

Space Force Opportunities Come With Uncertainties For Cos.

By [Daniel Wilson](#) · [Listen to article](#)

Law360 (April 12, 2024, 7:25 PM EDT) -- The U.S. Space Force's new plan to rely more on the private sector offers growth opportunities for the commercial aerospace industry, but experts say businesses should be wary of budgetary constraints and regulatory uncertainties.

The Space Force's long-awaited [Commercial Space Strategy](#), released Wednesday, is aimed at "retooling processes and cultivating commercial partnerships" to enhance the U.S. military's edge over rival nations in space. It identifies eight mission areas "considered suitable for commercial integration," such as satellite communications and space-based environmental monitoring.

Identifying those mission areas sends a clear signal to the commercial space industry about where to expand and develop their businesses, but contract opportunities will depend on factors beyond the Space Force's authority, such as adequate funding from Congress and the burden of complying with regulations from relevant agencies.

"I think the strategy is a good strategy [and] a great first step," said Michael Mineiro, senior counsel at [Akin Gump Strauss Hauer & Feld LLP](#). "However, it must be followed with congressional support through appropriations and executive branch support through budgeting to effect the resources necessary to carry out the strategy."

The space industry is particularly reliant on federal funding, drawing heavily on federal contracts or other government programs such as the Small Business Innovation Research program to develop their capabilities and expand their businesses, said Jack Shelton, a founding partner at [Aegis Space Law](#), which represents mostly small businesses in the commercial space industry.

Cutting-edge technology firms outside the space industry, particularly those focused on developing software, are often considered "infinitely scalable" and are more able to draw on venture capital and other private funding, according to him.

"Most space industry businesses ... are involved in hardware," Shelton said. "And then you've got to send the hardware to space. And you've got timing issues involved with that. The amount of time that it takes to have some sort of exit event is much longer than with your typical Silicon Valley startup."

There are also potential regulatory snarls in areas such as hybrid commercial-defense space launches, given the broad range of agencies holding authority over aspects of the commercial space launch and operational process, which may limit the industry's ability to meet the demand from the Space Force, said Shawn Cheadle, a member at Sherman & Howard LLC who previously worked for [Lockheed Martin Space](#).

"The question I have with the [strategy is] what is truly going to be the difference? It's a defense launch, it's a defense application, but they're doing this hybrid commercial product, is that the spacecraft itself?" he asked. "Can they do a commercial launch? Can they launch defense articles on a commercial launch?"

Much of the increased demand from the Space Force is also likely to involve classified missions, and there simply may not be enough workers with a security clearance available to commercial space firms to support that demand, according to Cheadle.

"There's a huge backlog, as many of us know, [for] getting security clearances these days," he said. "And it's increasingly hard to find employees with clearances."

The Space Force's plan also calls for greater collaboration with U.S. allies and partners, which could limit the opportunities for U.S.-based commercial space firms, unless the White House steps in to develop an international regulatory framework.

U.S. firms aren't always operating on a "level playing field" with firms in other countries that have different levels of export controls and regulatory oversight, which can limit their competitiveness through no fault of their own, according to Mineiro, who previously worked in the space industry and in space policy roles at the White House and on Capitol Hill.

Mitigating those factors could help "unlock more efficiencies and greater market opportunities in the private sector, outside of the government," he said.

[Holland & Knight LLP](#) partner Paul Stimers said that the Space Force's stated goals, including collaborating with industry players to better understand what commercial space solutions are available, show that the agency is "trying to be a good customer."

"It's a strategy that is thoughtful," he said, who serves as policy counsel to several commercial spaceflight companies and industry group the Commercial Spaceflight Federation. "It's not merely aspirational. It's not pie in the sky at all. It's workable ... and I think the commercial space industry is eager to answer the call."

--Editing by Adam LoBelia.

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