12           Section 831 of the National Defense Authorization  
13       Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat.  
14       1607; 10 U.S.C. 2302 note) is amended—

15           (1) in subsection (d)—

16           (A) by amending paragraph (1) to read as  
17       follows:

18           “(1) prior to the approval of that agreement,  
19       the Administrator of the Small Business Administra-  
20       tion had made no finding of affiliation between the  
21       mentor firm and the protege firm;”;

22           (B) by redesignating paragraph (2) as  
23       paragraph (3); and

24           (C) by inserting after paragraph (1) the  
25       following new paragraph:

1           “(2)(A) the Administrator of the Small Busi-  
2           ness Administration does not have a current finding  
3           of affiliation between the mentor firm and protege  
4           firm; or

5           “(B) the Secretary, after considering the regu-  
6           lations promulgated by the Administrator of the  
7           Small Business Administration regarding affili-  
8           ation—

9           “(i) does not have reason to believe that  
10          the mentor firm affiliated with the protege firm;  
11          or

12          “(ii) has received a formal determination  
13          of no affiliation between the mentor firm and  
14          protege firm from the Administrator after hav-  
15          ing submitted a question of affiliation to the  
16          Administrator; and”;

17          (2) in subsection (n), by amending paragraph  
18          (9) to read as follows:

19          “(9) The term ‘affiliation’, with respect to a re-  
20          lationship between a mentor firm and a protege  
21          firm, means a relationship described under section  
22          121.103 of title 13, Code of Federal Regulations (or  
23          any successor regulation).”.

1 **SEC. 402. IMPROVING COOPERATION BETWEEN THE MEN-**  
2 **TOR-PROTEGE PROGRAMS OF THE SMALL**  
3 **BUSINESS ADMINISTRATION AND THE DE-**  
4 **PARTMENT OF DEFENSE.**

5 Section 45(b)(4) of the Small Business Act (15  
6 U.S.C. 657r(b)(4)) is amended by striking subparagraph  
7 (A) and redesignating subparagraphs (B) and (C) as sub-  
8 paragraphs (A) and (B), respectively.

9 **TITLE V—MISCELLANEOUS**

10 **SEC. 501. IMPROVING EDUCATION ON SMALL BUSINESS**  
11 **REGULATIONS.**

12 Section 15 of the Small Business Act (15 U.S.C.  
13 644), as amended by section 204(c), is further amended  
14 by adding at the end the following new subsection:

15 “(u) **REGULATORY CHANGES AND TRAINING MATE-**  
16 **RIALS.**—Not less than annually, the Administrator shall  
17 provide to the Defense Acquisition University (established  
18 under section 1746 of title 10, United States Code), the  
19 Federal Acquisition Institute (established under section  
20 1201 of title 41, United States Code), the individual re-  
21 sponsible for mandatory training and education of the ac-  
22 quisition workforce of each agency (described under sec-  
23 tion 1703(f)(1)(C) of title 41, United States Code), small  
24 business development centers (as defined in section 21),  
25 and entities participating in the Procurement Technical

1 Assistance Cooperative Agreement Program under chapter  
2 142 of title 10, United States Code—

3 “(1) a list of all changes made in the prior year  
4 to regulations promulgated—

5 “(A) by the Administrator that affect Fed-  
6 eral acquisition; and

7 “(B) by the Federal Acquisition Council  
8 that implement changes to this Act; and

9 “(2) any materials the Administrator has devel-  
10 oped to explain, train, or assist Federal agencies or  
11 departments or small business concerns to comply  
12 with the regulations specified in paragraph (1).”.

13 **SEC. 502. PROTECTING TASK ORDER COMPETITION.**

14 Section 4106(f) of title 41, United States Code, is  
15 amended by striking paragraph (3).

16 **SEC. 503. IMPROVEMENTS TO SIZE STANDARDS FOR SMALL  
17 AGRICULTURAL PRODUCERS.**

18 (a) AMENDMENT TO DEFINITION OF AGRICULTURAL  
19 ENTERPRISES.—Paragraph (1) of section 18(b) of the  
20 Small Business Act (15 U.S.C. 647(b)(1)) is amended by  
21 striking “businesses” and inserting “small business con-  
22 cerns”.

23 (b) EQUAL TREATMENT OF SMALL FARMS.—Para-  
24 graph (1) of section 3(a) of the Small Business Act (15  
25 U.S.C. 632(a)(1)) is amended by striking “operation: *Pro-*

1 *vided,*” and all that follows through the period at the end  
2 and inserting “operation.”.

