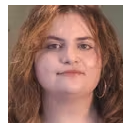


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12 Solutions for Small Business Success in Federal Contracting



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The United States government is the largest customer in the world, spending billions of dollars per year on products and services. This spending presents a massive opportunity for small business owners since the federal government is required to provide contract opportunities for smaller firms. In FY2023, \$178.6 billion in federal contracting dollars

went to small businesses (28% of total awards).¹ Unfortunately, too many businesses are shut out of the process. Our last report on federal contracting uncovered that women-owned and minority-owned small businesses face significant hurdles to full and fair participation in government procurement.²

Since 2020, more than 16 million new business applications have been filed.³ As these businesses begin to grow, it is critical that small business owners have the necessary tools to successfully bid for government contracts, especially women and people of color. In this report, we dive into what issues are still making it difficult for small businesses to win federal contracts and what can be done to fix it. By strengthening new entrant participation, making it easier for small businesses to win federal awards, and improving program integrity and accountability, we can revolutionize government procurement for small business owners of all backgrounds.

What Isn't Working

Shrinking Participating among Small Businesses

The Small Business Administration (SBA) is responsible for ensuring small businesses have equitable opportunities to compete for federal contracts. Although federal awards to small businesses have reached historic levels, there has been a significant drop in the number of small businesses participating. Over the last decade, the number of small businesses receiving federal contracts has dropped in half, and the number of new small businesses entering the federal contracting space declined by almost 60%.⁴ In FY23, just 1.4% of total obligated dollars went to businesses who had never before received a prime award in the federal marketplace. More than 92% of contract awards went to established vendors.⁵

One potential reason for this decline could be the push to increase efficiency and reduce duplication in the federal procurement process. In an effort to cut costs, federal agencies often end up consolidating and bundling contracts in a process known as *category management*. But these cost-saving measures often hurt small businesses the most. According to a House report on contracting for women-owned businesses, the “drive for efficiency in government procurement often places congressionally mandated contracting goals for small businesses in general, [and underrepresented firms in particular], in jeopardy.”⁶ Contract bundling may increase efficiency of government procurements but may also perpetuate the use of well-known firms that are not women- or minority-owned businesses.⁷

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Another barrier is a practice called *double counting*. Currently, contracts awarded to a business owned by a woman of color or a female veteran, for example, can count towards more than one economically-disadvantaged category. This can distort the accuracy of procurement data and misrepresent the actual level of contracting activity to these communities.

Oversight Deficiencies in Program Administration Harm Small Businesses

When federal programs are ineffective, it can be a significant drain on resources and jeopardize opportunities for citizens and businesses. One specific program in the contracting world has repeatedly been under evaluation by the Government Accountability Office and SBA's Inspector General—the Women-Owned Small Business (WOSB) Program.⁹ The WOSB program is the only SBA program that ensures certified women-owned businesses are eligible for set-aside contracting awards.¹⁰ Yet, the program does not have its own line item in federal appropriations. Unlike the Service-Disabled Veteran Program, which received more than \$15.5 million in the FY25 Appropriations bill proposed by the House, there were no direct appropriations for the WOSB program—even though women own four times as many firms as veterans do. A funding problem has affected the program's aims to level the playing field, since the WOSB procurement goal has only been met twice in its 30 years of existence.¹¹

In fact, relatively few federal contracts are awarded through the WOSB program.¹² Further, there have been significant concerns with WOSB's certification process. Up until 2020, businesses were able to self-certify that they were at least 51% owned or controlled by a woman, but the SBA's Office of Inspector General has consistently identified self-certification as a risk for fraud.¹³ When SBA announced it would institute its own free online certification option, alongside its fee-based third-party certifiers, there was hope that the program would finally get back on track.¹⁴ However, the backlog for certifications is considerable. On average, it takes at least eight months to verify that a business is woman-owned.¹⁵ In contrast, it takes only 30-90 days on average to establish that a business is veteran-owned.¹⁶

Another set of barriers to small business participation are the difficulties many firms face as subcontractors. Small business subcontractors often have challenges obtaining flexible working capital while executing a contract and must rely on the prompt payment of invoices by prime

awardees. There is also limited data on the destination of federal award dollars, obscuring our understanding of contractor compliance with small business subcontracting requirements.¹⁷

How Can We Fix It?

