



U.S. Small Business
Administration

Legislative & Regulatory Update

**For Small Business Government Contracting
Programs**

January 2025

Legislative Action

NDAA FY25 – Signed by the President

[H.R. 5009](#), Dec. 9, 2024

- Sect. 874 - require DoD to expand existing pilot programs for small businesses to access shared commercial classified infrastructure
- Sect. 875 - require DoD write contract solicitations and other notices in easily understood language
- Sect. 876 – Small business "Bill of Rights" within DoD to resolve customer service issues and conflicts
- Sect. 888 – Track OTAs to small businesses

Executive Action

Small Business Participation on Multiple Award Contracts

[OFPP Memo](#), Jan. 25, 2024; [DoD Memo](#), April 19, 2024

1. Award of new multiple-award contracts

- engage small-business specialists and PCRs earlier in the acquisition process
- consider on-ramps when developing the acquisition strategy

2. Award of orders under new and existing multiple-award contracts

- apply the rule of two to contract orders, with limited exception
- maximize orders to small businesses under the SAT

3. Best-in-Class contracts

- seek new entrants through BIC, or
- consider whether using an "open market" set-aside (outside of a BIC) would be more effective to finding new entrants

Strengthening Federal procurement forecasts

OFPP Memo, Nov. 29, 2024

- New standardized approach to federal procurement forecasts
- Requires agencies to improve forecast content by Q3 FY2025
- Enhance timeliness by Q1 FY2026
- Provide centralized access through GSA's Forecast of Contracting Opportunities tool by Q3 FY2026
- Agencies must designate a Forecasting Lead by February 2025

Increasing Small Business subcontracting participation

OFPP Memo, Nov. 29, 2024

- Recommendations for agencies to close subcontracting gaps:
 - Challenge contractors proposing zero or minimal small business participation goals
 - Consider monetary incentives for prime contractors meeting small business subcontracting targets
 - Expand use of small business participation evaluation factors beyond just bundled contracts
 - Monitor contractor compliance with subcontracting plans more closely

Recent SBA Regulatory Action

SBA Direct Final Rule: Eliminate SDVOSB Self-Certification

89 FR 48266 (June 6, 2024); **Clarification** published Aug. 1, 2024

- Must be certified by SBA for
 - agency's SDVOSB goals;
 - subcontracting plan SDVOSB goals
- Submitting application by December 22 qualifies until SBA makes a decision
- Clarified on Aug. 1 to state that “SDVOSBs may continue to self-certify until the grace period ends on December 22, 2024.”

SBA Interim Final Rule: WOSB Program Recertification

[89 FR 16445](#) (March 7, 2024)

- Administrator or designee may postpone the required program examination in light of appropriate, extraordinary circumstances
- Otherwise, certified WOSBs undergo a program examination every three years

SBA Final Rule: Women-Owned Small Business

[89 FR 96089](#) (Dec. 4, 2024)

- Aligning the language on outside employment across the 8(a), women-owned, and service-disabled veteran programs
- Removing outdated references to the VA's certification program
- Implementing statutory requirements on a firm needing to change its WOSB self-certification status based on a status protest
- Changes to definitions

SBA Final Rule: Credit for Lower Tier Subcontracting

[88 FR 70339](#) (Oct. 11, 2023)

- Permits prime contractor to apply credit for subcontracts to small businesses at lower tiers toward its subcontracting goals
 - Only for individual plans, not commercial/comprehensive/GWAC/multi-agency contracts
 - Election recorded in the subcontracting plan
- Prime would incorporate lower-tier performance into subcontracting goals

Final Size Standard Methodology

[89 FR 74109](#) (Sept. 12, 2024); www.sba.gov/size

- Will be applied to the upcoming third 5-year review of size standards.
- Key changes from 2019 methodology:
 - replaces the percentage point difference method with a disparity ratio approach for analyzing Federal contracting in size standards
 - uses FPDS-NG/SAM data instead of Economic Census data to calculate industry factor percentiles for subindustry “exceptions”

