

NEWSLETTER

December 2025



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TIP OF THE MONTH

Independent Contractors and the FAR's Subcontracting Limits

Recently, the U.S. Small Business Administration [made headlines](#) by announcing that it was investigating an 8(a) Program contractor for potentially violating the limitations on subcontracting imposed by the [Federal Acquisition Regulation](#) and the SBA's regulations. The SBA's investigation serves as a strong reminder that small business prime contractors must strictly follow subcontracting limits and fully understand how independent contractors are treated under the FAR and SBA rules to avoid compliance issues.

Small businesses often use independent contractors, or "1099s," to supplement their W-2 workforce. Although independent contractors are not employees, it is not uncommon for small businesses to begin thinking of their 1099s as functionally equivalent to employees. For this reason, when it comes to the limitations on subcontracting, many prime contractors assume that work performed by their 1099s counts toward the prime contractor's workshare. Not so.

[FAR 52.219-14\(d\)](#) specifies that "[a]n independent contractor shall be considered a subcontractor." Similarly, [13 C.F.R. 125.6\(d\)\(3\)](#) says that "[w]ork performed by an independent contractor shall be considered a subcontract." This means that, ordinarily, an independent contractor's work counts against the prime contractor's self-performance for purposes of the limitations on subcontracting, not toward it.

For example, consider a case in which a service-disabled veteran-owned small business is awarded a \$150,000 services contract. The applicable limitations on subcontracting specify that the prime contractor cannot subcontract more than 50% of the amount paid by the government to subcontractors that are not similarly situated entities. The SDVOSB pays a

1099 independent contractor \$100,000 to perform a portion of the work. Unless the 1099 is a certified SDVOSB, that \$100,000 counts against the limitations on subcontracting, and the SDVOSB has violated the rule by subcontracting more than 50% of the amount paid by the government.

As suggested by the example, the only exception is when the 1099 is a “similarly situated entity,” that is, an entity with the same small business status needed to qualify for the prime contract. Because SBA’s four major socioeconomic contracting programs—8(a), SDVOSB, HUBZone, and woman-owned small business—all require formal SBA certifications, it may be difficult to find similarly situated 1099s. On the other hand, when the prime contract is set-aside for small businesses, it may be significantly easier to find 1099 independent contractors who qualify as similarly situated entities.

Prime contractors looking to use the similarly situated entity rule to help meet the limitations on subcontracting are strongly advised to consult experienced legal counsel to ensure that their 1099 independent contractor agreements provide adequate assurances that the 1099 is, in fact, a similarly situated entity.

NICC APEX ACCELERATOR NEWS YOU CAN USE

FAR Overhaul Eliminates WOSB Subcontracting Self-Certification

With little fanfare, the Revolutionary FAR Overhaul has eliminated a subcontractor's ability to self-certify as a woman-owned small business under an “other-than-small” prime contractor’s small business subcontracting plan. Moving forward, as agencies adopt the RFO version of FAR Part 19, primes will be able to count only certified WOSBs toward their subcontracting goals. [Read more about this change here.](#)

Would you like assistance with determining whether your company is eligible for a WOSB certification or in moving forward with an application? Your APEX Accelerator can help! Contact your APEX Accelerator counselor today to arrange an appointment.

GOVCON ROUNDUP LIVE

GovCon Roundup Live is a free monthly webcast hosted by Carroll Bernard and Steven Koprince of [Govology](#). The webcast covers policy changes, legislative updates, and industry shifts that signal strategic opportunities for contractors to pivot, reposition, and stay one step ahead. Learn more about [GovCon Roundup Live](#) and register to attend future live sessions (with the opportunity for live Q&A).