The United States needs to bring the federal contracting system into the 21st century so it better meets the needs of small businesses—especially those that are owned by women and people of color. To do so, we need to bring significantly more new businesses into the system, make it easier for small businesses to compete, and improve government programs and bureaucracy. Below, we lay out how to accomplish each of those tasks:

Strengthen New Entrant Participation

Establish a benchmark for first-time awardees and recent entrants. To ensure the federal government is tapping into a new pool of talent, all federal agencies should track the number of small businesses that receive a prime contract award for the first time, known as *first-time awardees* or *new entrants*. Congress should set a benchmark to incentivize agencies to further break down their supplier siloes and select qualified small businesses that have never worked in the federal marketplace. First-time entrants may need time to become competitive and build experience, so agencies should also monitor business retention by tracking recent entrants that have received a prime award in the two to three years since it first entered the federal marketplace.

A bipartisan team of Members in the House have introduced a bill that would do just that. The *Small Business Procurement and Utilization Reform (SPUR) Act* would include the number of new small businesses entering the federal contracting market as part of each agency's contracting scorecard. The bill, introduced by Representatives Pete Stauber (R-MN)

and Marie Gluenskamp Perez (D-WA), unanimously passed the House in earlier this month.¹⁸

Count online retail purchases toward contracting goals. E-commerce has created new channels for government agencies and prime contractors to acquire goods and services through small businesses. However, current law prohibits agencies from receiving credit towards their contracting goals for their online purchases with small and disadvantaged businesses. Legislative or regulatory changes should allow business done through online marketplaces to help agencies reach federally-mandated goals and provide greater access to contracts for underrepresented communities. A recent study by Oxford Economics found that allowing agencies to earn credit for these purchases could “increase federal awards with small and disadvantaged businesses by \$100 million.”¹⁹

Prioritize small businesses in micropurchase orders. To reduce administrative costs, the government has set a micropurchase threshold (MPT) of \$10,000 and a simplified acquisition threshold (SAT) of \$250,000, eliminating the need for a formal competitive process. Purchases under the SAT are reserved for small and socioeconomically disadvantaged firms, providing growth opportunities in the federal marketplace. These small orders are an important first step for new entrants building their reputation and scaling their procurement businesses. The capital raised from completion of a series of these orders, in addition to capital sought at traditional financial institutions, is critical to helping businesses grow their capacity to take on larger contracts down the road.

In FY23, only 36% of purchases at or below the MPT went to small businesses, with just 3.6% to women-owned small businesses and less than 0.01% to 8(a) firms.²⁰ Congress should ensure small businesses

receive a majority of these purchases. One approach is to direct the General Services Administration (GSA) to regularly publish purchase card data in the Federal Procurement Data System (FPDS), as required by the Federal Acquisition Regulation (FAR), though GSA has noted this data is currently not reported.²¹

Ensure contract solicitations are written in plain language. Small businesses often lack the specialized legal resources large companies benefit from when pursuing federal awards. As a result, many small businesses are deterred from ever attempting a bid, reducing the competitive pool. Congress can help new businesses enter government contracting for the first time by mandating all federal award notices published on procurement channels, such as SAM.gov, are free of jargon and excessive technical language.

The House recently passed the National Defense Authorization Act which included provisions to ensure notices published by the Secretary of Defense are written in “a manner that is clear, concise, and accessible to a small business.”²² Rep. LaLota and Rep. Thanedar introduced a similar bill, *the Plain Language in Contracting Act*, that would ensure all federal contracting opportunities are written in a simple and approachable way.²³

Give Subcontractors a Larger Voice in the Market

Cut back on contract bundling. Currently, federal agencies that intend to bundle contracts must give the SBA at least 30 days’ notice for their input.²⁴ This is not nearly enough time for the SBA to assess the contracts and negotiate with agencies. Congress should require agencies to let SBA know any intentions to bundle contracts at least 90 days in advance. This will allow SBA to negotiate on behalf of small businesses and ensure that contracts or subcontracts are appropriately allocated.

Allow subcontractors to evaluate primes. Subcontractors should be allowed to report when prime contractors are underperforming. The Federal Acquisition Regulation already guarantees that contractors cannot “prohibit a [sub] from discussing with the Contracting Officer any material matter” pertaining to use of the subcontractor.²⁵ However, evaluations of primes should become regular practice. By allowing subs to anonymously submit reports to agency officers on the performance of a prime, Congress can help ensure federal awards go to good-faith actors.

