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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.

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "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.

TITLE I—IMPROVING TRANSPARENCY AND CLARITY FOR SMALL BUSINESSES

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

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

"(a) SMALL BUSINESS PROCUREMENTS.—

"(1) IN GENERAL.—For purposes of this Act, small business concerns shall receive any award or contract if such award or contract is, in the determination of the Administrator and the contracting agency, in the interest of—

"(A) maintaining or mobilizing the full productive capacity of the United States;

"(B) war or national defense programs; or

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

"(2) INDUSTRY CATEGORY DEFINED.—

"(A) IN GENERAL.—In this subsection, the term 'industry category' means a discrete group of similar goods and services, as determined by

the Administrator in accordance with the North American Industry Classification System codes used to establish small business size standards under section 3(a), except that the Administrator shall limit an industry category to a greater extent than provided under the North American Industry Classification codes if the Administrator receives evidence indicating that further segmentation of the industry category is warranted—

"(i) due to special capital equipment needs;

"(ii) due to special labor requirements;

"(iii) due to special geographic requirements, except as provided in subparagraph (B); or

"(iv) to recognize a new industry.

"(B) EXCEPTION FOR GEOGRAPHIC REQUIREMENTS.—The Administrator may not further segment an industry category based on geographic requirements unless—

"(i) the Government typically designates the geographic area where work for

contracts for goods or services is to be performed;

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

"(iii) it is unreasonable to expect competition from business concerns located outside of the general geographic area due to the fixed location of facilities, high mobilization costs, or similar economic factors.

"(3) DETERMINATIONS WITH RESPECT TO AWARDS OR CONTRACTS.—Determinations made pursuant to paragraph (1) may be made for individual awards or contracts, any part of an award or contract, or for classes of awards or contracts.

"(4) INCREASING PRIME CONTRACTING OPPORTUNITIES FOR SMALL BUSINESS CONCERNS.—

"(A) DESCRIPTION OF COVERED PROPOSED PROCUREMENTS.—The requirements of the paragraph shall apply to a proposed procurement that includes in its statement of work goods or services currently being supplied or performed by a small business concern and, as determined by the Administrator—

"(i) is in a quantity or of an estimated dollar value which makes the participation of a small business concern as a prime contractor unlikely;

"(ii) in the case of a proposed procurement for construction, if such proposed procurement seeks to bundle or consolidate discrete construction projects; or

"(iii) is a solicitation that involves an unnecessary or unjustified bundling of contract requirements.

"(B) NOTICE TO PROCUREMENT CENTER REPRESENTATIVES.—With respect to proposed procurements described in subparagraph (A), at least 30 days before issuing a solicitation and concurrent with other processing steps required before issuing the solicitation, the contracting agency shall provide a copy of the proposed procurement to the procurement center representative of the contracting agency (as described in subsection (l)) along with a statement explaining—

"(i) why the proposed procurement cannot be divided into reasonably small lots (not less than economic production

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

"(ii) why delivery schedules cannot be established on a realistic basis that will encourage the participation of small business concerns in a manner consistent with the actual requirements of the Government;

"(iii) why the proposed procurement cannot be offered to increase the likelihood of the participation of small business concerns;

"(iv) in the case of a proposed procurement for construction, why the proposed procurement cannot be offered as separate discrete projects; or

"(v) why the agency has determined that the bundling of contract requirements is necessary and justified.

"(C) ALTERNATIVES TO INCREASE PRIME CONTRACTING OPPORTUNITIES FOR SMALL BUSINESS CONCERNS.—If the procurement center representative believes that the proposed procurement will make the participation of small business concerns as prime contractors unlikely, the procurement center representative,

within 15 days after receiving the statement described in subparagraph (B), shall recommend to the contracting agency alternative procurement methods for increasing prime contracting opportunities for small business concerns.

"(D) FAILURE TO AGREE ON AN ALTERNATIVE PROCUREMENT METHOD.—If the procurement center representative and the contracting agency fail to agree on an alternative procurement method, the Administrator shall submit the matter to the head of the appropriate department or agency for a determination.

"(5) CONTRACTS FOR SALE OF GOVERNMENT PROPERTY.—With respect to a contract for the sale of Government property, small business concerns shall receive any such contract if, in the determination of the Administrator and the disposal agency, the award of such contract is in the interest of assuring that a fair proportion of the total sales of Government property be made to small business concerns.

