



EXCERPT FROM THE  
PROCEEDINGS  
OF THE  
NINETEENTH ANNUAL  
ACQUISITION RESEARCH SYMPOSIUM

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**Acquisition Research:  
Creating Synergy for Informed Change**

May 11–12, 2022

Published: May 2, 2022

Approved for public release; distribution is unlimited.

Prepared for the Naval Postgraduate School, Monterey, CA 93943.

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The research presented in this report was supported by the Acquisition Research Program at the Naval Postgraduate School.

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ACQUISITION RESEARCH PROGRAM  
DEPARTMENT OF DEFENSE MANAGEMENT  
NAVAL POSTGRADUATE SCHOOL

# **Build Back Better: The Reemergence of American Manufacturing Is Easier Said Than Done Learning from Building the Defense Industrial Base**

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## **Abstract**

The reemergence of American manufacturing is easier said than done. On March 11, 2021, the three-part Build Back Better (BBB) agenda to **rescue, recover, and rebuild the country** became law. The agenda included the injection of billions of dollars in funding to small businesses that would have a domino effect by strengthening the American manufacturing supply chains, sparking innovation, and creating economic stability. On November 19, 2021, the House of Representatives (H.R.5376, 2021) voted 220-213 for the Build Back Better Act (BBBA), which remains stalled in the Senate.<sup>1</sup> On November 15, 2021, the **Infrastructure Investment and Jobs Act** (IIJA) was signed into law, and it benefits Small Businesses and Manufacturing.<sup>2</sup> These acts are transformational change measures for guiding and streamlining to achieve economic growth and sustainment of domestic sources in America. At the onset, the “*delivery of performance [will be] at the speed of relevance*” (Mattis, 2018, p. 10). This paper analyzes past and current whole-of-government measures to determine the state of the Defense Industrial Base (DIB) for the reemergence of American Manufacturing.

## **Research Issue**

How will the U.S. rescue, recover, and rebuild the country using American manufacturing at the speed of relevance?

## **Research Results Statement**

It takes a whole-of-government approach to strengthening the Defense Industrial Base (DIB) with the federal procurement of Made in America products and the growth of small businesses to achieve economic growth and national security. Three suggestions for consideration. 1. Communication of Small Business and Manufacturing successes. 2. Monitor implementation of government-streamlining measures. 3. Create a central repository for Small Business that includes mentors and protégé partnership monitoring.<sup>3</sup> The results are clear that the federal measures enacted to rescue, recover, and rebuild America under the Biden administration are successfully moving forward at the speed of relevance.

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<sup>1</sup> Build Back Better Act, H.R. 5376, 117th Congress (2021-2022).

<sup>2</sup> Infrastructure Investment and Jobs Act, 117th Cong., Rec. 3684 (2021)

<sup>3</sup> Department of Defense. (2020, November). Volume 1, Chapter 10: Advana – Common Enterprise Data Repository For The Department Of Defense



## Introduction

### Defense Production Act of 1950 and Small Business Act of 1953

The Defense Production Act (DPA) of 1950 to establish a defense mobilization infrastructure in response to the Korean War. As amended over 50 times, it gives the President of the United States (U.S.) the authorities to influence the domestic industrial base (Peters, 2020). It preserves the industrial base by expanding the production of good and services for national security. In February 2018, Recommendation 21 of the Section 809 panel's findings revealed the importance of leveraging Small Businesses innovative capabilities that enhance warfighting effectiveness and readiness that preserve the industrial base.<sup>4</sup> The findings emphasized the necessity for DOD to refocus on the 1953 Small Business Act (SBA) that linked small business set-asides to the department's core mission of national defense. In addition, the findings included the lack of small business policies, industry outreach, and a logical business strategy. The panel concluded that the small business community provided innovative capabilities that are essential to national security by maintaining warfighting dominance and readiness.