The *Improve the SBA Act* introduced last Congress by Small Business Committee Republicans would have held prime contractors accountable by incorporating questionnaires by subs into the prime’s performance record.²⁶

Lower the Miller Act threshold to encourage prompt pay. The Miller Act is a crucial protection for subcontractors, laborers, and suppliers on a federal construction project in the event of non-payment by a prime. Currently, all projects above \$100,000 require primes to furnish a payment bond as a financial guarantee of compensation to its subs. Congress can enhance payment security, improve cash flow, and enhance the competitive environment by lowering the threshold to \$75,000 so more awards are secured against default.

To be sure, when lowering the threshold, lawmakers should carefully consider the impact of bonding requirements on firms that work with lower-tier subcontractors. Congress should also update the FAR to ensure small business primes receive payment under an accelerated time frame, as is currently the practice for small business subcontractors. One simple approach to this would be to update the FAR to say primes “shall” pay their subcontractors within a certain number of days, e.g. within seven days of receiving payment from the federal government.

Improve subcontracting data collection. Congress should direct SBA to develop a more robust tracking system for subcontractor information. This would provide a more comprehensive look at how primes engage economically-disadvantaged firms and help identify where improvements are needed. Enhanced data collection would also make it easier to monitor and ensure compliance with congressionally mandated contracting goals.

Improve Program Integrity and Accountability

Streamline WOSB certifications through one portal. SBA needs a new approach to certifying women-owned small businesses that reduces the total time needed to complete verification. The agency should model the new certification process after the VetCert program used for veteran entrepreneurs. Congress can mandate that SBA develop a single portal through which all businesses are examined and certified. This would eliminate the need for third party certifiers which place an additional cost burden on women-owned firms. Congress must also add a unique line item for WOSB in future appropriations bills to ensure SBA has sufficient staffing to eliminate its application backlog.

Improve training for acquisition workforce. Congress can also encourage the Office of Management and Budget (OMB) to mandate that federal agencies enhance and expand training and education on the set aside programs for government procurement staff. Despite the availability of these programs, reports indicate that acquisition staff often do not utilize set-aside programs to their full capacity, leading to underrepresentation of women-owned and economically-disadvantaged businesses in federal contracting. Enhanced training will ensure that procurement officials are well-equipped to identify, engage, and support these businesses, fostering greater inclusivity and diversity in federal contracting opportunities.

Eliminate artificial inflation and “double counting” of businesses toward agency goals. Businesses should still be eligible to receive multiple economically-disadvantaged distinctions, but when selected for an award, Congress can mandate the agency only count one of the firm’s certifications toward their agency goals. This should encourage agencies to seek out more, potentially new, businesses to meet their congressionally mandated goals and prevent artificial inflation of an agency’s performance. SBA should also differentiate between awards that were made to businesses with an economically-disadvantaged distinction and awards that were specifically set aside for such businesses.

As the SBA continues to move away from self-certification and institutes its own improved processes, Congress can ensure fraudulent self-certified WOSBs do not artificially inflate the record of agency performance on their contracting goals. In February, the House passed the bipartisan *WOSB Certification and Opportunity Expansion Act* which would ensure that only SBA-certified WOSBs count toward a federal agency’s contracting goals. The bill, introduced by Small Business Committee Ranking Member Nydia Velazquez (D-NY) and Rep. Nick LaLota (R-NY), would protect the integrity of the WOSB program and ensure federal resources are awarded to verified businesses.

Revise and enhance SBA’s scorecard system to ensure accountability. Congress should retain the SBA’s weighted scorecard model but incorporate a pass-or-fail grading system for SBA subcategories, including women-owned small businesses, economically-disadvantaged small businesses, service-disabled veteran-owned small businesses, and HUBZone small businesses. Agencies that fail to meet all mandatory federal procurement goals for each of these groups would receive an unsatisfactory designation and should submit an improvement plan to Congress.

Along those lines, a bill introduced by Rep. Stauber (R-MN), Rep. LaLota (R-NY), and Rep. McGarvey (D-KY) would require agencies receiving below an A on their scorecard or failing on two or more small business goals to testify before Congress.²⁷ This reform would likely result in greater accountability and transparency in federal procurement practices, incentivize agencies to meet their small business contracting goals, and ultimately lead to improved opportunities for small businesses, particularly those owned by underrepresented communities.

Conclusion

It is critical that small businesses, especially women and minority-owned businesses, can adequately tap into government markets and participate in the federal procurement process. This requires specific corrections from the federal government to increase participation among a diverse pool of applicants, ensure government accountability, and reduce red tape. Small businesses have the potential to generate even greater returns for their communities should they have equal access to the lucrative contract market—it is up to Congress to unlock that full potential by ensuring the processes and the tools work for diverse entrepreneurs.

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