




ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE  
3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

22 OCT 2012

ACTION MEMO

FOR: UNDER SECRETARY OF DEFENSE (AT&L)

FROM: André J. Gudger, Director, OSBP 

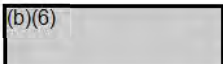

SUBJECT: Comprehensive Subcontracting Plan Test Program Interim Report to Congress

- Department of Defense Interim Report to Congress on the evaluation of the Comprehensive Subcontracting Plan (CSP) Test Program is attached at TAB A.
- Section 866 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81, TAB B) extended the Department of Defense Comprehensive Subcontracting Plan Test Program (15 U.S.C. 637 Note, TAB C) through 2014, and requested the Secretary of Defense to submit a report on the results of the test program.
- The Office of Small Business Programs began collecting data from program participants prior to Congress instituting this as a requirement. However, given the frequency of data submitted this will require additional time to complete a meaningful analysis.
  - To date, we have collected one full year of data in two six-month increments.
  - We intend to collect two more sets of semi-annual data, giving us the two most recent full years of data to use to perform our analysis.
- We expect to submit the complete report by March 1, 2013.

RECOMMENDATION: Sign transmittal letters at TAB A

COORDINATION: TAB D

Attachments:  
As stated

Prepared by: , OSBP,  (SACCP: USA005794-12)



ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

The Honorable Carl Levin  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

NOV 12 2012

Dear Mr. Chairman:

Section 866 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law No. 112-81) extended the Department of Defense Comprehensive Small Business Subcontracting Plan Test Program through December 31, 2014, and directed the Secretary of Defense to submit a report on the results of the test program.

The Department had begun collecting data from program participants prior to Congress enacting this new reporting requirement; however, this requires more time to gather the sufficient data to perform a meaningful analysis. To date, we have collected 1 full year of data in two 6-month increments. We intend to collect two more sets of semi-annual data, providing us with the 2 most recent years of data to perform our analysis. We intend to submit this report by March 1, 2013.

A similar letter has been sent to the relevant congressional committees.

Sincerely,



Frank Kendall

cc:

The Honorable John McCain  
Ranking Member



ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

The Honorable Howard P. "Buck" McKeon  
Chairman  
Committee on Armed Services  
U.S. House of Representatives  
Washington, DC 20515

NOV 12 2012

Dear Mr. Chairman:

Section 866 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law No. 112-81) extended the Department of Defense Comprehensive Small Business Subcontracting Plan Test Program through December 31, 2014, and directed the Secretary of Defense to submit a report on the results of the test program.

The Department had begun collecting data from program participants prior to Congress enacting this new reporting requirement; however, this requires more time to gather the sufficient data to perform a meaningful analysis. To date, we have collected 1 full year of data in two 6-month increments. We intend to collect two more sets of semi-annual data, providing us with the 2 most recent years of data to perform our analysis. We intend to submit this report by March 1, 2013.

A similar letter has been sent to the relevant congressional committees.

Sincerely,



Frank Kendall

cc:  
The Honorable Adam Smith  
Ranking Member



ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

The Honorable Sam Graves  
Chairman  
Committee on Small Business  
U.S. House of Representatives  
Washington, DC 20515

NOV 12 2012

Dear Mr. Chairman:

Section 866 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law No. 112-81) extended the Department of Defense Comprehensive Small Business Subcontracting Plan Test Program through December 31, 2014, and directed the Secretary of Defense to submit a report on the results of the test program.

The Department had begun collecting data from program participants prior to Congress enacting this new reporting requirement; however, this requires more time to gather the sufficient data to perform a meaningful analysis. To date, we have collected 1 full year of data in two 6-month increments. We intend to collect two more sets of semi-annual data, providing us with the 2 most recent years of data to perform our analysis. We intend to submit this report by March 1, 2013.

A similar letter has been sent to the relevant congressional committees.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Kendall", with a stylized flourish at the end.