### Great Recession of 2008 and Inflation of 2022

President Biden's prior experience with the rescue, recovery, and rebuilding of America was instrumental in facilitating the end of the Great Recession of 2008. The theory and evidence as written by Roger E.A. Farmer, shows "...the stock market crash of 2008, triggered by a collapse in [home] prices that caused the Great Recession."<sup>5</sup> In January 2009, President Barack Obama's administration lead America into a recovery. On February 17, 2009, when President Obama signed the American Recovery and Reinvestment Act (ARRA) into law, he recognized Joe Biden's efforts in getting the legislation passed (White House, 2009a). The ARRA was a "major milestone on our road to recovery."<sup>6</sup> Soon after, Obama announced that Biden would oversee the implementation of the rescue, recovery, and rebuilding of America.<sup>7</sup>

There is a notable difference between rebuilding America from the Great Recession of 2008 and the current economy. America is in the "...deepest economic downturn..." since the Great Depression.<sup>8</sup> On December 21, 2021, the latest data inflation rate of 6.8% and the growth was at the highest rate in 39 years during a 12-month period [November 2020 – November 2021] (Weinstock, 2021b, pg. 1). Biden was successful with overseeing America's recovery through the ARRA and he is on track to continue that success with **Build Back Better Act (BBBA) and the Infrastructure Investment and Jobs Act (IIJA) that are** critical economic investments required to rescue America "...at the speed of relevance" (Mattis, 2018, p. 10). The following remarks by President Biden on delivering on "Made in America" commitments are as follows:<sup>9</sup>

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<sup>4</sup> Report of the Advisory Panel on Streamlining and Codifying Acquisition Regulations, Volume 3 of 3. (2019, January). Section 809 Panel.

<sup>5</sup> The Stock Market Crash of 2008 caused the Great Recession: Theory and Evidence (Working Paper w17479).

<sup>6</sup> White House. (2009a, February 15). About the recovery.

<sup>7</sup> White House. (2009b, February 23). Vice President Biden to Oversee the Administration's Implementation of the Recovery Act's Provisions.

<sup>8</sup> Weinstock, Lida R. (2021a, May 11). Covid-19 and the U.S. Economy (CRS Report No. R46606). Congressional Research Service.

<sup>9</sup> White House (2022a, March 4). Remarks by President Biden On Delivering On Made In America Commitments.



“...when I say, “**Buy American**,” I mean buy all — **all American**. I want to increase the share of federal spending on goods and services that goes to **small businesses in America** — the backbone of our country... Our **manufacturing** future, our **economic** future, our **solutions** to the climate crisis: They’re all going to be **made in America**.”

~ President Joseph R. Biden

REMARKS BY PRESIDENT BIDEN ON DELIVERING ON MADE IN AMERICA COMMITMENTS

March 4, 2022

## **Infrastructure Investments and Jobs Act 2021**

Before and after November 15, 2021, when President Biden signed the Infrastructure Investments and Jobs Act, there have been and will be for months and years ahead the establishment and implementation of measures that shape existing and new federal programs, laws, amendments, rules, regulations, and guidance. The following measures are highlights of building the DIB that are on track with the rescue, recover, and rebuilding of America under the Biden–Harris administration.

## **Highlights of Building the Industrial Base**

### **Buy American Act of 1933 and Buy American Act in 2021–2022**

On March 3, 1933, during the Great Depression, Congress passed the Buy American Act (BAA), and President Hoover signed into law on his last day in office. When the BAA was enacted, it attempted “to protect domestic businesses and labor by establishing a price preference for domestic end products and construction materials in government acquisitions (Manuel, 2016, p. 1). In addition, the congressional oversight, by statute, requires agencies to submit a congressional report on procurement and compliance with the BAA that includes exceptions or trade agreement waivers. When solicitations contain the following clauses, federal government contracting officers who procure supplies are required to insert a FAR 52.225-2, Buy American Certificate and/or a FAR 52.225-6, Trade Agreements Certificate (TAA).

