

Public Law 115–91
115th Congress

An Act

To authorize appropriations for fiscal year 2018 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Dec. 12, 2017
[H.R. 2810]

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 2018”.

National Defense
Authorization
Act for Fiscal
Year 2018.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into four divisions as follows:

- (1) Division A—Department of Defense Authorizations.
- (2) Division B—Military Construction Authorizations.
- (3) Division C—Department of Energy National Security Authorizations and Other Authorizations.
- (4) Division D—Funding Tables.

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

- Sec. 1. Short title.
- Sec. 2. Organization of Act into divisions; table of contents.
- Sec. 3. Congressional defense committees.
- Sec. 4. Budgetary effects of this Act.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization Of Appropriations

Sec. 101. Authorization of appropriations.

Subtitle B—Army Programs

- Sec. 111. Authority to expedite procurement of 7.62mm rifles.
- Sec. 112. Limitation on availability of funds for Increment 2 of the Warfighter Information Network-Tactical program.
- Sec. 113. Limitation on availability of funds for upgrade of M113 vehicles.

Subtitle C—Navy Programs

- Sec. 121. Aircraft carriers.
- Sec. 122. Icebreaker vessel.
- Sec. 123. Multiyear procurement authority for Arleigh Burke class destroyers.
- Sec. 124. Multiyear procurement authority for Virginia class submarine program.
- Sec. 125. Design and construction of the lead ship of the amphibious ship replacement designated LX(R) or amphibious transport dock designated LPD-30.
- Sec. 126. Multiyear procurement authority for V-22 Osprey aircraft.
- Sec. 127. Extension of limitation on use of sole-source shipbuilding contracts for certain vessels.

(2) The term “covered Distributed Common Ground System” includes the following:

(A) The Distributed Common Ground System of the Army.

(B) The Distributed Common Ground System of the Navy.

(C) The Distributed Common Ground System of the Marine Corps.

(D) The Distributed Common Ground System of the Air Force.

(E) The Distributed Common Ground System of the Special Operations Forces.

TITLE XVII—SMALL BUSINESS PROCUREMENT AND INDUSTRIAL BASE MATTERS

Sec. 1701. Amendments to HUBZone provisions of the Small Business Act.

Sec. 1702. Uniformity in procurement terminology.

Sec. 1703. Improving reporting on small business goals.

Sec. 1704. Responsibilities of Business Opportunity Specialists.

Sec. 1705. Responsibilities of commercial market representatives.

Sec. 1706. Modification of past performance pilot program to include consideration of past performance with allies of the United States.

Sec. 1707. Notice of cost-free Federal procurement technical assistance in connection with registration of small business concerns on procurement websites of the Department of Defense.

Sec. 1708. Inclusion of SBIR and STTR programs in technical assistance.

Sec. 1709. Requirements relating to competitive procedures and justification for awards under the SBIR and STTR programs.

Sec. 1710. Pilot program for streamlined technology transition from the SBIR and STTR programs of the Department of Defense.

Sec. 1711. Pilot program on strengthening manufacturing in the defense industrial base.

Sec. 1712. Review regarding applicability of foreign ownership, control, or influence requirements of National Industrial Security Program to national technology and industrial base companies.

Sec. 1713. Report on sourcing of tungsten and tungsten powders from domestic producers.

Sec. 1714. Report on utilization of small business concerns for Federal contracts.

SEC. 1701. AMENDMENTS TO HUBZONE PROVISIONS OF THE SMALL BUSINESS ACT.

(a) **TRANSFER OF HUBZONE DEFINITIONS.**—

(1) **REDESIGNATION.**—Section 31 of the Small Business Act (15 U.S.C. 657a) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively.

(2) **TRANSFER.**—Subsection (p) of section 3 of the Small Business Act (15 U.S.C. 632(p)) is transferred to section 31 of the Small Business Act (15 U.S.C. 657a), inserted so as to appear after subsection (a), and redesignated as subsection (b), and is amended—

(A) by striking “In this Act:” and inserting “In this section:”;

(B) in paragraph (1)—

(i) by striking “term” and inserting “terms”; and

(ii) by striking “means” and inserting “or ‘HUBZone’ mean”; and

(C) by striking paragraph (2) (and redesignating subsequent paragraphs accordingly).

the President declared the major disaster or the catastrophic incident occurred.

“(ii) DURATION.—A census tract or nonmetropolitan county shall be considered to be a qualified disaster area under clause (i) only for the period of time ending on the date the area ceases to be a qualified census tract under subparagraph (A) or a qualified nonmetropolitan county under subparagraph (B), in accordance with the online tool prepared by the Administrator described under subsection (d)(7) and beginning—

“(I) in the case of a major disaster, on the date on which the President declared the major disaster for the area in which the census tract or nonmetropolitan county, as applicable, is located; or

“(II) in the case of a catastrophic incident, on the date on which the catastrophic incident occurred in the area in which the census tract or nonmetropolitan county, as applicable, is located.

“(iii) DEFINITIONS.—In this subparagraph:

“(I) MAJOR DISASTER.—The term ‘major disaster’ means a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

“(II) OTHER DEFINITIONS.—The terms ‘census tract’ and ‘nonmetropolitan county’ have the meanings given such terms in subparagraph (D)(iii).”.

