

contracts entered into with (1) Federal departments and agencies other than the Department of Defense, and (2) State and local governments.

(b) INFORMATION RELATING TO ASSISTANCE AND OTHER PROGRAMS AVAILABLE.—An eligible entity assisted by the Department of Defense under this chapter also may furnish information relating to assistance and other programs available pursuant to the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992.

(c) EDUCATION ON REQUIREMENTS APPLICABLE TO SMALL BUSINESSES UNDER CERTAIN REGULATIONS.—An eligible entity assisted by the Department of Defense under this chapter also may furnish education on the requirements applicable to small businesses under the regulations issued—

(1) under section 38 of the Arms Export Control Act (22 U.S.C. 2778), and on compliance with those requirements; and

(2) under section 9 of the Small Business Act (15 U.S.C. 638), and on compliance with those requirements.

(Added Pub. L. 102-484, div. D, title XLII, § 4236(a)(1)(B), Oct. 23, 1992, 106 Stat. 2691, § 2418; amended Pub. L. 113-291, div. A, title VIII, § 823(b), Dec. 19, 2014, 128 Stat. 3436; Pub. L. 115-91, div. A, title XVII, § 1708, Dec. 12, 2017, 131 Stat. 1809; renumbered § 4958 and amended Pub. L. 116-283, div. A, title XVIII, § 1872(a)(9), Jan. 1, 2021, 134 Stat. 4289; Pub. L. 117-81, div. A, title XVII, § 1701(b)(24), (m)(2)(E), Dec. 27, 2021, 135 Stat. 2135, 2145.)

Editorial Notes

REFERENCES IN TEXT

The Defense Conversion, Reinvestment, and Transition Assistance Act of 1992, referred to in subsec. (b), is div. D of Pub. L. 102-484, Oct. 23, 1992, 106 Stat. 2658. For complete classification of div. D to the Code, see Short Title note set out under section 4801 of this title and Tables.

AMENDMENTS

2021—Pub. L. 116-283, § 1872(a)(9), as amended by Pub. L. 117-81, § 1701(b)(24), (m)(2)(E), renumbered section 2418 of this title as this section and inserted headings in subssecs. (a) to (c).

2017—Subsec. (c), Pub. L. 115-91 substituted “issued—” for “issued”, inserted par. (1) designation before “under” and comma before “and on compliance”, and added par. (2).

2014—Subsec. (c), Pub. L. 113-291 added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

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

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

§ 4959. Advancing small business growth

(a) CONTRACT CLAUSE REQUIRED.—(1) The Under Secretary of Defense for Acquisition and Sustainment shall require the clause described

in paragraph (2) to be included in each covered contract awarded by the Department of Defense.

(2) The clause described in this paragraph is a clause that—

(A) requires the contractor to acknowledge that acceptance of the contract may cause the business to exceed the applicable small business size standards (established pursuant to section 3(a) of the Small Business Act) for the industry concerned and that the contractor may no longer qualify as a small business concern for that industry; and

(B) encourages the contractor to develop capabilities and characteristics typically desired in contractors that are competitive as an other-than-small business in that industry.

(b) AVAILABILITY OF ASSISTANCE.—Covered small businesses may be provided assistance as part of any procurement technical assistance furnished pursuant to this chapter.

(c) DEFINITIONS.—In this section:

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

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

(B) with an estimated annual value—

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

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

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

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

Editorial Notes

REFERENCES IN TEXT

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

CODIFICATION

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

AMENDMENTS

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

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

for “Under Secretary of Defense for Acquisition, Technology, and Logistics”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

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

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

§ 4961. Administrative and other costs

The Director of the Defense Logistics Agency may use, out of the amount appropriated for a fiscal year for operation and maintenance for the procurement technical assistance program authorized by this chapter—

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

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

(A) for meetings to discuss best practices for the improvement of the operations of procurement technical assistance centers; and

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

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

Editorial Notes

AMENDMENTS

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

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

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

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-81 applicable as if included in the enactment of title XVIII of Pub. L. 116-283 as enacted, see section 1701(a)(2) of Pub. L. 117-81, set

out in a note preceding section 3001 of this title and note below.

Amendment by section 1872(a)(11) of Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE

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

CHAPTER 389—LOAN GUARANTEE PROGRAMS

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

SUBCHAPTER I—DEFENSE EXPORT LOAN GUARANTEES

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

§ 4971. Establishment of loan guarantee program

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

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

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

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

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

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

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

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

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

(Added Pub. L. 104-106, div. A, title XIII, §1321(a)(1), Feb. 10, 1996, 110 Stat. 475, §2540;