

# NEWSLETTER

## January 2026



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### TIP OF THE MONTH

#### Understanding the Buy American Act's Scope

Federal government contractors--and especially small businesses--often find themselves competing under solicitations subject to the Buy American Act (BAA). While the BAA's name may sound like a mandate to purchase only American-made products, the BAA is actually a domestic preference statute that can give a leg up to contractors providing domestic products, but does not prohibit foreign products. Here is a brief overview of how the BAA works in practice

When the BAA applies to a solicitation, the federal government is required to purchase domestic products *unless* one of the several exceptions applies. These exceptions allowing for the purchase of foreign products include, but are not limited to:

- The acquisition falls below the micro-purchase threshold (currently \$15,000 for most acquisitions);
- The products or their components are not sufficiently produced or available in the United States;
- The cost of purchasing domestic products would be unreasonable; and
- For Department of Defense contracts, the products are sourced from a so-called "Qualifying Country" with which the United States has a certain type of reciprocal defense agreement.

Perhaps the most commonly used exception is the "unreasonable cost" exception. As implemented by [FAR 25.106](#) and [DFARS 225.106](#), when an offered domestic product is not the lowest cost, the Contracting Officer must add an evaluation penalty to the foreign product, generally in an amount of 20%-50%. The cost of the domestic product is deemed reasonable if it does not exceed the adjusted cost of the foreign product. In this manner,

the Buy American Act attempts to balance two important public policies: supporting and promoting American businesses, on the one hand, and being good stewards of the taxpayers' money, on the other.

Contractors should understand that, unlike a separate domestic preference law, the Trade Agreements Act, the BAA does not prohibit the government from purchasing products from certain countries if one of the exceptions, like the unreasonable cost exception, applies. In fact, in a recent bid protest case, [Auburn Manufacturing, Inc., B-423308, B-423308.2 \(2025\)](#), the GAO held that the government did not violate the Buy American Act by purchasing products manufactured in China.

Understanding how the Buy American Act operates can help government contractors better decide which products will be most competitive on bids covered by the BAA. Contractors who bid on BAA-covered acquisitions would be well-served to investigate the statute and its requirements in more detail.

## NICC APEX ACCELERATOR NEWS YOU CAN USE

### **DOT Issues Guidance on Impact of Removal of Presumed Disadvantage**

The Department of Transportation (DOT) recently issued an interim final rule removing certain presumptions of disadvantage from its eligibility requirements for the Disadvantaged Business Enterprise (DBE) Program. As part of that change, DBE Program participants and applicants will have to submit new narratives discussing their social disadvantage. The DOT has released further guidance on the changes felt by the interim final rule, including impacts on the disadvantage narrative and current contracts. Read more about the DOT's guidance [here](#).

Would you like assistance with obtaining a DOT DBE certification or in addressing the DOT's new guidance? 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:

- [GovCon's AI Wake-Up Call: What Smart Contractors Are Doing Now](#)
- [WOSB Program Under the Microscope: Data, Roadblocks, and the Path Ahead](#)
- [The FAR Revolution: Three Proposed Procurement Reforms Contractors Should Watch](#)
- [Counting What Matters: Small Business Contracting Goals & Metrics](#)
- [The Pending FAR Overhaul](#)

## APEX ACCELERATOR EVENTS

### **2026 Midwest Matchmaker: Connecting Small Businesses with Government Buyers**

**Date:** February 11-12, 2026

**Time:** 9:00 am – 5:00 pm CST

**Format:** Online – accessible to all businesses, nationwide!

[Click here to register](#)

Are you a small business looking to expand your reach and connect with government buyers? The **2026 Midwest Matchmaker** is your chance to meet federal, state, and local government procurement officials. This unique opportunity will bring together businesses and buyers in one of the largest online procurement events in the region.

Hosted by APEX Accelerators from Colorado, Iowa, Kansas, Missouri, Nebraska, North Dakota, South Dakota, Minnesota, Montana, and Wyoming, along with NADC APEX in Billings, MT, and the Nebraska Indian Community College APEX.

An online matchmaking event that allows businesses to:

- Schedule pre-arranged appointments with government buyers, prime contractors and resource partners
- Explore procurement opportunities at all levels.