3 (c) UPDATED SIZE STANDARDS.—

4 (1) IN GENERAL.—Not later than 18 months  
5 after the date of enactment of this section, the Ad-  
6 ministrator of the Small Business Administration  
7 shall, by rule, establish size standards in accordance  
8 with section 3 of the Small Business Act (15 U.S.C.  
9 632) for agricultural enterprises (as such term is de-  
10 fined in section 18(b)(1) of such Act).

11 (2) REVIEW.—Size standards established under  
12 subsection (a) are subject to the rolling review pro-  
13 cedures established under section 1344(a) of the  
14 Small Business Jobs Act of 2010 (15 U.S.C. 632  
15 note).

16 **SEC. 504. UNIFORMITY IN SERVICE-DISABLED VETERAN**  
17 **DEFINITIONS.**

18 (a) SMALL BUSINESS DEFINITION OF SMALL BUSI-  
19 NESS CONCERN CONSOLIDATED.—Section 3(q) of the  
20 Small Business Act (15 U.S.C. 632(q)) is amended—

21 (1) by amending paragraph (2) to read as fol-  
22 lows:

23 “(2) SMALL BUSINESS CONCERN OWNED AND  
24 CONTROLLED BY SERVICE-DISABLED VETERANS.—

25 The term ‘small business concern owned and con-



1 trolled by service-disabled veterans’ means any of  
2 the following:

3 “(A) A small business concern—

4 “(i) not less than 51 percent of which  
5 is owned by one or more service-disabled  
6 veterans or, in the case of any publicly  
7 owned business, not less than 51 percent  
8 of the stock (not including any stock  
9 owned by an ESOP) of which is owned by  
10 one or more service-disabled veterans; and

11 “(ii) the management and daily busi-  
12 ness operations of which are controlled by  
13 one or more service-disabled veterans or, in  
14 the case of a veteran with permanent and  
15 severe disability, the spouse or permanent  
16 caregiver of such veteran.

17 “(B) A small business concern—

18 “(i) not less than 51 percent of which  
19 is owned by one or more service-disabled  
20 veterans with a disability that is rated by  
21 the Secretary of Veterans Affairs as a per-  
22 manent and total disability who are unable  
23 to manage the daily business operations of  
24 such concern; or

1           “(ii) in the case of a publicly owned  
2           business, not less than 51 percent of the  
3           stock (not including any stock owned by an  
4           ESOP) of which is owned by one or more  
5           such veterans.

6           “(C)(i) During the time period described in  
7           clause (ii), a small business concern that was a  
8           small business concern described in subpara-  
9           graph (A) or (B) immediately prior to the death  
10          of a service-disabled veteran who was the owner  
11          of the concern, the death of whom causes the  
12          concern to be less than 51 percent owned by  
13          one or more service-disabled veterans, if—

14               “(I) the surviving spouse of the de-  
15               ceased veteran acquires such veteran’s  
16               ownership interest in such concern;

17               “(II) such veteran had a service-con-  
18               nected disability (as defined in section  
19               101(16) of title 38, United States Code)  
20               rated as 100 percent disabling under the  
21               laws administered by the Secretary of Vet-  
22               erans Affairs or such veteran died as a re-  
23               sult of a service-connected disability; and

24               “(III) immediately prior to the death  
25               of such veteran, and during the period de-

1           scribed in clause (ii), the small business  
2           concern is included in the database de-  
3           scribed in section 8127(f) of title 38,  
4           United States Code.

5           “(ii) The time period described in this  
6           clause is the time period beginning on the date  
7           of the veteran’s death and ending on the earlier  
8           of—

9                   “(I) the date on which the surviving  
10                  spouse remarries;

11                   “(II) the date on which the surviving  
12                  spouse relinquishes an ownership interest  
13                  in the small business concern; or

14                   “(III) the date that is 10 years after  
15                  the date of the death of the veteran.”; and

16           (2) by adding at the end the following new  
17           paragraphs:

18                   “(6) ESOP.—The term ‘ESOP’ has the mean-  
19                  ing given the term ‘employee stock ownership plan’  
20                  in section 4975(e)(7) of the Internal Revenue Code  
21                  of 1986 (26 U.S.C. 4975(e)(7)).

22                   “(7) SURVIVING SPOUSE.—The term ‘surviving  
23                  spouse’ has the meaning given such term in section  
24                  101(3) of title 38, United States Code.”.