SBA Final Rule: HUBZone and Other Programs

[89 FR 68274](#) (August 23, 2024); clarified Sept. 19 in [89 FR 76751](#)

- Eligibility at time of offer for HUBZone contracts, not annually
- Recertification frequency from annual to every 3 years
- Employee definition:
 - Decrease to 90 days for HUBZone employee residency (from 180)
 - Employee definition requires 80 hours per month (up from 40)
- Principal office requirements :
 - Must have lease starting 30 days before and ending 60 days after SBA review
 - Virtual offices not allowed
 - Shared spaces must have dedicated area
 - For 100% telework, 51% of employees must be in HUBZones
- “Attempt to maintain” HUBZone employee percentage:
 - One-year grace period after HUBZone contract award where can drop to 20%
 - Return to 35% by next certification date
- Limited to one legacy employee at a time

SBA Final Rule: HUBZone and Other Programs

[89 FR 68274](#) (August 23, 2024); clarified Sept. 19 in [89 FR 76751](#)

- Consolidated recertification requirements into new 125.12:
 - Long-term contracts
 - Merger, acquisitions, and contracting office request
- Aligned eligibility requirements across programs:
 - Consistent ownership and control criteria
 - 6 extraordinary circumstances where minority shareholders can veto
 - Uniform treatment of community property
 - Removed 90-day waiting period to reapply after
- Submitting false/misleading information may result in removal from multiple SBA programs
- Joint-venture and mentor-protégé past-performance evaluation

SBA Final Rule: HUBZone and Other Programs

[89 FR 68274](#) (August 23, 2024); clarified Sept. 19 in [89 FR 76751](#)

- **8(a) program changes:**

- Relax revenue requirement at application to "operating revenues," rather than revenues in primary industry
- Modify good character to focus on suspension/debarment grounds
- Increase allowable ownership percentages for nondisadvantaged individuals from 10% to 20% in developmental stage and from 20% to 30% in transitional stage
- Clarify rules around negative control by minority shareholders, adding "extraordinary circumstances" exceptions
- Allow right of first refusal provisions if terms follow normal commercial practices
- Remove state community property laws from consideration of ownership
- Eliminate requirement for professional licenses

SBA Final Rule: HUBZone and Other Programs

[89 FR 68274](#) (August 23, 2024); clarified Sept. 19 in [89 FR 76751](#)

- **8(a) program changes contd.:**

- Require notification (rather than prior approval) for lower compensation to disadvantaged individual; approval required prior to an 8(a) award
- Increase financial statement thresholds:
 - Audited to \$20mil (\$10 mil prior)
 - reviewed to \$7.5mil (\$2mil prior)
- Prior approval of ownership change not needed in some circumstances:
 - nondisadvantaged own 30% before and after;
 - transfer results from the death or incapacity due to a serious, long-term illness or injury of a disadvantaged principal;
 - disadvantaged will increase ownership; or
 - participant has never received an 8(a) contract, and eligible individual continues to own more than 50%.
 - In that case, need to notify within 60 days or submits an offer on 8(a) contract

SBA Final Rule: HUBZone and Other Programs

[89 FR 68274](#) (August 23, 2024); clarified Sept. 19 in [89 FR 76751](#)

- Clarified on Sept. 19 that SBA's rule will not
 - eliminate or restrict the exclusion from affiliation available to mentor-protégé joint ventures; nor
 - change the applicability of the HUBZone price evaluation preference to HUBZone joint ventures formed under the Mentor-Protégé Program.
- Those changes would occur only through a separate notice-and-comment rulemaking

SBA Proposed Rule: Small Businesses on Multiple-Award Contracts

[89 FR 85072](#) (Oct. 28, 2024)

- Proposes to expand the Rule of Two to multiple-award contract task and delivery orders, with some exceptions
 - Set aside for small businesses when the agency determines there is a reasonable expectation of:
 - obtaining offers from two or more small business contract holders under the multiple-award contract
 - that are competitive in terms of market prices, quality, and delivery.
- Documentation requirements where agency does not set aside
- Include small-business specialists and SBA Procurement Center Representatives while planning larger multiple award contracts.
- Comments were due December 24, 2024 (now closed)