"(6) OTHER REQUIREMENTS.—

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

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

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

SEC. 102. IMPROVING REPORTING ON SMALL BUSINESS GOALS.

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

(1) in clause (i)—

(A) in subclause (III), by striking "and" at the end; and

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

"(V) that were purchased by another entity after the initial contract was awarded and as a result of the purchase, would no longer be deemed to be small business concerns for purposes of the initial contract; and

"(VI) that were awarded using a procurement method that restricted

competition to small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, small business concerns owned and controlled by women, or a subset of any such concerns;'';

(2) in clause (ii)—

(A) in subclause (IV), by striking ''and'' at the end; and

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

''(VI) that were purchased by another entity after the initial contract was awarded and as a result of the purchase, would no longer be deemed to be small business concerns owned and controlled by service-disabled veterans for purposes of the initial contract; and

''(VII) that were awarded using a procurement method that restricted competition to qualified HUBZone

small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, small business concerns owned and controlled by women, or a subset of any such concerns;'';

(3) in clause (iii)—

(A) in subclause (V), by striking ''and'' at the end; and

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

''(VII) that were purchased by another entity after the initial contract was awarded and as a result of the purchase, would no longer be deemed to be qualified HUBZone small business concerns for purposes of the initial contract; and

''(VIII) that were awarded using a procurement method that restricted competition to small business concerns owned and controlled by service-disabled veterans, small business concerns owned and controlled by socially and economically disadvantaged indi-

viduals, small business concerns owned and controlled by women, or a subset of any such concerns;'';

(4) in clause (iv)—

(A) in subclause (V), by striking ''and'' at the end; and

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

''(VII) that were purchased by another entity after the initial contract was awarded and as a result of the purchase, would no longer be deemed to be small business concerns owned and controlled by socially and economically disadvantaged individuals for purposes of the initial contract; and

''(VIII) that were awarded using a procurement method that restricted competition to small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by

women, or a subset of any such concerns;'';

(5) in clause (v)—

(A) in subclause (IV), by striking ''and'' at the end;

(B) in subclause (V), by inserting ''and'' at the end; and

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

''(VI) that were purchased by another entity after the initial contract was awarded and as a result of the purchase, would no longer be deemed to be small business concerns owned by an Indian tribe other than an Alaska Native Corporation for purposes of the initial contract;'';

(6) in clause (vi)—

(A) in subclause (IV), by striking ''and'' at the end;

(B) in subclause (V), by inserting ''and'' at the end; and

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

"(VI) that were purchased by another entity after the initial contract was awarded and as a result of the purchase, would no longer be deemed to be small business concerns owned by a Native Hawaiian Organization for purposes of the initial contract;";

(7) in clause (vii)—

(A) in subclause (IV), by striking "and" at the end;

(B) in subclause (V), by striking "and" at the end; and

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

"(VI) that were purchased by another entity after the initial contract was awarded and as a result of the purchase, would no longer be deemed to be small business concerns owned by an Alaska Native Corporation for purposes of the initial contract; and"; and

(8) in clause (viii)—

(A) in subclause (VII), by striking "and" at the end;

(B) in subclause (VIII), by striking ''and'' at the end; and

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

''(IX) that were purchased by another entity after the initial contract was awarded and as a result of the purchase, would no longer be deemed to be small business concerns owned and controlled by women for purposes of the initial contract; and

''(X) that were awarded using a procurement method that restricted competition to small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, or a subset of any such concerns; and''.

SEC. 103. TRANSPARENCY IN SMALL BUSINESS GOALS.

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

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

"(A) where the contract is awarded;

"(B) where the contract is performed;

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

"(D) whether funding for the contract is made available in an appropriations Act, if the contract is subject to the requirements of chapter 33 of title 41, United States Code, or chapter 137 of title 10, United States Code, and the Federal Acquisition Regulation; or

"(E) whether the contract is otherwise subject to the Federal Acquisition Regulation.".

SEC. 104. UNIFORMITY IN PROCUREMENT TERMINOLOGY.

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

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

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

''(m) DEFINITIONS PERTAINING TO CONTRACTING.—In this Act:

''(1) PRIME CONTRACT.—The term 'prime contract' has the meaning given such term in section 8701(4) of title 41, United States Code.

''(2) PRIME CONTRACTOR.—The term 'prime contractor' has the meaning given such term in section 8701(5) of title 41, United States Code.