FREE – no registration fees



**2026 VIRTUAL  
MIDWEST  
MATCHMAKER**

**February 11-12** ←

**Registered Buyers &  
Resource Partners  
Announcement!**

**• ELLSWORTH AIR FORCE BASE**  
◦ 28TH CONTRACTING SQUADRON

**• AIR FORCE MATERIAL COMMAND**

**• BUREAU OF LAND MANAGEMENT**

**• CROWLEY**

**• FAIRCHILD AIR FORCE BASE**  
◦ 92<sup>ND</sup> CONTRACTING SQUADRON

**• NORIDIAN HEALTHCARE SOLUTIONS**

**• OMNI LAND MANAGEMENT**

**• STATE OF IOWA - DEPT. OF ADMIN SVCS**

**• U.S GENERAL SERVICES ADMINISTRATION (GSA)**

**• WYOMING DEPT OF TRANSPORTATION**

View the whole list at [stonesriverem.com/event/midwest2026](https://stonesriverem.com/event/midwest2026)

**APEX ACCELERATORS**  
**MISSOURI APEX ACCELERATOR**

GOVOLOGY WEBINARS

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



## An Introduction to Winning Business in the Government Marketplace (2026 Update)

**Date:** January 13, 2026

**Time:** 1:00 p.m. EST

**Presenter:** Carroll Bernard (Govology)

[Click Here to Learn More](#)



## Is a GSA Schedule Right for You? (2026 Update)

**Date:** January 20, 2026

**Time:** 1:00 p.m. EST

**Presenter:** Brittany Opoku (First Foster Consulting, LLC)

[Click Here to Learn More](#)



## How to Grow Your Government Sales with Micro-Purchases

**Date:** January 22, 2026

**Time:** 1:00 p.m. EST

**Presenter:** Carroll Bernard (Govology)

[Click Here to Learn More](#)



## Supply Chain Strategy Made Simple for Government Contractors

**Date:** January 29, 2026

**Time:** 1:00 p.m. EST

**Presenter:** Linda Aaron (Learrow LLC)

[Click Here to Learn More](#)

### RECOMMENDED INSIGHTS & UPDATES

#### Vague Prime/Sub Teaming Agreement SOW Sinks Contract Award

Prime contractors sometimes prefer vague scope-of-work language in prime/subcontractor teaming agreements—language like “Prime may subcontract up to 10% of the work to Teammate.” While this approach may be logical for the prime, subcontractors sometimes believe that they have been promised work when, in fact, they have not. [This article examines SOWs in prime/subcontractor teaming agreements](#), including a GAO bid protest decision in which a vague SOW proved fatal to the proposal.

#### 2026 NDAA: DoD CPARS Changes Coming

Both the Senate and House, as part of the draft 2026 National Defense Authorization Acts (NDAA), have proposed nearly identical ideas on overhauling the Department of Defense’s Contractor Performance Assessment Report System (CPARS) processes. While both NDAA’s have passed, and therefore require reconciliation in a committee, their ideas are extremely similar and signal a coming change in CPARS processes for defense contractors. One big change is to focus on specific negative performance events using “a standardized scoring mechanism” and to remove reporting on “positive or neutral performance assessments.” [Read about proposed changes to the DoD’s CPARS evaluation process.](#)

#### FAR Part 27 Overhaul: Key Changes to Intellectual Property in Federal Contracting

As part of the broader Revolutionary FAR Overhaul, FAR Part 27, which addresses

patents, data, and copyrights, was revised. While most changes were driven by the need for plain language, greater clarity, improved readability, and streamlined procedures, a few notable changes were introduced that will impact the treatment of intellectual property in federal government contracting. [Read more about changes to FAR Part 27.](#)

## CMMC & FOCI RESOURCES AND NEWS

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.

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### **How Will DoW Determine Which Level of CMMC Applies to My Agreement?**

Now that the final CMMC Program and Procurement Rules have been issued by the Department of War (DoW) and the CMMC Program is set to begin in earnest, there is some uncertainty in industry as to how DoW will determine which level of CMMC should apply to a particular procurement, as well as when and how waivers will apply to CMMC requirements. [Read more on how CMMC levels and waivers may be applied.](#)

### **CMMC Regulations: Key Questions and Answers for Defense Contractors**

The CMMC rule has become effective. The final CMMC rule fundamentally changes how cybersecurity requirements are incorporated into DoD contracts and subcontracts. [This article addresses some of the most common questions](#) DoD contractors have about the new CMMC rule.

### **Discussion on FOCI, Buy American Act & Trade Agreements Act (Video)**

[This in-depth panel discussion](#) covers FOCI, the Buy American Act, Trade Agreements Act, and other issues relevant to federal contractors and subcontractors in the national security industry.

### ***About Nebraska Indian Community College APEX Accelerator:***

#### **Address (Macy Campus):**

1111 Hwy. 75/P.O. Box 428

Macy, NE 68039

(Coverage Area: Omaha Indian Reservation)

**Address (Santee Campus):**

415 North River Road

Niobrara, NE 68760

(Coverage Area: Santee Sioux Indian Reservation)

**E-mail us: [APEX@thenicc.edu](mailto:APEX@thenicc.edu)**

*This APEX Accelerator (formerly known as PTAC) is funded in part through a cooperative agreement with the Department of Defense.*

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