Frank Kendall

cc:  
The Honorable Nydia Velazquez  
Ranking Member



ACQUISITION,  
TECHNOLOGY  
AND LOGISTICS

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

The Honorable Mary Landrieu  
Chairman  
Committee on Small Business  
and Entrepreneurship  
United States Senate  
Washington, DC 20510

NOV 12 2012


Dear Madam Chairman:

Section 866 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law No. 112-81) extended the Department of Defense Comprehensive Small Business Subcontracting Plan Test Program through December 31, 2014, and directed the Secretary of Defense to submit a report on the results of the test program.

The Department had begun collecting data from program participants prior to Congress enacting this new reporting requirement; however, this requires more time to gather the sufficient data to perform a meaningful analysis. To date, we have collected 1 full year of data in two 6-month increments. We intend to collect two more sets of semi-annual data, providing us with the 2 most recent years of data to perform our analysis. We intend to submit this report by March 1, 2013.

A similar letter has been sent to the relevant congressional committees.

Sincerely,



Frank Kendall

cc:  
The Honorable Olympia Snowe  
Ranking Member

**SEC. 865. MODIFICATION OF DELEGATION OF AUTHORITY TO MAKE DETERMINATIONS ON ENTRY INTO COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS WITH NATO AND OTHER FRIENDLY ORGANIZATIONS AND COUNTRIES.**

Section 2350a(b)(2) of title 10, United States Code, is amended by striking “and to one other official of the Department of Defense” and inserting “, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Assistant Secretary of Defense for Research and Engineering”.

**SEC. 866. THREE-YEAR EXTENSION OF TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.**

(a) **THREE-YEAR EXTENSION.**—Subsection (e) of section 834 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (15 U.S.C. 637 note) is amended by striking “September 30, 2011” and inserting “December 31, 2014”.

(b) **ADDITIONAL REPORT.**—Subsection (f) of such section is amended by inserting “and March 1, 2012,” after “March 1, 1994,”.

**SEC. 867. FIVE-YEAR EXTENSION OF DEPARTMENT OF DEFENSE MENTOR-PROTEGE PROGRAM.**

Section 831(j) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2302 note) is amended—

(1) in paragraph (1), by striking “September 30, 2010” and inserting “September 30, 2015”; and

(2) in paragraph (2), by striking “September 30, 2013” and inserting “September 30, 2018”.

## **TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT**

### **Subtitle A—Department of Defense Management**

- Sec. 901. Revision of defense business systems requirements.
- Sec. 902. Qualifications for appointments to the position of Deputy Secretary of Defense.
- Sec. 903. Designation of Department of Defense senior official with principal responsibility for airship programs.
- Sec. 904. Memoranda of agreement on identification and dedication of enabling capabilities of general purpose forces to fulfill certain requirements of special operations forces.
- Sec. 905. Assessment of Department of Defense access to non-United States citizens with scientific and technical expertise vital to the national security interests.
- Sec. 906. Sense of Congress on use of modeling and simulation in Department of Defense activities.
- Sec. 907. Sense of Congress on ties between Joint Warfighting and Coalition Center and Allied Command Transformation of NATO.
- Sec. 908. Report on effects of planned reductions of personnel at the Joint Warfare Analysis Center on personnel skills.

### **Subtitle B—Space Activities**

- Sec. 911. Harmful interference to Department of Defense Global Positioning System.
- Sec. 912. Authority to designate increments or blocks of satellites as major subprograms subject to acquisition reporting requirements.

### **Subtitle C—Intelligence-Related Matters**

- Sec. 921. Report on implementation of recommendations by the Comptroller General on intelligence information sharing.
- Sec. 922. Insider threat detection.

[REDACTED]

**TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS**

Pub. L. 101-574, title IV, §402, Nov. 15, 1990, 104 Stat. 2832, provided that: "To facilitate participation in the test program for the negotiation of comprehensive small business subcontracting plans pursuant to section 834 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1510) [set out below], subsection (d) of such section is hereby suspended for the period of the test program as specified in subsection (e) of such section."