''(3) SIMPLIFIED ACQUISITION THRESHOLD.—The term 'simplified acquisition threshold' has the meaning given such term in section 134 of title 41, United States Code.

''(4) TOTAL PURCHASE AND CONTRACTS FOR PROPERTY AND SERVICES.—The term 'total purchases and contracts for property and services' shall mean total number and total dollar amount of contracts and orders for property and services.''.

TITLE II—CLARIFYING THE ROLES OF SMALL BUSINESS ADVOCATES

SEC. 201. DUTIES OF PROCUREMENT CENTER REPRESENTATIVES WITH RESPECT TO REVIEWING SOLICITATIONS.

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

(1) by redesignating subparagraphs (E) through (I) as subparagraphs (F) through (J), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) review any solicitation for a contract or task order without regard to whether the contract or task order or part of the contract or task order is set aside for small business concerns, whether 1 or more contract or task order awards are reserved for small business concerns under a multiple award contract, or whether or not the solicitation would result in a bundled or consolidated contract (as defined in subsection (s)) or a bundled or consolidated task order;".

SEC. 202. RESPONSIBILITIES OF COMMERCIAL MARKET REPRESENTATIVES.

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

(1) in the subsection heading, by striking ''CERTIFICATION REQUIREMENTS FOR'';

(2) in paragraph (2), by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively (and conforming the margins accordingly);

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

''(B) APPLICATION.—The requirements of clause (i) shall be included in any initial job posting for the position of a commercial market representative and shall apply to any person appointed as a commercial market representative after November 25, 2015.'';

(4) in clause (i) (as so redesignated), by striking ''paragraph (2)'' and inserting ''subparagraph (A)'';

(5) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively (and conforming the margins accordingly);

(6) in subparagraph (A) (as so redesignated), by striking ''paragraph (2)'' and inserting ''subparagraph (B)''; and

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

''(1) DUTIES.—The principal duties of a Commercial Market Representative employed by the Administrator and reporting to the senior official appointed by the Administrator with responsibilities under sections 8, 15, 31, and 36 (or the designee of such official) shall be to advance the policies established in section 8(d)(1) relating to subcontracting. Such duties shall include—

''(A) helping prime contractors to find small business concerns that are capable of performing subcontracts;

''(B) for contractors awarded contracts containing the clause described in section 8(d)(3), providing—

''(i) counseling on the contractor's responsibility to maximize subcontracting opportunities for small business concerns;

''(ii) instruction on methods and tools to identify potential subcontractors that are small business concerns; and

"(iii) assistance to increase awards to subcontractors that are small business concerns through visits, training, and reviews of past performance;

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

"(D) conducting periodic reviews of contractors awarded contracts containing the clause described in section 8(d)(3) to assess compliance with subcontracting plans required under section 8(d)(6).

"(2) CERTIFICATION REQUIREMENTS.—".

SEC. 203. DUTIES OF THE OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.

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

(1) by striking "section 8, 15 or 44" and inserting "section 8, 15, 31, 36, or 44";

(2) by striking "sections 8 and 15" each place such term appears and inserting "sections 8, 15, 31, 36, and 44";

(3) in paragraph (10), by striking ''section 8(a)'' and inserting ''section 8, 15, 31, or 36'';

(4) by redesignating paragraphs (15), (16), and (17) as paragraphs (16), (17), and (18), respectively;

(5) by inserting after paragraph (14) the following new paragraph:

''(15) shall review purchases made by the agency greater than the micro-purchase threshold defined in section 1902(a) of title 41, United States Code, and less than the simplified acquisition threshold to ensure that the purchases have been made in compliance with the provisions of this Act and have been properly recorded in the Federal Procurement Data System, if the method of payment is a purchase card issued by the Department of Defense pursuant to section 2784 of title 10, United States Code, or by the head of an executive agency pursuant to section 1909 of title 41, United States Code;''; and

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

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

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

"(D) any failure of the agency to comply with section 8, 15, 31, or 36.".

SEC. 204. IMPROVING CONTRACTOR COMPLIANCE.

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

(1) by redesignating paragraphs (16), (17), and (18) as paragraphs (17), (18), and (19), respectively; and

(2) by inserting after paragraph (15) the following new paragraph:

"(16) shall provide assistance to a small business concern awarded a contract or subcontract under this Act or under title 10 or title 41, United States Code, with finding resources for education and training on compliance with contracting regulations (including the Federal Acquisition Regulation) after award of such a contract or subcontract.".