At the request of Senator Murphy, in December 2018, the Government Accountability Office (GAO) published their report on their review of four federal agencies implementation of the Buy American Act. The GAO reviewed 38 contracts from the Departments of Defense (DOD), Health and Human Services (HHS), Homeland Security (DHS), and Veterans Affairs (VA) and found that 6 contracts “...inaccurately recorded waiver or exception information” (Woods, 2018). The GAO found that steps should be taken by the Office of Management and Budget (OMB) to improve Buy American Act data and by the agencies to improve implementation guidance and training on the Act (Woods, 2018. pg. 1).<sup>10</sup>

Given the government’s past BAA reporting compliance errors, the Biden-Harris administration is dedicated to improving the BAA through policies and laws that include the Federal Acquisition Regulation(s) (FAR), Executive Order(s) (E.O.), and the establishment of the first Made in America Office (MIAO). The following highlights are a few of the improvements related to the BAA:

On January 25, 2021, Executive Order 14005, Section 4 (a) and Section 7 are noteworthy measures, Section 4 (a): the Director of the Office of Management and Budget shall establish the Made in America Office within the OMB (White House, 2021a)<sup>11</sup> In April 2021, the Made in America Office (MIAO) opened to ensure “the future is made in America”, strengthens

<sup>10</sup> Woods, William T. (2018, December). Buy American Act: Actions Needed to Improve Exception and Waiver Reporting and Selected Agency Guidance (GAO-19-17), Government Accountability Office.

<sup>11</sup>White House (2021a, January 25). Executive Order 14005. Ensuring the Future Is Made in All of America by All of America's Workers was signed and Section 4 (a): Updating and Centralizing the Made in America Waiver Process.



domestic sourcing, and reduces the need for waivers. In addition, the office analyzes procurement waiver exceptions to “Made in America” laws and regulations that support United States manufacturing and domestic supply chains are allowable (GSA, 2021).<sup>12</sup> The MIAO reinforces government oversight and accountability of domestic procurement waiver exceptions shown as an extract from the official website in Figure 1.



Figure 1. Made in America Office - A Future Made in America (GSA, 2021)

Section 7: Supplier Scouting, establishes a significant role under the National Institute of Standards and Technology (NIST), Manufacturing Extension Partnership (MEP) National Network that shows partnerships committed to assisting **small** and **medium-sized** business in all 50 states and Puerto Rico.<sup>13</sup> In 2021, the MEP centers increased their assistance “...interacted with 34,307 manufacturers, leading to \$14.4 billion in sales, \$1.5 billion in cost savings, \$5.2 billion in new client investments, and helped create or retain 125,746 jobs”. A description of strengthening U.S. Manufacturing and the MEP is in Figure 2 (NIST, 2020).

E.O. 14005, Section 7: Supplier Scouting.

“To the extent appropriate and consistent with applicable law, agencies shall partner with the Hollings Manufacturing Extension Partnership (MEP), discussed in the Manufacturing Extension Partnership Improvement Act (title V of Public Law 114-329), to conduct supplier scouting in order to identify American companies, including **small- and medium-sized companies**, that are able to produce goods, products, and materials in the United States that meet Federal procurement needs.”(White House, 2021a)



Figure 2. National Institute of Standards and Technology, Manufacturing Extension Partnership Infographic, 2020

<sup>12</sup> General Services Administration (2021). Made in America Office.

<sup>13</sup> White House. (2021b, January 25). Executive Order 14005. Section 7: Supplier Scouting.



March 7, 2022, The U.S. Department of Defense (DOD), General Services Administration (GSA) and National Aeronautics and Space Administration (NASA), published the Federal Acquisition Regulation (FAR): Amendments to the Buy American Act Requirements, FAR Case 2021-008, was published with three notable changes listed below (FAR 25.101, 2022).<sup>14</sup> The rule and regulations for The Infrastructure Act requires that by Nov. 15, 2022, regulations will be implemented that amend the definitions of "domestic end product" and "domestic construction material". Following this announcement, International Association of Machinists and Aerospace Workers (IAMAW), President Robert Martinez Jr. released the following statement of gratitude on the IAMAW website:

"We are incredibly grateful to the Biden administration and the Made in America Office for hearing our call and the calls of millions of Americans..." (Martinez Jr, 2022, March 7).

This measure ensures that iron and steel products are made [to the greatest extent possible] with domestic components and provide a definition for *end product manufactured in the United States* as detailed below.



Figure 3. "Let's build the future right here in America" (Martinez, Jr., 2022)

### 1. Increased Domestic Content Threshold

The current threshold is 55% for manufactured products purchased by the federal government. Table 1 describes the domestic content threshold timelines.

