



Department of War Small Business Bill of Rights March 2026

Executive Summary

The Department of War (DoW) Small Business Bill of Rights, established pursuant to Public Law 118-159, Section 876 of the National Defense Authorization Act for Fiscal Year 2025, highlights the protections afforded to small businesses engaged in departmental acquisitions. The bill is designed to heighten awareness of these rights to guarantee fair treatment and transparency. Although not comprehensive, it emphasizes key tools and safeguards intended to advance the success and innovation of small businesses.

Article I. Advocacy and Assistance

Payment Reliability Support

Small businesses are entitled to assistance from Offices of Small Business Programs, contracting officers, and other appropriate DoW personnel with accessing payment information, accelerating payments (including prime and subcontract payments), and recovering interest on late payments. America's small business industrial base should expect a reliable and predictable cash flow.

- **Authority:** Small Business Act ([15 USC § 637\(d\)\(1\) and \(13\)](#)); [15 USC § 644\(k\)\(6\)](#)), Prompt Payment Act ([31 USC § 3903](#)), Contract Financing ([10 USC. § 3801\(b\), Ch. 277](#))

Clear Entry Points and Opportunities to Learn How to Do Business with the DoW and Components

Small businesses are entitled to participate in outreach and receive assistance from APEX Accelerators, DoW and Component Offices of Small Business Programs, and other appropriate personnel. Through these engagements, small businesses can access and learn clear entry points into departmental acquisitions and gain practical guidance on

doing business with the Department. Small businesses also have the right to reasonably engage with key personnel—including contracting officers, small business professionals, program managers, and end-users—to present their capabilities, solutions, and innovations through structured outreach programs and scheduled engagements.

- **Authority:** Small Business Act ([15 USC § 631\(a\)](#), [15 USC 637b](#); [15 USC §644\(k\)](#), [15 USC §638](#)); DoW Small Business Strategy ([10 USC. § 4901\(d\)](#)); Responsibility for achieving small business goals ([Section 1633\(b\) of FY2013 NDAA, Public Law 112-239, 15 USC 631](#) note); Procurement Technical Assistance Cooperative Agreement Program, also known as APEX Accelerators ([10 USC Chapter 388](#)).

Participation in Rulemaking

Small businesses have the right to participate in DoW’s rulemaking, be considered when new regulations are created, ensuring their interests and potential impacts are reviewed, and have small business compliance guides developed and published for their rules.

- **Authority:** Regulatory Flexibility Act ([5 USC §§ 601-609](#)); Small Business Regulatory Enforcement Fairness Act ([Public Law 104-121, amended, 5 U.S.C. § 601](#) note); Publication of Proposed Regulations ([41 USC 1707](#)).

Cooperation with Small Business Advocates

Small businesses in conjunction with stakeholders are encouraged to cooperate with a network of advocates across DoW and other federal agencies. Key advocates include DoW and Component Offices of Small Business Programs, SBA District Offices, Procurement Center Representatives, and the Office of the National Ombudsman. These advocates are dedicated to fostering a supportive environment where America's small business industrial base can thrive and contribute to the DoW's warfighting mission. They act as the voice of small businesses in government, bridging the gap between federal operations and the small business community.

- **Authority:** Small Business Act ([15 USC Chapter 14A](#)).

Article II. Fairness in Contracting and Agreement Opportunities

Transparent Contracting and Agreement Opportunities

Small businesses benefit from clear, accessible forecasts and notifications of DoW opportunities (e.g., on SAM.gov or other appropriate publicity), along with relevant contact information and information on authorities that enable agreements with non-traditional contractors, all aimed at ensuring a fair competitive landscape.

- **Authority:** Small Business Act ([15 USC §§ 637\(a\)\(12\)](#) and (e) and [638](#)), Procurement Notices ([41 USC § 1708](#)), DoW Small Business Strategy ([10 USC § 4901](#)); Commercial Solution Opening solicitations ([10 USC § 3458](#)).

Maximum Practicable Participation in Contracts, Subcontracts, and Agreements

Small businesses can expect that the Department, to the maximum extent practicable, will provide opportunities for small businesses to participate in departmental acquisitions and sales, including export-related activities. This is achieved by promoting small businesses' ability to propose, compete, and perform; by avoiding unnecessary or unjustified consolidation or bundling; and by involving Office of Small Business Programs Directors and small business professionals early in acquisition planning.

- **Authority:** Small Business Act ([15 USC 644\(a\)](#), (e)(1), (k), (i), (j), and (r)), Role of the Directors of Small Business Programs in Acquisition Processes of the Department of War ([Section 1611 of FY2013 NDAA, Public Law 112-239, 10 U.S.C. 144](#) note); small business participation in foreign military assistance purchases ([22 USC §2352](#)); significant small business participation in agreements for prototype projects ([10 U.S. Code § 4022](#))

Bundling and Consolidation Impact Mitigation and Transparency

Small businesses are entitled to public disclosure of necessity, justification, and plans for maximizing small business contracting and subcontracting participation for any DoW bundling or consolidation strategies, including explanations of impact mitigation. This includes the posting of proposed procurement strategies in public notices and public invitation of small business teaming.

- **Authority:** Small Business Act ([15 U.S.C. § 644\(e\)\(3\)](#), (k), and (q)), and [15 USC 657q](#).