1 (b) VETERANS AFFAIRS DEFINITION OF SMALL  
2 BUSINESS CONCERN CONSOLIDATED.—

3 (1) IN GENERAL.—Section 8127 of title 38,  
4 United States Code, is amended—

5 (A) by striking subsection (h) and redesignig-  
6 nating subsections (i) through (l) as subsections  
7 (h) through (k), respectively; and

8 (B) in subsection (k), as so redesignated—

9 (i) by amending paragraph (2) to read  
10 as follows:

11 “(2) The term ‘small business concern owned  
12 and controlled by veterans’ has the meaning given  
13 that term under section 3(q)(3) of the Small Busi-  
14 ness Act (15 U.S.C. 632(q)(3)).”; and

15 (ii) by adding at the end the following  
16 new paragraph:

17 “(3) The term ‘small business concern owned  
18 and controlled by veterans with service-connected  
19 disabilities’ has the meaning given the term ‘small  
20 business concern owned and controlled by service-  
21 disabled veterans’ under section 3(q)(2) of the Small  
22 Business Act (15 U.S.C. 632(q)(2)).”.

23 (2) CONFORMING AMENDMENTS.—Such section  
24 is further amended—

1 (A) in subsection (b), by inserting “or a  
2 small business concern owned and controlled by  
3 veterans with service-connected disabilities”  
4 after “a small business concern owned and con-  
5 trolled by veterans”;

6 (B) in subsection (c), by inserting “or a  
7 small business concern owned and controlled by  
8 veterans with service-connected disabilities”  
9 after “a small business concern owned and con-  
10 trolled by veterans”;

11 (C) in subsection (d) by inserting “or small  
12 business concerns owned and controlled by vet-  
13 erans with service-connected disabilities” after  
14 “small business concerns owned and controlled  
15 by veterans” both places it appears; and

16 (D) in subsection (f)(1), by inserting “,  
17 small business concerns owned and controlled  
18 by veterans with service-connected disabilities,”  
19 after “small business concerns owned and con-  
20 trolled by veterans”.

21 (e) TECHNICAL CORRECTION.—Section 8(d)(3) of the  
22 Small Business Act (15 U.S.C. 637(d)(3)), is amended by  
23 adding at the end the following new subparagraph:

24 “(H) In this contract, the term ‘small business  
25 concern owned and controlled by service-disabled

1 veterans' has the meaning given that term in section  
2 3(q).”.

3 (d) REGULATIONS RELATING TO DATABASE OF THE  
4 SECRETARY OF VETERANS AFFAIRS.—

5 (1) REQUIREMENT TO USE CERTAIN SMALL  
6 BUSINESS ADMINISTRATION REGULATIONS.—Section  
7 8127(f)(4) of title 38, United States Code, is  
8 amended by striking “verified” and inserting  
9 “verified, using regulations issued by the Adminis-  
10 trator of the Small Business Administration with re-  
11 spect to the status of the concern as a small busi-  
12 ness concern and the ownership and control of such  
13 concern,”.

14 (2) PROHIBITION ON SECRETARY OF VETERANS  
15 AFFAIRS ISSUING CERTAIN REGULATIONS.—Section  
16 8127(f) of title 38, United States Code, is amended  
17 by adding at the end the following new paragraph:

18 “(7) The Secretary may not issue regulations related  
19 to the status of a concern as a small business concern and  
20 the ownership and control of such small business con-  
21 cern.”.

22 (e) DELAYED EFFECTIVE DATE.—The amendments  
23 made by subsections (a), (b), (c), and (d) shall take effect  
24 on the date on which the Administrator of the Small Busi-  
25 ness Administration and the Secretary of Veterans Affairs

1 jointly issue regulations implementing such sections. Such  
2 date shall be not later than 18 months after the date of  
3 enactment of this Act.

4 (f) APPEALS OF INCLUSION IN DATABASE.—

5 (1) IN GENERAL.—Section 8127(f) of title 38,  
6 United States Code, as amended by section 3, is fur-  
7 ther amended by adding at the end the following  
8 new paragraph:

9 “(8)(A) If the Secretary does not verify a concern for  
10 inclusion in the database under this subsection based on  
11 the status of the concern as a small business concern or  
12 the ownership or control of the concern, the concern may  
13 appeal the denial of verification to the Office of Hearings  
14 and Appeals of the Small Business Administration (as es-  
15 tablished under part 134 of title 13, Code of Federal Reg-  
16 ulations, or any successor administrative appellate entity  
17 created with the Small Business Administration). The de-  
18 cision of the Office of Hearings and Appeals shall be con-  
19 sidered a final agency action.

