

Comments by the National Small Business Association Re: Modernizing Defense Acquisitions and Spurring Innovation in the Defense Industrial Base

Introduction

The National Small Business Association (NSBA) thanks the Department of Defense (DoD) for the opportunity to respond to this request for public comments on “Modernizing Defense Acquisitions and Spurring Innovation in the Defense Industrial Base.” NSBA is the nation’s oldest small business advocacy organization representing the 70 million owners and employees that make up American small business, championing efforts that foster the growth, strength, and impact of small businesses.

While we applaud DoD for meeting its small business contracting goals in 2024,¹ the barriers for small businesses seeking entry or even maintaining their positions in the Defense Industrial Base (DIB) remain high. In 2023, DoD released its strategic small business plan (“Plan”), which outlined various objectives to better integrate small businesses into the DIB. In these comments, we address how DoD can reform its acquisition process, better account for small businesses in its contracting regulations, and reform its acquisition workforce in accordance with the aims of its Plan.

In short, we recommend the following:

- In reforming DoD’s acquisition process, the Department should prioritize (1) engaging small business professionals at early stages of acquisition and (2) streamlining small business programs.
- In reviewing regulations pertinent to contracting, DoD should (1) protect and promote the use of “Rule of Two”; (2) account for small business challenges associated with Cybersecurity Maturity Model Certification (CMMC) compliance; and (3) ensure timely payments from prime contractors to small subcontractors.
- In reforming DoD’s acquisition workforce, the Department should standardize and incorporate modern acquisition best practices, as well as similar contracting and contracting management methods into workforce education and training.

Acquisition Process Reform

Engaging Small Business Professionals at Early Stages of Acquisition

As DoD acknowledged in its Plan, “[e]ngagement of small business professionals at early stages of acquisition will enable the Department to ensure small business capabilities and technologies

¹ U.S. Small Business Administration, “Scorecard Details: Department of Defense – 2024,” SBA.gov, accessed Jul. 31, 2025, <https://www.sba.gov/federal-contracting/contracting-data/small-business-procurement-scorecard/scorecard-details?agency=DOD&year=2024>.

are included in developing acquisition strategies,” which would enable small business professionals to “assist in identifying and, as appropriate, addressing small businesses earlier in the process.”

The Government Accountability Office (GAO) is typically a reliable resource for holding agencies accountable to their goals and making recommendations accordingly. It does not appear that GAO has evaluated defense acquisition reform in the context of small business since the release of the Plan. A 2025 GAO report did, however, find that DoD “remains deeply entrenched in a traditional linear acquisition structure – characterized by rigid, sequential processes – that has proven inadequate in adapting to evolving threats and integrating emerging innovation.”² While GAO’s report did not focus on small businesses specifically, these rigid and sequential processes disproportionately impact small offerors, contractors, and subcontractors.

Lawmakers have similarly acknowledged the shortfalls of DoD’s current acquisition process and have suggested that the Department make much needed changes in the early stages of the acquisition process.³ This also means that DoD small business acquisition professionals should not only conduct requisite market research in advance of a solicitation so that they can reliably discern whether the Rule of Two⁴ is applicable to the solicitation, but also “improv[e] outreach and communication on small business opportunities.”⁵

In order to ensure better engagement of small business professionals at early stages of acquisition DoD should follow the recommendations of its Plan by:

- Leveraging the Office of Small Business Programs (OSBP) as a small business liaison to DoD leadership.⁶
- Working with the Small Business Administration (SBA) Office of Advocacy (Advocacy) to gain access to small stakeholder feedback on the acquisition process.

² Government Accountability Office, “Defense Acquisition Reform: Persistent Challenges Require New Iterative Approaches to Delivering Capability with Speed,” GAO.gov, Jun. 11, 2025, <https://www.gao.gov/products/gao-25-108528>.

³ See House Armed Services Committee, “The Need for Speed: Streamlining Procurement for Effective Execution and Delivery Act,” Armedservices.House.gov, accessed Jul. 31, 2025, https://armedservices.house.gov/uploadedfiles/speed_act_overview.pdf.

⁴ The Rule of Two sets aside contracts for small businesses when the federal agency has a reasonable expectation that offers will be obtained from at least two responsible small business concerns that are competitive in terms of “fair market prices, quality, and delivery.” See § FAR 19.502-2(b); see also U.S. Small Business Office of Advocacy, “SBA Makes Proposal to Increase Federal Agency Contracts with Small Businesses,” Advocacy.SBA.gov, Nov. 4, 2024, <https://advocacy.sba.gov/2024/11/04/sba-makes-proposal-to-increase-federal-agency-contracts-with-small-businesses/>.