Article III. Small Business Priorities and Exemptions

“American Small Business First” Priorities in Contracts, Agreements, and Manufacturing, Modernization, or Mentoring Assistance

Small businesses are entitled to priority consideration for contracts for disaster relief efforts and in distressed areas, and for various set-asides and other awards. Small businesses are also entitled to priority or preference in technology transition, in cooperative research and development agreements with Department laboratories, in Defense Production Act assistance, and in Federal invention licensing. Qualified small businesses are also entitled to technical and mentoring assistance, assistance with cybersecurity and facility clearances, and to free testing when fewer than two small business manufacturers are available to compete.

- **Authority:** Small Business Act ([15 USC § 638\(r\)](#) and [15 USC § 644](#)); Cooperative research and developments agreements ([15 USC § 3710a](#)); Licensing of federally owned inventions ([35 USC §209](#)); [Sec. 1644 FY19 NDAA](#); [Sec. 874 of FY25 NDAA](#); [Section 1644 of FY2019 NDAA, Public Law 115-232](#); [Sec 874 FY25 NDAA](#); Defense Production Act ([50 USC. §§ 4518 and 4551](#)); DoW Mentor Protégé Program ([10 USC § 4902](#)); Encouragement of new competitors: qualification requirement ([10 USC § 3243](#)); programs for rapid innovation and fielding of small business technologies ([10 U.S.C. §§ 3604 and 4061](#)); significant small business participation in agreements for prototype projects ([10 U.S. Code § 4022](#))

Exemptions and Protections in Acquisitions and Agreements

Small businesses are entitled to pre-award debriefings and to enhanced post-award debriefings, to exemptions from certain cost, pricing, and accounting data and record-keeping requirements, and to protections of intellectual property for inventions reduced to practice on Department contracts or agreements.

- **Authority:** Enhanced post-award debriefing rights ([10 USC § 3304 and Section 818 of FY2018 NDAA, Public Law 115-91, 10 USC § 3304 note](#)); Pre-award debriefings ([10 USC §3305](#)); Cost, pricing, and accounting data and record-keeping exemptions for small businesses ([10 USC §3702 and FY2016 NDAA, Public Law 114-92, Section 873, 10 USC § 3702 note](#)); Small Business Act ([15 USC 638](#)); Disposition of Rights ([35 U.S.C. § 202](#))

Article IV. Small Business Complaint Resolution

Raise Concerns and Seek Resolution Regarding Regulatory Compliance and Enforcement

Small businesses have the right to raise concerns about paperwork or regulatory compliance, including the ability to file complaints when enforcement actions are excessive or unduly burdensome. They may also seek reductions or waivers of civil penalties when appropriate. Fair small-business-minded regulatory enforcement is essential to maintaining a level playing field, promoting predictability, reducing compliance burdens, preventing arbitrary or capricious actions, and supporting economic growth.

The DoW and the Component Offices of Small Business Programs play a critical role in this process. They work to resolve complaints and ensure that paperwork requirements and regulations are applied in a fair, transparent, and consistent manner. By doing so, they help create an environment in which small businesses can thrive, innovate, and contribute meaningfully to the broader economy.

- **Authority:** Small Business Regulatory Enforcement Fairness Act ([Public Law 104-121, amended, 5 U.S.C. § 601](#) note); Small Business Paperwork Relief Act, §2, [Public Law 107-198](#).

Challenge Unduly Restrictive Solicitations

Small businesses can challenge unduly restrictive solicitations by submitting pre-award complaints with the DoW or the Component Director of Small Business Programs. They may also elevate concerns through the ombudsman, competition advocates, or through the protest process.

- **Authority:** Small Business Act ([15 U.S.C. § 644\(k\)\(17\)](#)); Advocates for Competition ([10 USC § 3249](#) and [41 USC § 1705](#)), Task and delivery order contracts ([10 USC § 3406](#)); bid protest statutes ([Public Law 101-552 §3, 5 USC §571](#) note; [31 USC Chapter 35, Subchapter V, 28 USC § 1346\(a\)\(2\)](#) and [1491](#)).

Efficient and Cost-Effective Resolution of Competency Determinations and Contract Claims

Small businesses shall not be denied contract awards for reasons of responsibility (e.g., capability, competency, capacity, credit, integrity, perseverance, and tenacity) unless the contracting officer first refers the matter to the Small Business Administration for a Certificate of Competency determination. Small businesses also have the right to use small claims procedures and, when feasible, to obtain a resolution within 120 days for small claims of \$150,000 or less that are appealed to the Armed Services Board of Contract Appeals. In addition, when a small business prevails in certain adjudications, it may recover reasonable fees and expenses if the position taken by the DoW was substantially unjustified.

- **Authority:** Small Business Act ([15 USC § 637\(b\)\(7\)](#)), Agency Board Procedures for Accelerated and Small Claims ([41 USC § 7106\(b\)](#)), Equal Access to Justice Act ([5 USC § 504](#))

Report Small Business Subcontracting Problems

Small businesses are entitled to report suspected bad-faith or fraudulent conduct by contractors related to subcontracts or subcontracting plans to the cognizant Office of Small Business Programs, the contracting officer, or other appropriate authorities. They are also entitled to expect that such reports within the DoW will be reviewed and acted upon as appropriate.

- **Authority:** Small Business Act ([15 USC §637\(d\)\(15\) and \(16\)\(B\)](#), and [644\(k\)\(4\)](#)).