

**SEC. 851. PILOT PROGRAM FOR DEVELOPMENT OF TECHNOLOGY-ENHANCED CAPABILITIES WITH PARTNERSHIP INTERMEDIARIES.**

(a) ESTABLISHMENT.—The Secretary of Defense may authorize the Commander of the United States Special Operations Command to use funds described in subsection (b) for a pilot program under which the Commander shall make, through the use of a partnership intermediary, covered awards to small business concerns to develop technology-enhanced capabilities for special operations forces.

(b) FUNDS.—

(1) IN GENERAL.—The funds described in this subsection are funds transferred to the Commander of the United States Special Operations Command to carry out the pilot program established under this section from funds available to be expended by each covered entity pursuant to section 9(f) of the Small Business Act (15 U.S.C. 638(f)).

(2) LIMITATIONS.—

(A) FISCAL YEAR.—A covered entity may not transfer to the Commander an amount greater than 10 percent of the funds available to be expended by such covered entity pursuant to such section 9(f) for a fiscal year.

(B) AGGREGATE AMOUNT.—The aggregate amount of funds to be transferred to the Commander may not exceed \$20,000,000.

(c) PARTNERSHIP INTERMEDIARIES.—

(1) AUTHORIZATION.—The Commander may modify an existing agreement with a partnership intermediary to assist the Commander in carrying out the pilot program under this section, including with respect to the award of contracts and agreements to small business concerns.

(2) LIMITATION.—None of the funds described in subsection (b) may be used to pay a partnership intermediary for any costs associated with the pilot program.

(3) DATA.—With respect to a covered award made under this section, the Commander shall gather data on the role of the partnership intermediary to include the—

(A) staffing structure;

(B) funding sources; and

(C) methods for identifying and evaluating small business concerns eligible for a covered award.

(d) REPORT.—

(1) ANNUAL REPORT.—Not later than October 1 of each year until October 1, 2026, the Commander of the United States Special Operations Command, in coordination with the Under Secretary of Defense for Research and Engineering, shall submit to the congressional defense committees, the Committee on Small Business of the House of Representatives, and the Committee on Small Business and Entrepreneurship of the Senate a report including—

(A) a description of each agreement with a partnership intermediary entered into pursuant to this section;

(B) for each covered award made under this section—

(i) a description of the role served by the partnership intermediary;

(ii) the amount of funds obligated;

(iii) an identification of the small business concern that received such covered award;

(iv) a description of the use of such covered award;

(v) a description of the role served by the program manager (as defined in section 1737 of title 10, United States Code) of the covered entity with respect to the small business concern that received such covered award, including a description of interactions and the process of the program manager in producing a past performance evaluation of such concern; and  
(vi) the benefits achieved as a result of the use of a partnership intermediary for the pilot program established under this section as compared to previous efforts of the Commander to increase participation by small business concerns in the development of technology-enhanced capabilities for special operations forces; and

(C) a plan detailing how each covered entity will apply lessons learned from the pilot program to improve processes for directly working with and supporting small business concerns to develop technology-enhanced capabilities for special operations forces.

(2) FINAL REPORT.—The final report required under this subsection shall include, along with the requirements of paragraph (1), a recommendation regarding—

(A) whether and for how long the pilot program established under this section should be extended; and

(B) whether to increase funding for the pilot program, including a justification for such an increase.

(e) TERMINATION.—The authority to carry out a pilot program under this section shall terminate on September 30, 2025.

(f) DEFINITIONS.—In this section:

(1) The term ‘covered award’ means an award made under the Small Business Innovation Research Program.

(2) The term ‘covered entity’ means—

(A) the Army;

(B) the Navy;

(C) the Air Force;

(D) the Marine Corps;

(E) the Space Force; and

(F) any element of the Department of Defense that makes awards under the Small Business Innovation Research Program.

(3) The term ‘partnership intermediary’ has the meaning given the term in section 23(c) of the Stevenson-Wydler Technology Innovation Act of 20 1980 (15 U.S.C. 3715(c)).

(4) The term ‘small business concern’ has the meaning given the term under section 3 of the Small Business Act (15 U.S.C. 632).

(5) The term ‘Small Business Innovation Research Program’ has the meaning given the term in section 9(e) of the Small Business Act (15 U.S.C. 638(e)).

(6) The term ‘technology-enhanced capability’ means a product, concept, or process that improves the ability of a member of the Armed Forces to achieve an assigned mission.”