Table 1. Domestic Content Threshold Timelines (2022)

Effective Dates	Domestic Content Threshold
Now – Oct. 24, 2022	55%
Oct. 25, 2022 – Dec. 31, 2023	60%
Jan. 1, 2024 – Dec. 31, 2028	65%
Jan. 31, 2029, and after	75%

### 2. Exception for a Lower Domestic Content Threshold Due to Unavailability or Unreasonable Cost – "Fallback Threshold"

This change allows an agency to use the current 55% threshold for end products or construction materials when there is an absence of these materials that meet the new domestic content threshold, or the cost is deemed unreasonable.

<sup>14</sup> FAR 25.101, General (2022, March 7). Amendments to the Buy American Act Requirement



### 3. Increasing Price Preference for “Critical Items” and “Critical Components”

This mandates the application of a higher price preference for critical items and components in accordance with the 2021 E.O. 14017, “America’s Supply Chains.”

#### Small Business Improvement Acts

On February 3, 2022, Small Business Committee Passes and Recommends Five Bills to the House of Representatives that will help American small business entrepreneurs succeed, which are shown below.<sup>15</sup>

H.R. 6445: “*Small Business Development Centers Improvement Act of 2022*” - to amend the Small Business Act to require an annual report on entrepreneurial development programs, and for other purposes.

H.R. 6441: “*Women’s Business Centers Improvement Act of 2022*” - to amend the Small Business Act to improve the women’s business center program, and for other purposes.

H.R. 6450: “*SCORE for Small Business Act of 2022*” - To amend the Small Business Act to reauthorize the SCORE program, and for other purposes.

H.R. 4877: “*One Stop Shop for Small Business Compliance Act of 2021*” - To amend the Small Business Act to require the Small Business and Agriculture Regulatory Enforcement Ombudsman to create a centralized website for compliance guides, and for other purposes.

H.R. 6454: “*Small Business Advocacy Improvements Act of 2022*” - To clarify the primary functions and duties of the Office of Advocacy of the Small Business Administration, and for other purposes.

#### Office of Small Business Programs (OSBP) – DoD Mentor Protégé Program (MPP)

The Office of Small Business Programs (OSBP) is under the Small Business Act that established mandatory small business contracting goals and programs that apply to DOD and all Federal agencies (Office of Small Business Programs, 2022, April 5).<sup>16</sup> Its mission is to contribute to national security by maximizing opportunities for small businesses that provide combat supplies for our troops and economic sustainment for our nation. One of the highest responsibilities is the management of the DOD Mentor Protégé Program (MPP). The program is critical to developing high priority sectors of the DOD Industrial base (OSBP, 2022). A representation of some of the DOD MPP Project Spectrum Program Partnerships is shown in Figure 4 (Diaz, 2021, pg. 6).

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<sup>15</sup> House Small Business Committee Republicans (2022, February 3). Small Business Committee Passes and Recommends Five Bills to the House of Representatives.

<sup>16</sup> Office of Small Business Programs (2022, April 5). Mentor-Protégé Program (MPP).





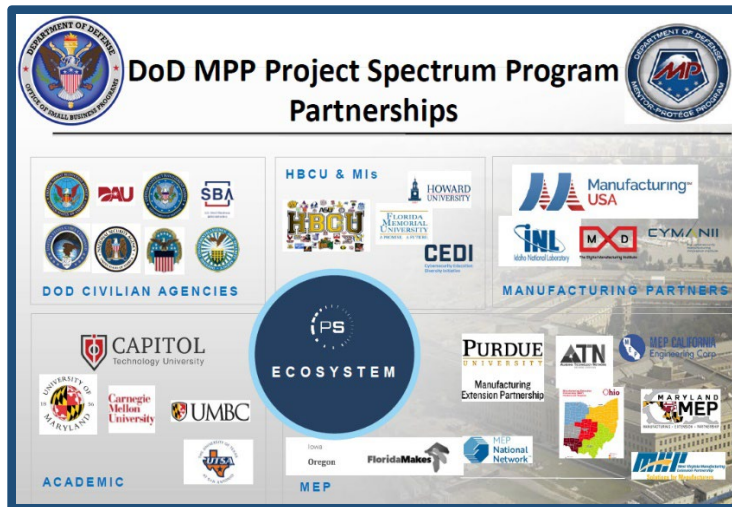


Figure 4. Extracted from DOD MPP Project Spectrum Program Partnerships (Diaz, 2021, p. 6).