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

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

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

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

''(D) the assistance the mentor firm will provide to the protege firm in understanding contract regulations of the Federal Government and the Department of Defense (including the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement) after award of a subcontract under this section, if applicable.''.

(c) RESOURCES FOR SMALL BUSINESS CONCERNS.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end the following new subsection:

''(t) POST-AWARD COMPLIANCE RESOURCES.—The Administrator shall provide to small business development centers (as defined in section 21) and entities participating in the Procurement Technical Assistance Cooperative Agreement Program under chapter 142 of title 10,

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

(d) REQUIREMENTS FOR PROCUREMENT CENTER REPRESENTATIVES.—Section 15(l)(2) of the Small Business Act (15 U.S.C. 644(l)(2)) is amended—

(1) by redesignating subparagraph (J) as subparagraph (K);

(2) in subparagraph (I), by striking ''and'' at the end; and

(3) by inserting after subparagraph (I) the following new subparagraph:

''(J) assist small business concerns with finding resources for education and training on compliance with contracting regulations (including the Federal Acquisition Regulation) after award of a contract or subcontract; and''.

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

"(K) The extent to which assistance with compliance with the requirements of contracting with the Federal Government after award of a contract or subcontract under this section.".

TITLE III—STRENGTHENING OPPORTUNITIES FOR COMPETITION IN SUBCONTRACTING

SEC. 301. GOOD FAITH IN SUBCONTRACTING.

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

(1) by striking "(9) The failure" and inserting the following:

"(9) MATERIAL BREACH.—The failure";

(2) in subparagraph (A), by striking "or" at the end;

(3) in subparagraph (B), by inserting "or" at the end; and

(4) by inserting after subparagraph (B) the following:

"(C) assurances provided under paragraph (6)(E),".

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

the Small Business Act (15 U.S.C. 637(d)(11)) is amended—

(1) by striking "(11) In the case of" and inserting the following:

"(11) AUTHORITY OF ADMINISTRATOR.—In the case of"; and

(2) in subparagraph (B), by striking ", which shall be advisory in nature,".

(c) REVIEW AND ACCEPTANCE OF SUBCONTRACTING PLANS.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:

"(17) REVIEW AND ACCEPTANCE OF SUBCONTRACTING PLANS.—

"(A) DEFINITION.—In this paragraph, the term 'covered small business concerns' means—

"(i) small business concerns;

"(ii) qualified HUBZone small business concerns;

"(iii) small business concerns owned and controlled by veterans;

"(iv) small business concerns owned and controlled by service-disabled veterans;

"(v) small business concerns owned and controlled by socially and economically

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

"(vi) small business concerns owned and controlled by women.

"(B) DELAYED ACCEPTANCE OF PLAN.—Except as provided in subparagraph (E), if a procurement center representative or commercial market representative determines that a subcontracting plan required under paragraph (4) or (5) fails to provide the maximum practicable opportunity for covered small business concerns to participate in the performance of the contract to which the plan applies, the representative may delay acceptance of the plan in accordance with subparagraph (C).

"(C) PROCESS FOR DELAYED ACCEPTANCE.—

"(i) IN GENERAL.—Except as provided in clause (ii), a procurement center representative or commercial market representative who makes a determination under subparagraph (B) with respect to a subcontracting plan may delay acceptance of the plan for a 30-day period by providing written notice of the determination

to the head of the procuring activity of the contracting agency that includes recommendations for altering the plan to provide the maximum practicable opportunity described in that subparagraph.

"(ii) EXCEPTION.—In the case of the Department of Defense—

"(I) a procurement center representative or commercial market representative who makes a determination under subparagraph (B) with respect to a subcontracting plan may delay acceptance of the plan for a 15-day period by providing written notice of the determination to appropriate personnel of the Department of Defense that includes recommendations for altering the plan to provide the maximum practicable opportunity described in that subparagraph; and

"(II) the authority of a procurement center representative or commercial market representative to delay acceptance of a subcontracting plan as provided in subparagraph (B) does

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

"(D) DISAGREEMENTS.—If a procurement center representative or commercial market representative delays the acceptance of a subcontracting plan under subparagraph (C) and does not reach agreement with the head of the procuring activity of the contracting agency to alter the plan to provide the maximum practicable opportunity described in subparagraph (B) not later than 30 days after the date on which written notice was provided, the disagreement shall be submitted to the head of the contracting agency by the Administrator for a final determination.