⁵ U.S. Department of Defense, “Small Business Strategy,” Media.Defense.gov, January 2023, <https://media.defense.gov/2023/jan/26/2003150429/-1/-1/0/small-business-strategy.pdf>.

⁶ See U.S. Department of Defense, “Small Business Strategy,” Media.Defense.gov, Jan. 2023, <https://media.defense.gov/2023/jan/26/2003150429/-1/-1/0/small-business-strategy.pdf>.

- Informed by both OSBP and Advocacy, educate the broader acquisition workforce on process challenges unique to small offerors, contractors, and subcontractors.⁷

Streamlining Small Business Programs

In its Plan, DoD noted that its small business programs, activities, and workforce “are distributed across the Military Services, Defense Agencies, and field activities (DoD Components, including Components of the Office of the Secretary of Defense.” DoD conceded that such a setup, “although beneficial in some areas, often leads to confusion for small businesses as to what the entry points are... and how a small business can or should utilize DoD’s various small business programs.” Accordingly, DoD pledged to, among other things “develop and implement a unified management structure for [its] small business programs and activities.”⁸

In 2024, GAO published a report on one of three categories of DoD small business programs: small business technology development, funding, and assistance programs.⁹ Specifically, the 2024 GAO report reviewed DoD’s use of the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs. The report, which analyzed FY 2023 solicitations, concluded that “[c]larifying DoD’s guidance could help ensure that each [Department] component more consistently releases open topics that are more broadly defined than its conventional topics.”¹⁰

NSBA encourages DoD to clarify its guidance on programs like SBIR and STTR such that there is consistency across components but cautions that the use of open topics could exclude technology and innovation from small businesses previously engaged with these small business technology programs. As such, DoD should streamline its guidance on these programs in order to both encourage new entrants into the DIB as well as retain businesses that have already undertaken the burden of becoming defense compliant. With SBIR and STTR up for reauthorization, DoD has the opportunity to provide streamlined and balanced guidance.

⁷ Ibid.

⁸ U.S. Department of Defense, “Small Business Strategy,” Media.Defense.gov, Jan. 2023, <https://media.defense.gov/2023/jan/26/2003150429/-1/-1/0/small-business-strategy.pdf>.

⁹ In its 2023 Plan, DoD described the three types of small business programs administered by the Department: participation programs for small business categories; small business technology development, funding, and assistance programs; and outreach, counseling, and industry training programs. *See* U.S. Department of Defense, “Small Business Strategy,” Media.Defense.gov, Jan. 2023, <https://media.defense.gov/2023/jan/26/2003150429/-1/-1/0/small-business-strategy.pdf>.

¹⁰ Government Accountability Office, “Small Business Research Programs: Agencies Broadly Solicit Ideas, But Clearer Guidance Could Improve DOD Efforts,” GAO.gov, Sept. 30, 2024, <https://www.gao.gov/products/gao-24-107036>.

Moreover, DoD should not limit itself to streamlining only SBIR and STTR program guidance; rather, the Department should look to increase collaboration across its small business programs “through implementation of a unified management approach,” as DoD’s Plan recommended.¹¹

In order to ensure the development and implementation of a unified management structure for DoD’s small business programs and activities, the Department should, consistent with its Plan and drawing on recommendations from the 2024 GAO report:

- Establish a forum, led by OSBP, that can “work to improve alignment” between DoD small business programs.¹²
- Clarify guidance to provide consistency across components for its small business programs.¹³

Accounting for Small Business-Specific Challenges in Contracting Regulations

Protecting and Promoting the Use of the Rule of Two

In its Plan, DoD pledged to “[e]nsure full consideration and application of small business set-aside requirements, particularly below the Simplified Acquisition Threshold.” The Department also suggested it would “support efforts regarding appropriate use of “Rule of Two” requirements, which could increase the use of small business set-asides that will promote competition and result in fair market prices for defense procurements.”¹⁴

The Rule of Two is critical for small business opportunities in federal procurement and has been deemed by the SBA Office of Advocacy “the foundation for the Federal Government’s support for small businesses as prime contractors.”¹⁵ SBA itself has noted that “[p]rior to the government-wide application of the Rule of Two in 1984, the Federal Government spent just 21% of its procurement dollars with small businesses.”¹⁶ Over time, thanks to Rule of Two, that

¹¹ U.S. Department of Defense, “Small Business Strategy,” Media.Defense.gov, Jan. 2023, <https://media.defense.gov/2023/jan/26/2003150429/-1/-1/0/small-business-strategy.pdf>.