SBA Proposed Rule: Subcontracting Program

[89 FR 103709](#) (Dec. 19, 2024)

- Changes the time a prime must notify a CO of late payments to a subcontractor if payments are past due by **30 days** (formerly 90 days)
- Requires contractors submit separate SSRs per ordering agency under multi-agency multiple award contracts
 - 15 additional days to submit SSRs
- Requires contractors submit SSRs to the executive agency level unless otherwise directed by the agency
- Contractor's President, CEO, General Manager, or most Senior Executive for government procurement may sign the SSR
- Allows primes to use a subcontractor's primary NAICS code as size classification for contracts under the commercial subcontracting plan, MPT contracts, and indirect costs contracts without NAICS codes
- Comments due February 18, 2025

MySBA Certifications

Available Now at: [MySBA Certifications](#)

- Goal – streamline the certification process
- Now accepting new applications for VetCert, WOSB, EDWOSB, 8(a) programs
- Note: Entity-owned firms cannot apply yet and recertification is not available yet
- Reduction in the time it takes to apply by an estimated 40% for firms seeking a single certification, and 70% for firms seeking multiple certifications
- More than 1,300 small business federal contracting certification applications approved since MySBA Certifications, which allows small business owners to apply for multiple federal contracting certifications through one login and one application, launched in late October 2024

GOVCON Match

Available Now at: [GovCon Match](#)

- **Goal:** match small businesses with the most suitable federal agency for their product or service
- **How does it work:** leverage historical transaction data to predict the agency most likely to contract with your small business
- **Input:** business type, organization type, business NAICS code, business zip code, veteran status, primary vendor of goods or services, and average number of federal contracts acquired in a year
- **Output:** the top 20 agencies most likely to contract with the small business, detailing the agency ID, agency name, agency website, and descriptive bid statistics per contract for each agency

Recent FAR Regulatory Action

FAR Proposed Rule: Inflation adjustments of thresholds

[89 FR 94649](#) (Nov. 29, 2024)

Description	Current Threshold	Proposed Increased Threshold
Micropurchase threshold (2.101)	\$10,000	\$15,000
Simplified Acquisition threshold (2.101)	\$250,000	\$350,000
8(a) justification threshold for civilian-agency sole-source awards to entity-owned participants and certain other sole-source awards (6.204)	\$25 million	\$30 million
Subcontracting plan threshold (19.702)	\$750,000 (\$1.5 million for construction)	\$950,000 (\$2 million for construction)
8(a) sole-source threshold (19.805-1)	\$4.5 million (\$7 million for manufacturing)	\$5.5 million (\$8.5 million for manufacturing)
HUBZone sole-source threshold (19.1306)	\$4.5 million (\$7 million for manufacturing)	\$5.5 million (\$8.5 million for manufacturing)
Service-disabled veteran-owned small business sole-source threshold (19.1406)	\$4 million (\$7 million for manufacturing)	\$5.5 million (\$8.5 million for manufacturing)
Women-owned small business sole-source threshold (19.1506)	\$4.5 million (\$7 million for manufacturing)	\$5.5 million (\$8.5 million for manufacturing)

DFARS Final Rule: Past Performance of Small Business Affiliates

[89 FR 90237](#) (Nov. 15, 2024)

- Requiring contracting officers to consider the past performance of affiliate companies when evaluating small business bids on competitive contracts
- Implements a provision from the 2024 National Defense Authorization Act
- Takes effect immediately

FAR Interim Final Rule: Clarifies SAM registration requirement

89 FR 89472 (Nov. 12, 2024)

- Clarifies that offerors must be registered in SAM at the time of offer and time of award.
- There is no requirement to be registered at all moments in between, contrary to several recent GAO and COFC cases.
- Effective November 12, 2024, a lapse in registration after offer but before award will not render the offer ineligible for award.