Pub. L. 101-189, div. A, title VIII, §834, Nov. 29, 1989, 103 Stat. 1509, as amended by Pub. L. 102-484, div. A, title VIII, §805, Oct. 23, 1992, 106 Stat. 2447; Pub. L. 103-355, title VII, §7103, Oct. 13, 1994, 108 Stat. 3368; Pub. L. 104-106, div. A, title VIII, §811, Feb. 10, 1996, 110 Stat. 394; Pub. L. 105-85, div. A, title VIII, §822, Nov. 18, 1997, 111 Stat. 1840; Pub. L. 106-65, div. A, title VIII, §817, Oct. 5, 1999, 113 Stat. 712; Pub. L. 106-398, §1 [(div. A), title X, §1087(g)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-293; Pub. L. 108-375, div. A, title VIII, §843, Oct. 28, 2004, 118 Stat. 2019; Pub. L. 111-383, div. A, title VIII, §863(i), Jan. 7, 2011, 124 Stat. 4295; Pub. L. 112-81, div. A, title VIII, §866, Dec. 31, 2011, 125 Stat. 1528, provided that:

"(a) **TEST PROGRAM.**—(1) The Secretary of Defense shall establish a test program under which contracting activities in the military departments and the Defense Agencies are authorized to undertake one or more demonstration projects to determine whether the negotiation and administration of comprehensive subcontracting plans will reduce administrative burdens on contractors while enhancing opportunities provided under Department of Defense contracts for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. In selecting the contracting activities to undertake demonstration projects, the Secretary shall take such action as is necessary to ensure that a broad range of the supplies and services acquired by the Department of Defense are included in the test program.

"(2) In developing the test program, the Secretary of Defense shall—

"(A) consult with the Administrator of the Small Business Administration; and

"(B) provide an opportunity for public comment on the test program.

"(b) **COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLAN.**—(1) In a demonstration project under the test program, the Secretary of a military department or head of a Defense Agency shall negotiate, monitor, and enforce compliance with a comprehensive subcontracting plan with a Department of Defense contractor described in paragraph (3).

"(2) The comprehensive subcontracting plan of a contractor—

"(A) shall apply to the entire business organization of the contractor or to one or more of the contractor's divisions or operating elements, as specified in the subcontracting plan; and

"(B) shall cover each Department of Defense contract that is entered into by the contractor and each subcontract that is entered into by the contractor as the subcontractor under a Department of Defense contract.

"(3) A Department of Defense contractor referred to in paragraph (1) is, with respect to a comprehensive subcontracting plan negotiated in any fiscal year, a business concern that, during the immediately preceding fiscal year, furnished the Department of Defense with supplies or services (including professional services, research and development services, and construction services) pursuant to at least three Department of Defense contracts having an aggregate value of at least \$5,000,000.

"(c) **WAIVER OF CERTAIN SMALL BUSINESS ACT SUBCONTRACTING PLAN REQUIREMENTS.**—A Department of Defense contractor is not required to negotiate or submit a subcontracting plan under paragraph (4) or (5) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)) with respect to a Department of Defense contract if—

"(1) the contractor has negotiated a comprehensive subcontracting plan under the test program that includes the matters specified in section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6));

"(2) such matters have been determined acceptable by the Secretary of the military department or head of a Defense Agency negotiating such comprehensive subcontracting plan; and

"(3) the comprehensive subcontracting plan applies to the contract.

"(d) **FAILURE TO MAKE A GOOD FAITH EFFORT TO COMPLY WITH A COMPANY-WIDE SUBCONTRACTING PLAN.**—A contractor that has negotiated a comprehensive subcontracting plan under the test program shall be subject to section 8(d)(4)(F) of the Small Business Act (15 U.S.C. 637(d)(4)(F)) regarding the assessment of liquidated damages for failure to make a good faith effort to comply with its company-wide plan and the goals specified in that plan.

