

Department of Defense-Minority Business Development Agency November 2024 Memorandum of Understanding

January 10, 2025

On November 19, 2024, the Department of Defense (DOD's) Office of the Under Secretary for Defense for Acquisition and Sustainment and the Department of Commerce's Minority Business Development Agency (MBDA) signed a [memorandum of understanding](#) (MOU) to support minority business enterprise (MBE) participation in defense contracting and other business opportunities. The MOU stated that the two agencies "share an interest in increasing MBE awareness of supply chains and opportunities; fostering collaboration, capacity building, business development; and increasing awareness and engagement among MBDA and the [DOD's] Office of Small Business Programs projects." MBEs are [statutorily defined](#) as businesses that are at least 51% owned by one or more [socially or economically disadvantaged individuals](#), with management and daily business operations controlled by one or more socially or economically disadvantaged individuals.

This Insight provides context on federal efforts to support MBEs, details on the DOD-MBDA MOU, and considerations for Congress.

Background

The federal government maintains an interest in assisting businesses owned by certain types of individuals, including in areas such as encouraging participation in federal contracting. For example, since 1988 Congress has statutorily maintained annual goals (first enacted in P.L. 100-656) for small and small "disadvantaged" business (SDB) participation in federal contracting, periodically increasing the goals. Like MBEs, [SDBs](#) are businesses that are at least 51% owned and controlled by "socially and economically disadvantaged" individuals or groups; unlike MBEs, SDBs must also be small businesses (according to Small Business Administration (SBA) size standards) and meet criteria described in SBA regulations at [13 C.F.R. §124.1001](#). However, while SDBs and MBEs have [distinct definitions](#), each are fundamentally characterized as being owned by socially and economically disadvantaged individuals, and therefore one business may carry both designations.

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Congress most recently set a goal for federal agencies to award 5% of the value of federal government-wide prime contracts (that is, contracts made directly to a business from an agency) to SDBs (P.L. 118-31). Executive action by the Biden administration increased that goal to 12%, 13%, and 15% for FY2023, FY2024, and FY2025, respectively.

While not intended specifically for small businesses, MBDA provides services such as technical assistance to MBEs. MBDA's authorizing statute (the Minority Business Development Act of 2021, Division K of the Infrastructure Investment and Jobs Act, P.L. 117-58) previously allowed the agency to presume that members of certain races were socially or economically disadvantaged. However, in March 2024, the U.S. District Court for the Northern District of Texas [found](#) that MBDA's presumption of social disadvantage for those races was unconstitutional, and ordered the agency to discontinue using race or ethnicity as criteria for MBDA services. MBDA has since continued to provide services to MBEs that self-certify that they meet the definition of socially or economically disadvantaged rather than using the presumption of race. (For more information, see CRS Insight IN12337, *District Court Ruling on MBDA Business Development Program*.)

In addition, Congress required (in P.L. 95-507) the establishment of an Office of Small and Disadvantaged Business Utilization (OSDBU) in each federal agency having procurement powers. OSDBUs' goal is to ensure that small businesses, SDBs, and small businesses owned by certain other individuals (such as MBEs) or located in low-income areas have an opportunity to compete and be selected for agency contracts. DOD maintains sub-department-level OSDBUs for each branch of the military and for other defense agencies including the Army Corps of Engineers, Naval Supply Systems Command, and the Defense Logistics Agency. These offices are referred to as Offices of Small Business Programs (OSBPs; referenced above in the quoted MOU text).

MOU Provisions

The MOU lays out four shared goals for DOD and MBDA:

- collaborating to encourage greater participation of MBEs in the defense supply chain;
- engaging MBEs in defense supply chains and related high-growth industries;
- growing MBEs through initiatives and capacity building to improve participation of minorities in the defense sector; and
- creating a model to identify stakeholders to address challenges and opportunities for MBEs.

The MOU includes specific actions for DOD and MBDA to achieve these goals. For DOD, that includes:

- identifying ways to increase opportunities for MBEs to participate in the defense supply chain;
- facilitating cooperation between MBDA [Business Centers](#) (MBDA grantees providing business technical assistance) and [APEX Accelerators](#) (DOD entities providing procurement technical assistance);
- collaborating with MBDA on programming development, including technical subject matter support for training workshops and seminars for MBEs;
- using DOD resources and experts to provide analysis and information to expand policies, initiatives, and access for MBEs in the defense industry; and
- providing information to MBDA about opportunities for MBEs to participate in DOD programs and initiatives.

MBDA's responsibilities under the MOU include:

- leveraging Business Centers and other MBDA programs and partners to promote opportunities for MBEs through DOD's OSBPs;
- promoting federal resources to support MBEs in the defense sector, including developing programming and identifying subject matter experts in the federal government and private sector to support initiatives to improve MBEs' competitiveness in defense-related procurement; and
- providing speaking and engagement opportunities for DOD or other subject matter experts at Business Centers and other MBDA-hosted events.

The MOU will be in effect for three years following the date of its signing. DOD and MBDA are each responsible for their own costs incurred under the MOU.

Considerations for Congress

As mentioned, the Biden administration increased the goal for the value of federal government-wide contracts to SDBs (which may overlap with MBEs) from 5% to 12%, 13%, and 15% for FY2023, FY2024, and FY2025, respectively. The federal government [met its goal](#) in FY2023, awarding 12.1% of the value of federal prime contracts to SDBs (data for more recent fiscal years is not yet available). Given the increased goals for FY2024 and FY2025, Congress may want to monitor any effect that the DOD-MBDA MOU may have on directing federal contracts to SDBs.

The DOD-MBDA MOU is not legally binding, and does not include any measurable performance goals. Congress could consider requesting a report from DOD and/or MBDA on the eventual outcomes of the MOU.

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