FAR Final Rule: Order-level Protests

[89 FR 61333](#) (July 30, 2024)

- Provides processes and procedures for filing size and socioeconomic status protests for
 - partial set-asides and reserves under multiple-award contracts,
 - orders set aside under unrestricted multiple-award contracts, and
 - orders placed under multiple-award contracts where rerepresentation was requested
- Protests must be submitted within 5 business days of order award notification

FAR Interim Final Rule: Certification of SDVOSBs

[89 FR 13950](#) (Feb. 23, 2024)

- As of January 1, contracting officers were required to check SAM or SBA's Veterans Small Business Certification Program database (veterans.certify.sba.gov) to determine whether the firm is an eligible SDVOSB to qualify for an SDVOSB set-aside or sole-source contract.
- Firms also eligible if on SBA list of applicants as of Dec. 31, 2023 that have not received a determination

FAR Final Rule: 8(a) program

[88 FR 69523](#) (Oct. 5, 2023)

- Requires notice to 8(a) program when a procurement, previously in the 8(a) program, is determined to be a new requirement, not subject to 8(a) release requirements
- Requires notice when agency intends to procure an 8(a) follow-on using an existing limited-competition contract vehicle, when the current or previous 8(a) contract was available to all 8(a) participants
- SBA reserves the right to appeal these decisions

FAR Proposed Rule: HUBZone program

[89 FR 48544](#) (June 7, 2024)

- Appeals of HUBZone protest decisions are heard by the SBA's Office of Hearings and Appeals
- Proposes to remove the HUBZone representation in SAM because SBA certified HUBZone firms

FAR P. Rule: Subcontracting to Puerto Rican and Covered Territory Small Businesses

89 FR 48540 (June 7, 2024)

- Proposes to give an SBA-approved mentor that subcontracts to its P.R./covered territory protégé positive consideration for the mentor's past performance evaluation and the ability to apply costs incurred for training provided to its protégé to its subcontracting plan goals.
- Proposes to exempt subcontractor ANCs from the requirement to submit subcontracting plans because the law treats them as small business concerns when acting as subcontractors

FAR Proposed Rule: Limitations on Subcontracting

[89 FR 2910](#) (Jan. 17, 2024)

- Similarly situated entity must perform the work with its own employees
- Permits exclusion of other direct costs that are not the principal purpose of the acquisition, and not performed by small businesses
- For service contracts, excludes work performed outside the United States on contracts or orders approved or financed under the Foreign Assistance Act of 1961 and work required to be performed by a foreign contractor
- Removes the separate limitations on subcontracting regulations for 8(a) contractors

Upcoming FAR proposed rules

1. Proposed 2024-007, Protests of Orders under Certain MACs
2. Proposed 2024-006, SDVOSB Certification Requirements
3. Proposed 2024-003, 8(a) Program
4. Proposed 2024-001, Inflation Adjustment of Acquisition-Related Thresholds
5. Proposed 2023-017, Consolidation and Bundling
6. Proposed 2023-016, Subcontracting Plans and Limitations on Subcontracting
7. Proposed 2023-015, Policy on Joint Ventures

Upcoming FAR proposed rules (cont.)

8. Proposed 2023-014, Small Business Protests
9. Proposed 2023-011, Small Business Participation on Certain Multiple Award Contracts
10. Proposed 2023-009, Credit for Lower-Tier Subcontracting
11. Proposed 2021-011, Past Performance Ratings for Small Business Joint Venture Members and Small Business First-Tier Subcontractor

Upcoming FAR final rules

1. Final 2023-013, HUBZone Program
2. Final 2023-001, Subcontracting to Puerto Rico and Covered Territory Small Businesses
3. Final 2022-009, Certification of SDVOSBs
4. Final 2021-020, Limitations on Subcontracting
5. Final 2020-016, Rerepresentation of Size and Socioeconomic Status
6. Final 2020-010, Small Business Innovation Research and Technology Transfer Programs



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