20 “(B)(i) If an interested party challenges the inclusion  
21 in the database of a small business concern owned and  
22 controlled by veterans or a small business concern owned  
23 and controlled by veterans with service-connected disabil-  
24 ities based on the status of the concern as a small business  
25 concern or the ownership or control of the concern, the

1 challenge shall be heard by the Office of Hearings and  
2 Appeals of the Small Business Administration as de-  
3 scribed in subparagraph (A). The decision of the Office  
4 of Hearings and Appeals shall be considered final agency  
5 action.

6 “(ii) In this subparagraph, the term ‘interested party’  
7 means—

8 “(I) the Secretary; and

9 “(II) in the case of a small business concern  
10 that is awarded a contract, the contracting officer of  
11 the Department or another small business concern  
12 that submitted an offer for the contract that was  
13 awarded to the small business concern that sub-  
14 mitted an offer under clause (i).

15 “(C) For each fiscal year, the Secretary shall reim-  
16 burse the Administrator of the Small Business Adminis-  
17 tration in an amount necessary to cover any cost incurred  
18 by the Office of Hearings and Appeals of the Small Busi-  
19 ness Administration for actions taken by the Office under  
20 this paragraph. The amount of any such reimbursement  
21 shall be determined jointly by the Secretary and the Ad-  
22 ministrator and shall be provided from fees collected by  
23 the Secretary under multiple-award schedule contracts.  
24 Any disagreement about the amount shall be resolved by  
25 the Director of the Office of Management and Budget.”.



1           (2) EFFECTIVE DATE.—Paragraph (8) of sub-  
2           section (f) of title 38, United States Code, as added  
3           by paragraph (1), shall apply with respect to a  
4           verification decision made by the Secretary of Vet-  
5           erans Affairs on or after the date of the enactment  
6           of this Act.

7 **SEC. 505. GAO REVIEW OF THE OFFICE OF GOVERNMENT**  
8                   **CONTRACTING AND BUSINESS DEVELOP-**  
9                   **MENT OF THE SMALL BUSINESS ADMINISTRA-**  
10                   **TION.**

11           (a) STUDY.—Not later than 60 days after the date  
12           of the enactment of this Act, the Comptroller General of  
13           the United States shall initiate a review of the Office of  
14           Government Contracting and Business Development of the  
15           Small Business Administration. Such review shall exam-  
16           ine—

17                   (1) the extent to which the personnel of the  
18                   Small Business Administration who carry out pro-  
19                   curement and business development programs report  
20                   to the Office of Government Contracting and Busi-  
21                   ness Development;

22                   (2) whether greater efficiency and consistency  
23                   in the certification process of procurement and busi-  
24                   ness development programs could be achieved by cre-  
25                   ating a single organizational unit of employees to

1 process all certifications required by procurement  
2 and business development programs;

3 (3) whether greater efficiency and efficacy in  
4 the performance of procurement and business devel-  
5 opment programs could be achieved by improving  
6 the alignment of the field personnel assigned to such  
7 programs;

8 (4) how the Office of Government Contracting  
9 and Business Development could improve its staffing  
10 of regulatory drafting functions and its coordination  
11 with the Federal Acquisition Regulatory Council to  
12 ensure timely rulemaking by the Small Business Ad-  
13 ministration; and

14 (5) any other areas in which the Comptroller  
15 General determines that the Small Business Admin-  
16 istration could improve its performance with respect  
17 to procurement and business development programs.

18 (b) REPORT.—Not later than 1 year after initiating  
19 the review required by paragraph (1), the Comptroller  
20 General shall submit a report including the results of the  
21 review, along with any recommendations for improvements  
22 or other suggestions with respect to procurement and busi-  
23 ness development programs, to the Committee on Small  
24 Business of the House of Representatives and the Com-

1 mittee on Small Business and Entrepreneurship of the  
2 Senate.

3 (c) PROCUREMENT AND BUSINESS DEVELOPMENT

4 PROGRAM DEFINED.—In this Act, the term “procurement

5 and business development program” means a program re-

6 lated to procurement or business development established

7 under section 7, 8, 15, 31, 36, 44, 45, or 46 of the Small

8 Business Act (15 U.S.C. 631 et seq.).

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