"(E) EXCEPTION.—A procurement center representative or commercial market representative may not delay the acceptance of a subcontracting plan if the head of the contracting agency certifies that the need of the agency for the supplies or services is of such an unusual and compelling urgency that the United States would be seriously injured unless the agency is permitted to accept the subcontracting plan.".

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

SEC. 302. PILOT PROGRAM TO PROVIDE OPPORTUNITIES FOR QUALIFIED SUBCONTRACTORS TO OBTAIN PAST PERFORMANCE RATINGS.

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

"(18) PILOT PROGRAM PROVIDING PAST PERFORMANCE RATINGS FOR OTHER SMALL BUSINESS SUBCONTRACTORS.—

"(A) ESTABLISHMENT.—The Administrator shall establish a pilot program for a small business concern performing as a first tier subcontractor for a covered contract (as defined in paragraph 13(A)) to request a past

performance rating in the system used by the Federal Government to monitor or record contractor past performance.

"(B) APPLICATION.—A small business concern described in subparagraph (A) shall submit an application to the appropriate official for a past performance rating. Such application shall include written evidence of the past performance factors for which the small business concern seeks a rating and a suggested rating.

"(C) DETERMINATION.—The appropriate official shall submit the application from the small business concern to the contracting officer (or a designee of such officer) for the covered contract and to the prime contractor for review. The contracting officer (or designee) and the prime contractor shall, not later than 30 days after receipt of the application, submit to the appropriate official a response regarding the application.

"(i) AGREEMENT ON RATING.—If the contracting officer (or designee) and the prime contractor agree on a past performance rating, or if either the contracting officer (or designee) or the prime contractor

fail to respond and the responding individual agrees with the rating of the applicant small business concern, the appropriate official shall enter the agreed-upon past performance rating in the system described in subparagraph (A).

"(ii) DISAGREEMENT ON RATING.—If the contracting officer (or designee) and the prime contractor fail to respond within 30 days or if they disagree about the rating, or if either the contracting officer (or designee) or the prime contractor fail to respond and the responding individual disagrees with the rating of the applicant small business concern, the contracting officer (or designee) or the prime contractor shall submit a notice contesting the application to appropriate official. The appropriate official shall follow the requirements of subparagraph (D).

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

mit comments, rebuttals, or additional information relating to the past performance of such concern not later 14 calendar days after receipt of such notice. The appropriate official shall enter the into the system described in subparagraph (A) a rating that is neither favorable nor unfavorable along with the initial application from the small business concern, the responses of the contracting officer (or designee) and the prime contractor, and any additional information provided by the small business concern.

"(E) USE OF INFORMATION.—A small business subcontractor may use a past performance rating given under this paragraph to establish its past performance for a prime contract.

"(F) DURATION.—The pilot program established under this paragraph shall terminate 3 years after the date on which the first small business concern receives a past performance rating for performance as a first tier subcontractor.

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

ment of such program. Not later than 6 months after beginning such assessment, the Comptroller General shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, which shall include—

"(i) the number of small business concerns that have received past performance ratings under the pilot program;

"(ii) the number of applications in which the contracting officer (or designee) or the prime contractor contested the application of the small business concern;

"(iii) any suggestions or recommendations the Comptroller General or the small business concerns participating in the program have to address disputes between the small business concern, the contracting officer (or designee), and the prime contractor on past performance ratings; and

"(iv) any suggestions or recommendation the Comptroller General has to improve the operation of the pilot program.

"(H) APPROPRIATE OFFICIAL DEFINED.—In this paragraph, the term 'appropriate official' means a Commercial Market Representative or other individual designated by the senior official appointed by the Administrator with responsibilities under sections 8, 15, 31, and 36.".

TITLE IV—MENTOR-PROTEGE PROGRAMS

SEC. 401. AMENDMENTS TO THE MENTOR-PROTEGE PROGRAM OF THE DEPARTMENT OF DEFENSE.

