



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3011

INDUSTRIAL BASE POLICY

MEMORANDUM FOR DOD COMPONENT DIRECTORS OF SMALL BUSINESS

SUBJECT: Small Business Regulatory Enforcement Fairness Act Requirements

This memorandum supersedes the memo issued December 1, 2017, titled "Small Business Regulatory Enforcement Act Fairness Requirements," and highlights DoD Small Business Professional's (SBP) responsibilities under the Small Business Regulatory Enforcement Fairness Act (SBREFA). SBREFA increases opportunities for small businesses to participate in and voice concerns about the federal regulatory process. The Act provides small businesses more influence over the development of regulations, additional assistance for complying with regulations, and additional avenues for addressing enforcement actions by federal agencies. It also provides protection against retaliation by the government against small businesses that choose to exercise their rights under SBREFA.

Assistance with regulatory compliance and prevention of retaliation against small businesses

DoD OSBP encourages the SBP workforce to provide training, advice, and assistance to help small businesses participate in DoD contracts and subcontracts to the maximum extent practicable. This assistance should include guidance on compliance with regulations that affect small businesses, such as the Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS).

SBPs should encourage small businesses to publicly comment on draft FAR and DFARS regulations as part of the rulemaking process. This ensures a healthy and productive dialogue between government and industry. SBPs and other acquisition personnel should forward concerns and complaints from small businesses about regulatory enforcement or compliance matters to the appropriate recipients. Ideally, these concerns and complaints should be resolved at the most junior level possible. After exhausting all other options, SBPs and other acquisition personnel can recommend small businesses to file a formal complaint with the Small Business Administration (SBA) Office of the National Ombudsman.

Retaliation - improper actions that punish small businesses for complaining or commenting about agency actions - is prohibited by SBREFA. SBP's must report any evidence of retaliation against a small business immediately upon discovery to the DoD OSBP and the SBA Office of the National Ombudsman. Contact information for the SBA National Ombudsman is listed below, and the electronic mailbox for DoD OSBP is:

osd.business.defense@mail.mil

Small businesses' rights under the SBREFA to file a complaint with the SBA National Ombudsman

The Department must implement laws and regulations in a manner that ensures fair and equitable treatment for all parties involved, including small businesses. DoD SBPs are at the front line of industry engagement and should base decisions and recommendations on objective facts and reasoned judgment, avoiding even the appearance of impropriety. SBPs must not

retaliate or take adverse actions against small businesses in response to requests for assistance, questions, or complaints about regulatory or enforcement actions.

Despite the best efforts of SBPs and other acquisition personnel to resolve these issues, some small businesses may need to elevate their concerns in accordance with SBREFA. In such cases, DoD SBPs must provide the following contact information to any small business that wish to lodge a formal complaint about regulatory enforcement or compliance matters:

Office of the National Ombudsman
Small Business Administration
409 Third Street, SW
Washington, DC 20416
(888) 734-3247
<http://www.sba.gov/ombudsman> ombudsman@sba.gov

This memorandum and the contact information for the SBA Office of National Ombudsman is publicly available on the DoD OSBP website:

<https://business.defense.gov>

Thank you for your continued leadership and efforts to maximize procurement opportunities for small businesses in the defense industrial base.

Farooq A. Mitha
Director, Office of
Small Business Programs