(d) AMENDMENT TO DEFINITION OF REDESIGNATED AREAS.—Paragraph (3) of section 31(b) of the Small Business Act (as transferred and redesignated by subsection (a)), as amended by subsection (c), is further amended by amending subparagraph (C) to read as follows:

“(C) REDESIGNATED AREA.—The term ‘redesignated area’ means any census tract that ceases to be qualified under subparagraph (A) and any nonmetropolitan county that ceases to be qualified under subparagraph (B) for a period of 3 years after the date on which the census tract or nonmetropolitan county ceased to be so qualified.”.

(e) GOVERNOR-DESIGNATED COVERED AREA.—Section 31(b) of the Small Business Act (as transferred and redesignated by subsection (a)), is amended—

(1) in paragraph (1)—

(A) in subparagraph (E), by striking “or” at the end;

(B) in subparagraph (F), by striking the period at the end and inserting “; or”; and

(C) by inserting after subparagraph (F) the following new subparagraph:

“(G) a Governor-designated covered area.”;

(2) in paragraph (3) (as amended by subsection (c)), by adding at the end the following new subparagraph:

“(F) GOVERNOR-DESIGNATED COVERED AREA.—

“(i) IN GENERAL.—A ‘Governor-designated covered area’ means a covered area that the Administrator

has designated by approving a petition described under clause (ii).

“(ii) PETITION.—For a covered area to receive a designation as a Governor-designated covered area, the Governor of the State in which the covered area is wholly contained shall include such covered area in a petition to the Administrator requesting such a designation. In reviewing a request for designation included in such a petition, the Administrator may consider—

“(I) the potential for job creation and investment in the covered area;

“(II) the demonstrated interest of small business concerns in the covered area to be designated as a Governor-designated covered area;

“(III) how State and local government officials have incorporated the covered area into an economic development strategy; and

“(IV) if the covered area was a HUBZone before becoming the subject of the petition, the impact on the covered area if the Administrator did not approve the petition.

“(iii) LIMITATIONS.—Each calendar year, a Governor may submit not more than 1 petition described under clause (ii). Such petition shall include all covered areas in a State for which the Governor seeks designation as a Governor-designated covered area, except that the total number of covered areas included in such petition may not exceed 10 percent of the total number of covered areas in the State.

“(iv) CERTIFICATION.—If the Administrator grants a petition described under clause (ii), the Governor of the Governor-designated covered area shall, not less frequently than annually, submit data to the Administrator certifying that each Governor-designated covered area continues to meet the requirements of clause (v)(I).

“(v) DEFINITIONS.—In this subparagraph:

“(I) COVERED AREA.—The term ‘covered area’ means an area in a State—

“(aa) that is located outside of an urbanized area, as determined by the Bureau of the Census;

“(bb) with a population of not more than 50,000; and

“(cc) for which the average unemployment rate is not less than 120 percent of the average unemployment rate of the United States or of the State in which the covered area is located, whichever is less, based on the most recent data available from the American Community Survey conducted by the Bureau of the Census.

“(II) GOVERNOR.—The term ‘Governor’ means the chief executive of a State.

“(III) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the

Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.”.

(f) REPEAL OF 5-YEAR LIMITATION ON HUBZONE STATUS OF BASE CLOSURE AREAS.—Section 152(a) of title I of division K of the Consolidated Appropriations Act, 2005 (15 U.S.C. 632 note) is amended by repealing paragraph (2).

(g) AMENDMENT TO DEFINITION OF QUALIFIED HUBZONE SMALL BUSINESS CONCERN.—Paragraph (4) of section 31(b) of the Small Business Act (as transferred and redesignated by subsection (a)) is amended to read as follows:

“(4) QUALIFIED HUBZONE SMALL BUSINESS CONCERN.—The term ‘qualified HUBZone small business concern’ means a HUBZone small business concern that has been certified by the Administrator in accordance with the procedures described in this section.”.

(h) AMENDMENTS TO HUBZONE PROGRAM.—

(1) CLARIFICATIONS TO ELIGIBILITY FOR HUBZONE PROGRAM.—Section 31(d) of the Small Business Act, as redesignated by subsection (a), is amended to read as follows:

“(d) ELIGIBILITY REQUIREMENTS; ENFORCEMENT.—

“(1) CERTIFICATION.—In order to be eligible for certification by the Administrator as a qualified HUBZone small business concern, a HUBZone small business concern shall submit documentation to the Administrator stating that—

“(A) at the time of certification and at each examination conducted pursuant to paragraph (4), the principal office of the concern is located in a HUBZone and not fewer than 35 percent of its employees reside in a HUBZone;

“(B) the concern will attempt to maintain the applicable employment percentage under subparagraph (A) during the performance of any contract awarded to such concern on the basis of a preference provided under subsection (c); and

“(C) the concern will ensure that the requirements of section 46 are satisfied with respect to any subcontract entered into by such concern pursuant to a contract awarded under this section.

“(2) VERIFICATION.—In carrying out this section, the Administrator shall establish procedures relating to—

“(A) the filing, investigation, and disposition by the Administration of any challenge to the eligibility of a HUBZone small business concern to receive assistance under this section (including a challenge, filed by an interested party, relating to the veracity of documentation provided to the Administration by such a concern under paragraph (1)); and

“(B) verification by the Administrator of the accuracy of any documentation provided by a HUBZone small business concern under paragraph (1).

“(3) TIMING.—The Administrator shall verify the eligibility of a HUBZone small business concern using the procedures described in paragraph (2) within a reasonable time and not later than 60 days after the date on which the Administrator receives sufficient and complete documentation from a HUBZone small business concern under paragraph (1).