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

(1) in subsection (d)—

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

"(1) prior to the approval of that agreement, the Administrator of the Small Business Administration had made no finding of affiliation between the mentor firm and the protege firm;";

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

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

"(2)(A) the Administrator of the Small Business Administration does not have a current finding of affiliation between the mentor firm and protege firm; or

"(B) the Secretary, after considering the regulations promulgated by the Administrator of the Small Business Administration regarding affiliation—

"(i) does not have reason to believe that the mentor firm affiliated with the protege firm; or

"(ii) has received a formal determination of no affiliation between the mentor firm and protege firm from the Administrator after having submitted a question of affiliation to the Administrator; and"; and

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

"(9) The term 'affiliation', with respect to a relationship between a mentor firm and a protege firm, means a relationship described under section 121.103 of title 13, Code of Federal Regulations (or any successor regulation).".

SEC. 402. IMPROVING COOPERATION BETWEEN THE MENTOR-PROTEGE PROGRAMS OF THE SMALL BUSINESS ADMINISTRATION AND THE DEPARTMENT OF DEFENSE.

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

TITLE V—MISCELLANEOUS

SEC. 501. IMPROVING EDUCATION ON SMALL BUSINESS REGULATIONS.

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

''(u) REGULATORY CHANGES AND TRAINING MATERIALS.—Not less than annually, the Administrator shall provide to the Defense Acquisition University (established under section 1746 of title 10, United States Code), the Federal Acquisition Institute (established under section 1201 of title 41, United States Code), the individual responsible for mandatory training and education of the acquisition workforce of each agency (described under section 1703(f)(1)(C) of title 41, United States Code), small business development centers (as defined in section 21), and entities participating in the Procurement Technical

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

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

"(A) by the Administrator that affect Federal acquisition; and

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

"(2) any materials the Administrator has developed to explain, train, or assist Federal agencies or departments or small business concerns to comply with the regulations specified in paragraph (1).".

SEC. 502. PROTECTING TASK ORDER COMPETITION.

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

SEC. 503. IMPROVEMENTS TO SIZE STANDARDS FOR SMALL AGRICULTURAL PRODUCERS.

(a) AMENDMENT TO DEFINITION OF AGRICULTURAL ENTERPRISES.—Paragraph (1) of section 18(b) of the Small Business Act (15 U.S.C. 647(b)(1)) is amended by striking "businesses" and inserting "small business concerns".

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

vided,'' and all that follows through the period at the end and inserting ''operation.''.

(c) UPDATED SIZE STANDARDS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Administrator of the Small Business Administration shall, by rule, establish size standards in accordance with section 3 of the Small Business Act (15 U.S.C. 632) for agricultural enterprises (as such term is defined in section 18(b)(1) of such Act).

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

SEC. 504. UNIFORMITY IN SERVICE-DISABLED VETERAN DEFINITIONS.

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

(1) by amending paragraph (2) to read as follows:

''(2) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—The term 'small business concern owned and con-

trolled by service-disabled veterans' means any of the following:

"(A) A small business concern—

"(i) not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock (not including any stock owned by an ESOP) of which is owned by one or more service-disabled veterans; and

"(ii) the management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

"(B) A small business concern—

"(i) not less than 51 percent of which is owned by one or more service-disabled veterans with a disability that is rated by the Secretary of Veterans Affairs as a permanent and total disability who are unable to manage the daily business operations of such concern; or

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

"(C)(i) During the time period described in clause (ii), a small business concern that was a small business concern described in subparagraph (A) or (B) immediately prior to the death of a service-disabled veteran who was the owner of the concern, the death of whom causes the concern to be less than 51 percent owned by one or more service-disabled veterans, if—

"(I) the surviving spouse of the deceased veteran acquires such veteran's ownership interest in such concern;

"(II) such veteran had a service-connected disability (as defined in section 101(16) of title 38, United States Code) rated as 100 percent disabling under the laws administered by the Secretary of Veterans Affairs or such veteran died as a result of a service-connected disability; and

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

scribed in clause (ii), the small business concern is included in the database described in section 8127(f) of title 38, United States Code.

"(ii) The time period described in this clause is the time period beginning on the date of the veteran's death and ending on the earlier of—

"(I) the date on which the surviving spouse remarries;

"(II) the date on which the surviving spouse relinquishes an ownership interest in the small business concern; or

"(III) the date that is 10 years after the date of the death of the veteran."; and

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

"(6) ESOP.—The term 'ESOP' has the meaning given the term 'employee stock ownership plan' in section 4975(e)(7) of the Internal Revenue Code of 1986 (26 U.S.C. 4975(e)(7)).