Recent *GovCon Roundup Live* webcasts include:

- [WOSB Program + FAR Overhaul & Procurement Thresholds](#)
- [The FAR Revolution: Three Proposed Procurement Reforms Contractors Should Watch](#)
- [Counting What Matters: Small Business Contracting Goals & Metrics](#)
- [The Pending FAR Overhaul](#)

GOVOLOGY WEBINARS

*Please use the new code **52NICC20** when registering for Govology webinars.*



Marketing Your GSA Schedule

Date: December 2, 2025

Time: 1:00 p.m. EST

Presenter: Brittany Opoku (First Foster Consulting, LLC)

[Click Here to Learn More](#)



Evolving DoD Contractor Cybersecurity Requirements (Q4-2025 Update)

Date: December 4, 2025

Time: 1:00 p.m. EST

Presenter: Adam Austin (Totem Technologies)

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The 2025 Government Contracting Year-End-Review

Date: December 11, 2025

Time: 1:00 p.m. EST

Presenter: Shane McCall and Nicole Pottroff (Koprince McCall Pottroff, LLC)

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RECOMMENDED INSIGHTS & UPDATES

FAR Part 19 Overhaul: What It Means for Size Recertification, M&A, and Contract Eligibility

When the FAR Council issued its long-awaited rewrite of FAR Part 19 as part of the Revolutionary FAR Overhaul, many in the government contracting community focused on headline issues like the preservation of the “Rule of Two” and the streamlining of small business policies. But tucked within the reorganization is one of the most impactful—and potentially disruptive—changes for contractors: [the treatment of size recertification](#).

FAR Council Finalizes Increases to Micro-Purchase, Simplified Acquisition, and Other Thresholds

A number of key dollar-related thresholds have recently increased by way of a final rule released by the FAR Council. Among these changes are increases to the micro-purchase threshold, the simplified acquisition threshold, and the thresholds under which other-than-small prime contractors must adopt small business subcontracting plans. [Read more about these threshold changes](#).

Contracting Through the Long Haul: Maximizing Recovery During a Protracted Government Shutdown

When the federal government shuts down, contractors are left to grapple with uncertainty regarding whether certain costs are recoverable or whether certain work can be performed. This article: (1) provides actionable advice for contractors who received a stop-work order and need to ensure compliance with contractual requirements—such as the ability to restart work as soon as the shutdown ends—while also maximizing recovery of standby costs and (2) helps contractors navigate scenarios in which no stop-work order was issued. [Read the full article on contractor responsibilities and cost recovery during a government shutdown](#).

This section highlights items of special interest and importance to the Department of Defense Office of Small Business Programs (DOD OSBP). Please take a moment to visit the sites listed below for additional information.

Cybersecurity Maturity Model Certification (CMMC)/Cybersecurity Compliance Resources

[DOD CMMC Resource Page](#) – Resources to assist government contractors with understanding and complying with CMMC/cybersecurity requirements.

[Project Spectrum](#) – Project Spectrum is working with APEX Accelerators to assist small businesses in achieving compliance with CMMC/cybersecurity requirements.

Foreign Ownership, Control, and Influence (FOCI) Resources

[FOCI Frequently Asked Questions](#) – FOCI is a status or situation in which a contractor with access to classified information has some foreign investment or association with foreign interest. Learn more about the federal government's requirements relating to FOCI.

<https://business.defense.gov/> – The official website of DOD OSBP. It contains additional information, news, events, and other items for those interested in doing business (or currently engaged) with the DOD.

How FedRAMP Impacts CMMC Compliance

As the Cybersecurity Maturity Model Certification (CMMC) program enforcement nears, defense contractors face a double challenge: securing their own systems and validating the cloud services they rely on. That's where FedRAMP comes in. By meeting FedRAMP standards, contractors can streamline one of the key components of achieving CMMC certification, cloud security. [Read the full article on how FedRAMP supports CMMC compliance for defense contractors.](#)

Is CMMC 3.0 on the Horizon? How Defense Contractors Can Prepare Now

The Department of Defense recently sent defense contractors a clear signal: an update to the recently finalized CMMC 2.0 is likely coming and the time to prepare is now. [Read the full article on the upcoming CMMC 2.0 updates and how contractors can prepare.](#)

Preparing for DoD's Upcoming DFARS Rule on Beneficial Ownership and FOCI Vetting

The Department of Defense is preparing to roll out new requirements that will significantly expand how it evaluates and mitigates foreign ownership, control, or influence (FOCI) across its contractor base. [Read the full article on the DoD's expanded FOCI evaluation and mitigation requirements.](#)

About Nebraska Indian Community College APEX Accelerator:

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Address (Santee Campus):

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