¹² Ibid.

¹³ See Government Accountability Office, “Small Business Research Programs: Agencies Broadly Solicit Ideas, But Clearer Guidance Could Improve DOD Efforts,” GAO.gov, Sept. 30, 2024, <https://www.gao.gov/products/gao-24-107036>.

¹⁴ U.S. Department of Defense, “Small Business Strategy,” Media.Defense.gov, Jan. 2023, <https://media.defense.gov/2023/jan/26/2003150429/-1/-1/0/small-business-strategy.pdf>.

¹⁵ U.S. Small Business Office of Advocacy, “SBA Makes Proposal to Increase Federal Agency Contracts with Small Businesses,” Advocacy.SBA.gov, Nov. 4, 2024, <https://advocacy.sba.gov/2024/11/04/sba-makes-proposal-to-increase-federal-agency-contracts-with-small-businesses/>.

¹⁶ U.S. Small Business Administration, Small Business Contracting: Increasing Small Business Participation on Multiple Award Contracts, Proposed Rule, 89 Fed. Reg. 85072 (proposed Oct. 25, 2024) (to be codified at 13 C.F.R. pt. 125).

percentage has increased, with nearly 29% of the government's spending going to small business prime contractors in FY 2024.¹⁷

While the Rule of Two is a longstanding tenant of small business contracting, questions remain about the extent to which Rule of Two due diligence is enforced among contracting officers. As suggested in our recommendations concerning acquisition process reform, DoD should ensure that small business professionals are, from the outset of the process, trained “to support identification of opportunities for small business programs and related efforts,”¹⁸ which should include applying the Rule of Two when appropriate.

In addition to Rule of Two training, DoD should implement accountability and enforcement mechanisms to ensure that small business acquisition professionals perform their due diligence to determine whether Rule of Two is applicable to an acquisition.

Reviewing CMMC Program Requirements

In its Plan, DoD acknowledged the challenges faced by small businesses when it comes to complying with cybersecurity regulations and posed a potential solution: the Department's “comprehensive platform that provides companies, institutions, and organizations with cybersecurity, information, resources, tools, and training” (“Project Spectrum”). Additionally, DoD pledged to “[d]evelop and provide guidance to support small businesses in connection with the conduct of voluntary self-assessments of cyber preparedness, as well as the tools, technologies, mentoring, and training small businesses need to improve their cyber resilience.”¹⁹

NSBA applauds these projects and goals but is concerned that the implementation of the CMMC will stifle small business opportunities in the DIB. As the SBA Office of Advocacy stated in comments to the Department of Justice (DOJ) and Federal Trade Commission (FTC) on reducing anti-competitive regulatory barriers, “complying with CMMC imposes an extremely high financial cost, which raises entry barriers [for small businesses] to compete for federal contracts.”²⁰

Indeed, “CMMC requirements,” per DoD's own analysis, “will impose over \$2 billion in total regulatory compliance costs on small business contractors over 20 years.” What's more, “[t]he estimated costs to achieve [CMMC] Level 2 certification is estimated by DoD to be \$101,752 per

¹⁷ Ibid.

¹⁸ U.S. Department of Defense, “Small Business Strategy,” Media.Defense.gov, Jan. 2023, <https://media.defense.gov/2023/jan/26/2003150429/-1/-1/0/small-business-strategy.pdf>.

¹⁹ Ibid.

²⁰ U.S. Small Business Administration Office of Advocacy, Comment Letter on DOJ's Request for Information to Anti-Competitive Regulations Task Force (Docket No. ATR-2025-0001) FTC's Request for Information Regarding Reducing Anticompetitive Regulatory Barriers (Jun. 20, 2025), <https://advocacy.sba.gov/wp-content/uploads/2025/06/Comment-Letter-DOJ-RFI-on-Anticomp-Regs-Task-Force.pdf>.

small entity” – and this may be an underestimated cost given that the Department’s analysis did not include technology costs.²¹

Furthermore, when DoD responded to Advocacy’s comment letter on the CMMC final rule, the Department committed to:²²

- “Enhanc[e] training provisions after the rule is final and effective.”
- “[R]einstat[e] outreach efforts targeting the broader industry and specifically small businesses to facilitate familiarity with CMMC requirements once the rule is final and effective.”
- “[R]obustly supervis[e] the CMMC Program and... take appropriate measures to ensure its efficient execution.”