"(7) SURVIVING SPOUSE.—The term 'surviving spouse' has the meaning given such term in section 101(3) of title 38, United States Code.".

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

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

(A) by striking subsection (h) and redesignating subsections (i) through (l) as subsections (h) through (k), respectively; and

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

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

''(2) The term 'small business concern owned and controlled by veterans' has the meaning given that term under section 3(q)(3) of the Small Business Act (15 U.S.C. 632(q)(3)).''; and

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

''(3) The term 'small business concern owned and controlled by veterans with service-connected disabilities' has the meaning given the term 'small business concern owned and controlled by service-disabled veterans' under section 3(q)(2) of the Small Business Act (15 U.S.C. 632(q)(2)).''.

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

(A) in subsection (b), by inserting ''or a small business concern owned and controlled by veterans with service-connected disabilities'' after ''a small business concern owned and controlled by veterans'';

(B) in subsection (c), by inserting ''or a small business concern owned and controlled by veterans with service-connected disabilities'' after ''a small business concern owned and controlled by veterans'';

(C) in subsection (d) by inserting ''or small business concerns owned and controlled by veterans with service-connected disabilities'' after ''small business concerns owned and controlled by veterans'' both places it appears; and

(D) in subsection (f)(1), by inserting '', small business concerns owned and controlled by veterans with service-connected disabilities,'' after ''small business concerns owned and controlled by veterans''.

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

''(H) In this contract, the term 'small business concern owned and controlled by service-disabled

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

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

(1) REQUIREMENT TO USE CERTAIN SMALL BUSINESS ADMINISTRATION REGULATIONS.—Section 8127(f)(4) of title 38, United States Code, is amended by striking ''verified'' and inserting ''verified, using regulations issued by the Administrator of the Small Business Administration with respect to the status of the concern as a small business concern and the ownership and control of such concern,''.

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

''(7) The Secretary may not issue regulations related to the status of a concern as a small business concern and the ownership and control of such small business concern.''.

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

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

(f) APPEALS OF INCLUSION IN DATABASE.—

(1) IN GENERAL.—Section 8127(f) of title 38, United States Code, as amended by section 3, is further amended by adding at the end the following new paragraph:

''(8)(A) If the Secretary does not verify a concern for inclusion in the database under this subsection based on the status of the concern as a small business concern or the ownership or control of the concern, the concern may appeal the denial of verification to the Office of Hearings and Appeals of the Small Business Administration (as established under part 134 of title 13, Code of Federal Regulations, or any successor administrative appellate entity created with the Small Business Administration). The decision of the Office of Hearings and Appeals shall be considered a final agency action.

''(B)(i) If an interested party challenges the inclusion in the database of a small business concern owned and controlled by veterans or a small business concern owned and controlled by veterans with service-connected disabilities based on the status of the concern as a small business 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.''.

(2) EFFECTIVE DATE.—Paragraph (8) of subsection (f) of title 38, United States Code, as added by paragraph (1), shall apply with respect to a verification decision made by the Secretary of Veterans Affairs on or after the date of the enactment of this Act.

SEC. 505. GAO REVIEW OF THE OFFICE OF GOVERNMENT CONTRACTING AND BUSINESS DEVELOPMENT OF THE SMALL BUSINESS ADMINISTRATION.

(a) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Comptroller General of the United States shall initiate a review of the Office of Government Contracting and Business Development of the Small Business Administration. Such review shall examine—

(1) the extent to which the personnel of the Small Business Administration who carry out procurement and business development programs report to the Office of Government Contracting and Business Development;

(2) whether greater efficiency and consistency in the certification process of procurement and business development programs could be achieved by creating a single organizational unit of employees to

process all certifications required by procurement and business development programs;

(3) whether greater efficiency and efficacy in the performance of procurement and business development programs could be achieved by improving the alignment of the field personnel assigned to such programs;

(4) how the Office of Government Contracting and Business Development could improve its staffing of regulatory drafting functions and its coordination with the Federal Acquisition Regulatory Council to ensure timely rulemaking by the Small Business Administration; and

(5) any other areas in which the Comptroller General determines that the Small Business Administration could improve its performance with respect to procurement and business development programs.

(b) REPORT.—Not later than 1 year after initiating the review required by paragraph (1), the Comptroller General shall submit a report including the results of the review, along with any recommendations for improvements or other suggestions with respect to procurement and business development programs, to the Committee on Small 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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