**Joint Explanatory Statement language:**

*Modification of pilot program for development of technology enhanced capabilities with partnership intermediaries (sec. 852)*

The House bill contained a provision (sec. 841) that would amend the pilot program authorized in section 851 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116-92) to raise the aggregate amount allowed to be spent on the pilot from \$2.0 million to \$20.0 million to allow for other entities in the Department of Defense that make awards under the Small Business Innovation Research program to transfer funding to the Commander, U.S. Special Operations Command, to use in the pilot and to extend the activity from September 30, 2021, through September 30, 2025. The annual reporting requirement would be modified to include additional data and information requirements and extended to cover the duration of the pilot program. The Senate amendment contained no similar provision. The agreement includes the House provision.

**SEC. 865. REPORT ON UNFUNDED PRIORITIES OF THE SMALL BUSINESS INNOVATION RESEARCH AND SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM.**

(a) IN GENERAL.—Not later than 10 days after the date on which the budget of the President for fiscal years 2022 through 2032 is submitted to Congress pursuant to section 1105 of title 31, United States Code, each Secretary of a military department and the Under Secretary of Defense for Research and Engineering shall submit to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the congressional defense committees a report on unfunded priorities of the Department of Defense related to high-priority Small Business Innovation Research and Small Business Technology Transfer projects.

(b) ELEMENTS.—

(1) IN GENERAL.—Each report under subsection (a) shall include identification of not more than five unfunded priority projects and the following information for each such unfunded priority project:

(A) A summary description of the unfunded priority project, including the objectives to be achieved if such project were to be funded (either in whole or in part).

(B) The additional amount of funds recommended to achieve the objectives identified under subparagraph (A).

(C) Account information with respect to such unfunded priority project, including, as applicable, the following:

(i) Line item number, in the case of applicable procurement accounts.

(ii) Program element number, in the case of applicable research, development, test, and evaluation accounts.

(iii) Subactivity group, in the case of applicable operation and maintenance accounts.

(2) PRIORITY.—Each Secretary of a military department and the Under Secretary of Defense for Research and Engineering shall ensure that the unfunded priorities covered by a report submitted under subsection (a) are listed in the order of urgency of priority.

(c) DEFINITIONS.—In this section:

(1) UNFUNDED PRIORITY.—The term “unfunded priority”, with respect to a fiscal year, means a specific project related to a project successfully funded under Phase II of the Small Business Innovation Research or Small Business Technology Transfer program that—

(A) is not funded in the budget of the President for that fiscal year, as submitted to Congress pursuant to section 1105 of title 31, United States Code;

(B) has the potential to—

(i) advance the national security capabilities of the United States;

(ii) provide new technologies or processes, or new applications of existing technologies or processes, that will enable new alternatives to existing programs; and

(iii) provide future cost savings; and

(C) would have been recommended for funding through the budget referred to in subparagraph (A) if—

(i) additional resources had been available to fund the program, activity, or mission requirement to which the specific project relates; or

(ii) the program, activity, or mission requirement for such specific project had emerged before the budget was formulated.

(2) PHASE II; SMALL BUSINESS INNOVATION 5 RESEARCH; SMALL BUSINESS TECHNOLOGY TRANSFER.—The terms “Phase II”, “Small Business Innovation Research”, and “Small Business Technology Transfer” have the meanings given such terms, respectively, in section 9(e) of the Small Business Act (15 U.S.C. 638(e)).

**Joint Explanatory Statement language:**

*Report on unfunded priorities of the Small Business Innovation Research and Small Business Technology Transfer program (sec. 865)*

The House bill contained a provision (sec. 842) that would direct the Secretary of Defense and the Secretaries of the military departments to each carry out a pilot program to more effectively transition Small Business Innovation Research (SBIR) programs and Small Business Technology Transfer (STTR) programs into Phase III. This provision would direct the Secretaries to each designate five completed Phase II programs to include in the next future years defense program as Entrepreneurial Innovation Projects, and to consider them as part of the Department of Defense's planning, programming, budgeting, and execution process. The Secretary of Defense would be responsible for submitting a report annually to the congressional defense committees on the programs selected for the duration of the 5- year pilot. The Senate amendment contained a similar provision (sec. 5803). The agreement includes the House provision with an amendment that would direct the Secretary of Defense to provide an unfunded priorities list for successful SBIR and STTR projects, along with the annual budget request.