On November 5, 1990, H.R. 4739 – National Defense Authorization Act (NDAA) for Fiscal Year (FY) 1991, directs the Secretary of Defense to establish a Mentor-Protégé Program [MPP] in order to provide incentives to major DOD contractors (mentors) to help disadvantaged small businesses (protégés) perform as subcontractors and suppliers under DOD and other government contracts.<sup>17</sup>

On October 1, 1991, the DOD MPP was the first operative federal mentor-protégé program that since its inception as a pilot program. It has received continuous funding extensions as a pilot in spite of the 1994-scheduled expiration. Currently, it is funded through FY2026 for reimbursement of cost incurred under existing agreements and FY2024 for the formation of new agreements. DOD’s MPP is the only federal pilot program that is mandated by law and receives authorized and appropriated funds (Mentor Protégé Pilot Program, 1990).<sup>18</sup>

Historically, DOD’s Mentor-Protégé Program is a front-runner with mentors’ commitment to leveraging small business protégés in successfully growing the DIB, but the Office of the Secretary of Defense (OSD) must champion consistent support and funding for the MPP. In FY20, the MPP experienced a zeroed-out funding from DOD in the FY2020 Defense Wide Review (DWR). The President’s Budget Request (PBR) rescued funding for the MPP by adding it back in for FY2021 (Defense Business Board (DBB), 2022, pg. 33). The notable facts in the DBB’s MPP assessment for FY21 are the **positive impacts of the MPP** and the challenges/recommendations in number 6: **Permanency of the MPP** below in Figure 5 (2022, pgs. 71 and 83).<sup>19</sup>

<sup>17</sup> National Defense Authorization Act (1990, November 5). Pub. L. No. 101-510, 104 STAT. 1490, Title VIII: Acquisition Policy, Acquisition Management, and Related Matters - Part D: Miscellaneous, Sec. 831. Mentor-protégé pilot program (1990).

<sup>18</sup> Mentor-Protégé Pilot Program, Section 807 (a) of Pub. L. 102-484 (1991).

<sup>19</sup> Defense Business Board (2022, March 8). FY2022 Assessment of The Department Of Defense Mentor-Protégé Program.



## Positive Impact of MPP

- Over three decades, the MPP has made a **positive impact** on the small businesses that participated as protégés in the program based on the following measures of success:
  - **Employment:** Increases in employment at the protégé
  - **Revenue:** Increases in revenue at the protégé
  - **Certifications:** Increases in certification and qualifications by the protégé
  - **Contract Awards:** Increase in contracts awarded to protégés
  - **Number of Protégés:** Increases in the number of protégés within the DIB
  - **Innovation:** Innovative technologies added by protégés
- Stakeholders interviewed, including 35 protégés and 22 mentors, and other feedback obtained through surveys and questionnaires, provided **consistently positive** feedback pg 71

## Challenge/Recommendation #6: Permanency of MPP

- **Challenge:** MPP is still a “pilot” notwithstanding its 30-year history
  - Creates concern and confusion about the U.S. Government’s commitment
  - Mentors and protégés make a significant commitment of time and effort when agreeing to an MPA. Prospective mentors and protégés may choose not to pursue an MPA due to uncertainty of the program
- **Recommendation:**
  - Consider codifying the MPP program in a specific Title 10 Section to eliminate confusion and instill confidence
  - Propose that permanent funding be in the form of a specific, designated line item in all future funding bills
  - Instability in the MPP over the years can be partly attributed to shifting executive branch priorities and the reallocation of MPP funding. Therefore, the Subcommittee recommends the MPP funding be specifically appropriated for use only by the DoD pg 83

Figure 5. Adapted from the FY22-01 Assessment of The Department of Defense Mentor-Protégé Program (DBB, 2022).

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