OFFICE OF THE UNDER SECRETARY OF DEFENSE
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ACQUISITION,
TECHNOLOGY
AND LOGISTICS

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MEMORANDUM FOR DOD COMPONENT DIRECTORS OF SMALL BUSINESS

SUBJECT: Small Business Regulatory Enforcement Fairness Act requirements

This memorandum highlights the DoD Small Business Professional's (SBP) responsibilities under the Small Business Regulatory Enforcement Fairness Act (SBREFA). The 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 new regulations, additional compliance assistance for regulations, and new avenues for addressing enforcement actions by federal agencies. It also provides protection against retaliation for small businesses that choose to exercise their rights under the 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. Such assistance should include compliance guidance for 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 will be resolved at the lowest possible level. After exhausting all other options, SBPs and other acquisition personnel can direct small businesses to file a formal complaint with the SBA Office of the National Ombudsman.

DoD SBPs must implement the SBREFA in order to prevent any improper actions that punish small businesses for complaining or commenting about agency actions, also known as "retaliation." Such retaliation against small businesses is prohibited by the SBREFA. Report any evidence of retaliation against a small business immediately to the DoD OSBP and the SBA Office of the National Ombudsman. Contact information for the SBA Office of 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 follow law and implement 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 the SBREFA. In such cases, DoD SBPs should provide the following contact information to any small business that needs to lodge a formal complaint about regulatory enforcement or compliance matters:

Office of National Ombudsman
Small Business Administration
409 Third Street, SW
Washington, DC 20416
(886) 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:

http://business.defense.gov

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

James J. Galvin
Acting Director, Office of
Small Business Programs