Accordingly, Advocacy recommended that DoD take the following actions (which align with NSBA’s recommendations, as well):²³

- Reengage with the small business defense contractor community for purposes of improved information gathering and creating targeted solutions.
- Modify small business fixed price contracts to include an equitable adjustment clause to offset the cost of regulatory compliance.
- Engage with the National Institute of Standards and Technology (NIST) to create a cost-effective portal that small businesses could leverage to download DoD cyber protected data and work products rather than establishing their own systems.

Ensuring Prime Contractor Payment to Small Business Subcontractors

In its Plan, DoD pledged to accelerate payments to small businesses “and seek ways to incentivize large prime contractors to do the same with small business subcontractors.”²⁴ To meet this goal, DoD should work with SBA to incorporate a rule into the Defense Federal Acquisition Regulation Supplement (DFARS) that aligns with the intent of SBA’s “Proposed Rule on Government Contracting: Subcontracting Program,” which would “encourage faster payments to small business subcontractors and streamline the reporting process for prime contracts.”²⁵

²¹ Ibid.

²² U.S. Department of Defense, Cybersecurity Maturity Model Certification (CMMC) Program, Final Rule, 89 Fed. Reg. 83092 (Oct. 15, 2024).

²³ Ibid.

²⁴ U.S. Department of Defense, “Small Business Strategy,” Media.Defense.gov, Jan. 2023, <https://media.defense.gov/2023/jan/26/2003150429/-1/-1/0/small-business-strategy.pdf>.

²⁵ SBA’s proposed rule would provide, pursuant to Section 862 of the National Defense Authorization Act (NDAA) for FY 2024, that a prime contractor must notify the contracting officer in writing if, upon completion of the responsibilities of the small business subcontractor, payment to the subcontractor is past due under the terms of the subcontract by 30 days. See U.S. Small Business Administration, Government Contracting: Subcontracting Program, Proposed Rule, 89 Fed. Reg. 103709 (proposed Dec. 19, 2024) (to be codified at 13 C.F.R. pt. 125).

Acquisition Workforce Reform: Training and Education

In addition to engaging small business professionals at early stages of acquisition, DoD should improve the training and education of these professionals on matters pertinent to small business offerors, contractors, and subcontractors. In its Plan, DoD recommended that enhanced guidance be issued “on how [Department] acquisition professionals can better utilize a variety of tools to simplify entry into the DoD market and attract non-traditional, emerging, and innovative small businesses.”²⁶

To tackle these challenges, the Plan suggested that small business professionals “be trained as a professional community to ensure that small businesses have the maximum practicable opportunity to participate in DoD acquisition and programs.” Specifically, the Plan outlined, DoD should “[e]stablish and implement common training for all small business professionals and appropriate elements of the broader acquisition workforce” that would include “training on [the Department’s] small business programs, best practices from government and industry in small business, market research, acquisition policy, and building resilient supply chains.” The Plan also highlighted the Defense Acquisition University’s (DAU) potential role in addressing these challenges, suggesting that DAU content be “easily accessible for all members of the acquisition workforce.”²⁷

Despite DoD’s stated plans to address these issues, acquisition workforce challenges have persisted. As recently as June 2025, lawmakers have heard of challenges for small businesses with the acquisition workforce. The House Oversight and Government Reform Military Subcommittee recently held a hearing on “reforming procurement to accelerate defense innovation,” during which National Defense Industrial Association (NDIA) senior fellow Eric Snelgrove suggested that small businesses may have trouble working with DoD due to lack of small business experience among procurement officers.²⁸

To improve the training and education of DoD’s acquisition workforce pursuant to its Plan, NSBA recommends that the Department standardize and incorporate modern acquisition best practices, as well as similar contracting and contracting management methods. As part of this process, we encourage DoD acquisition professionals to engage with small businesses to better understand commercial best practices. By doing so, DoD’s acquisition workforce could better promote the liquidity of small businesses and entrepreneurs to serve Department-wide goals.

Conclusion

²⁶ U.S. Department of Defense, “Small Business Strategy,” Media.Defense.gov, Jan. 2023, <https://media.defense.gov/2023/jan/26/2003150429/-1/-1/0/small-business-strategy.pdf>.

²⁷ Ibid.

²⁸ U.S. House of Representatives Committee on Oversight and Accountability, Military Subcommittee, Hearing on “Clearing the Path: Reforming Procurement to Accelerate Defense Innovation,” 119th Cong., 1st sess., Jun. 11, 2025.

NSBA stands ready to assist DoD as it reforms its acquisition process, reviews regulations to account for small business impact, and trains and educates its acquisition workforce to better leverage the innovation that small businesses offer the DIB.

Thank you again for the opportunity to comment on this request. Please do not hesitate to reach out to rgrey@nsbaadvocate.org if you have any questions.

Sincerely,

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