## **SEC. 866. REPORT ON CYBERSECURITY MATURITY MODEL CERTIFICATION EFFECTS ON SMALL BUSINESS.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives a report on the effects of the Cybersecurity Maturity Model Certification framework of the Department of Defense on small business concerns (as defined under section 3 of the Small Business Act (15 U.S.C. 632), including—

- (1) the estimated costs of complying with each level of the framework based on verified representative samples of actual costs of compliance small business concerns and an explanation of how these costs will be recoverable by such small business concerns;
- (2) the estimated change in the number of small business concerns that are part of the defense industrial base resulting from the implementation and use of the framework;
- (3) explanations of how the Department of Defense will—
  - (A) mitigate negative effects to such small business concerns resulting from the implementation and use of the framework;
  - (B) ensure small business concerns are trained on the requirements for passing a third party assessment, self-assessment, or Government-assessment, as applicable, for compliance with the relevant level of the framework; and
  - (C) work with small business concerns and nontraditional defense contractors (as defined under section 2302 of title 10, United States Code) to enable such concerns and contractors to bid on and win contracts with the Department without first having to risk funds on costly security certifications; and
- (4) the plan of the Department for conducting oversight of third parties conducting assessments of compliance with the applicable protocols under the framework.

### **Joint Explanatory Statement language:**

#### *Report on Cybersecurity Maturity Model Certification effects on small business (sec. 866)*

The House bill contained a provision (sec. 848) that would require the Secretary of Defense to, not later than 120 days after the date of the enactment of this Act, provide a report to certain congressional committees on the effects of implementation of the Cybersecurity Maturity Model Certification framework on small businesses. The Senate amendment contained no similar provision. The agreement includes the House provision with an amendment that would modify elements of the report. The amendment would also expand the reporting requirements to include information on training for small businesses on assessment compliance, efforts to work with non-traditional companies, and a plan for oversight of third-party assessors.

**SEC. 867. DATA ON PHASE III SMALL BUSINESS INNOVATION RESEARCH AND SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAM AWARDS.**

(a) DEFINITIONS.—In this section, the terms “Phase I”, “Phase II”, “Phase III”, “SBIR”, and “STTR” have the meanings given those terms in section 9(e) of the Small Business Act (15 U.S.C. 638(e)).

(b) DATA ON PHASE III AWARDS.—Each Secretary of a military department (as defined in section 101 of title 10, United States Code) shall collect and submit to the President for inclusion in each budget submitted to Congress under section 1105 of title 31, United States Code, data on the Phase III awards under the SBIR and STTR programs of the military department of the Secretary for the immediately preceding fiscal year, including—

- (1) the cumulative funding amount for Phase III awards;
- (2) the number of Phase III award topics;
- (3) the total funding obligated for Phase III awards by State;
- (4) the original Phase I or Phase II award topics and the associated Phase III contracts awarded;
- (5) where possible, an identification of the specific program executive office involved in each Phase III transition; and
- (6) a list of the five highest performing projects, as determined by the Secretary.

**Joint Explanatory Statement language:**

*Data on Phase III Small Business Innovation Research and Small Business Technology Transfer program awards (sec. 867)*

The Senate amendment contained a provision (sec. 842) that would require the Secretaries of the military departments to collect data on Phase III awards under the Small Business Innovation Research and Small Business Technology Transfer programs and submit such data to the President for inclusion in the budget submitted to the Congress under section 1105 of title 31, United States Code. The House bill contained no similar provision. The agreement includes the Senate provision with an amendment that would modify the required information to be provided to the Congress with the budget submission to include an identification of the secretaries’ list of the five highest performing projects, as determined by the Secretary.

Not sure what this is, probably clarifying language:

Pg 1591:

(3) Section 9 of the Small Business Act (15 U.S.C. 638) is amended in subsection (r)(4)(A) by striking “section 2304” and inserting “sections 3201 through 3205”.

From Summary:

- *Directs the Secretary of Defense and the Secretaries of the military departments to carry out pilot programs to transition Small Business Innovation Research programs and Small Business Technology Transfer programs more effectively into Phase III through selection of Entrepreneurial Innovation Projects. (pg 8)*
- *Directs the Secretary of Defense to report to Congress on the effects of the Cybersecurity Maturity Model Certification framework on small business concerns, including costs of complying, the change in number of small businesses in the Defense Industrial Base resulting from the implementation and use of the framework, and efforts the DoD is undertaking to mitigate negative effects on and provide support to small businesses. (pg 13)*
- *Authorizes additional funding for the continued use of Small Business Innovation Research (SBIR) to develop scalable, platform-agnostic data storage system solutions to maximize the utility of existing and future data streams as enabled by advances in artificial intelligence, machine learning, and computer vision. (pg 16)*