"(e) **TEST PROGRAM PERIOD.**—The test program authorized by subsection (a) shall begin on October 1, 1990, unless Congress adopts a resolution disapproving the test program. The test program shall terminate on December 31, 2014.

"(f) **REPORT.**—(1) Not later than March 1, 1994, and March 1, 2012, the Secretary of Defense shall submit a report on the results of the test program to the Committees on Armed Services and on Small Business of the Senate and the House of Representatives [Committee on Small Business of Senate now Committee on Small Business and Entrepreneurship of Senate].

"(2) Before submitting such report to the committees referred to in paragraph (1), the Secretary shall transmit the proposed report to the Administrator of the Small Business Administration. The report submitted to the committees shall include any comments and recommendations relating to the report that are transmitted to the Secretary by the Administrator before the date specified in such paragraph.

"(g) **DEFINITIONS.**—As used in this section:

"(1) The term 'small business concern' shall have the same meaning as is provided in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)), and includes a small business concern owned and controlled by socially and economically disadvantaged individuals.

"(2) The term 'small business concern owned and controlled by socially and economically disadvantaged individuals' shall have the same meaning as is provided in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C))."

[Pub. L. 112-81, div. A, title VIII, §866(a), Dec. 31, 2011, 125 Stat. 1528, which directed amendment of section 834 of Pub. L. 101-189, set out above, by substituting "December 31, 2014" for "September 30, 2011" in subsec. (e), was executed by making the substitution for "December 31, 2011" to reflect the probable intent of Congress.]

[REDACTED]

**COORDINATION SHEET**

**SUBJECT: Comprehensive Subcontracting Plan Test Program Interim Report to Congress**

<b>Organization</b>	<b>Name</b>	<b>Comment</b>	<b>Date</b>
LA	Mr. Edward Devinney, LA- DIR/SA (Senate); Mr. Joseph Simonelli, LA- DIR/HA (House)	Concur w/comments	11 October 12
DGC	(b)(6)	Concur as edited	25 September 12
ARA	(b)(6)	<i>Concur</i>	<i>10/15/12</i>

**SACCP: USA005794-12**



(b)(6) CTR OSD ATL

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**From:** (b)(6) CTR OSD ATL  
**Sent:** Friday, November 02, 2012 2:59 PM  
**To:** (b)(6) CTR OSD ATL  
**Cc:** Oliver, Linda, SES, OSD-ATL; (b)(6) CDR OSD LA; (b)(6) OSD ATL  
**Subject:** SACCP USA005794-12  
**Signed By:** (b)(6)

(b)(6)

Thank you for letting me know that CAPT (b)(6) has inquired about providing data to Congress as part of OSBP's Interim Report on the results of the Comprehensive Subcontracting Plan Test Program.

We do not believe that providing any data at this time would be productive. As we stated in the interim report, even before Congress enacted this reporting requirement, we had determined that we would need to collect two full years of data in six-month increments in order to make any sort of meaningful recommendation on a permanent program to replace the CSP Test Program. Peter Levine, a senior staff member for the Senate Armed Services Committee, has told us he wants to see an analysis of the cost savings realized by the Test Program participants.

Were we to provide any data, it would not only be incomplete, it would not provide any of the analysis that Mr. Levine seeks. For that reason, we decided to file the Interim Report to inform Congress that we are actively working on providing recommendations for a follow-on program, but that we truly need more time to do it properly.

It should be noted that the legislation that implemented this requirement was a last-minute floor amendment. The requirement escaped OSD-LA's notice, as you'll see there is not a corresponding CHARRTS requirement. In extending the Test Program through December 31, 2014, Congress tacked the words "and March 1, 2012" to the original reporting requirement. We have not provided a report on the program since 1994.

The latest extension was not enacted until December 31, 2011, giving us only 90 days to complete the report, completely unrealistic given the magnitude of the analysis required.

Please let me know if CAPT (b)(6) or Mr. (b)(6) have any further questions.

V/R,

(b)(6)

(b)(6)

[www.acq.osd.mil/osbp](http://www.acq.osd.mil/osbp)

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