

119TH CONGRESS
1ST SESSION

S. 3541

To increase competition in Defense contracting, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 17, 2025

Mr. PETERS introduced the following bill; which was read twice and referred
to the Committee on Armed Services

A BILL

To increase competition in Defense contracting, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. INCREASING COMPETITION IN DEFENSE CON-**
4 **TRACTING.**

5 (a) USES OF PAST PERFORMANCE.—

6 (1) IN GENERAL.—Not later than 1 year after
7 the date of the enactment of this Act, the Secretary
8 of Defense shall issue guidance, including examples
9 and templates where appropriate, on—

10 (A) when the Department of Defense
11 should accept past performance on a wider

1 range of projects, such as a requirement with-
2 out much precedent, in order to have increased
3 competition among eligible firms with capability
4 to perform a requirement, by including commer-
5 cial or non-government projects as relevant past
6 performance for the purposes of awarding con-
7 tracts or other agreements;

8 (B) a means by which the Department
9 may validate non-government past performance
10 references, including by requiring an official of
11 an entity providing past performance references
12 to attest to their authenticity and by providing
13 verifiable contact information for the references;
14 and

15 (C) using alternative methods of evaluation
16 other than past performance that may be ap-
17 propriate for a requirement without much
18 precedent, such as demonstrations and testing
19 of technologies as part of the proposal process
20 for contracts or other awards of the Depart-
21 ment.

22 (2) SUPPLEMENT NOT SUPPLANT.—The guid-
23 ance issued under paragraph (1) shall supplement
24 existing Department of Defense policy and proce-

1 dures for consideration of past performance and
2 other evaluation factors and methods.

3 (b) ENHANCING COMPETITION IN DEFENSE PRO-
4 CUREMENT.—

5 (1) COUNCIL RECOMMENDATIONS.—Not later
6 than 90 days after the date of the enactment of this
7 Act, the Secretary of Defense shall convene the De-
8 fense Acquisition Regulations Council (in this sec-
9 tion referred to as the “Council”), to make rec-
10 ommendations to identify and eliminate specific, un-
11 necessary procedural barriers that disproportionately
12 affect the ability of small business concerns and non-
13 traditional defense contractors, to compete for con-
14 tracts with the Department of Defense, with a focus
15 on streamlining documentation and qualification re-
16 quirements unrelated to the protection of privacy
17 and civil liberties.

18 (2) CONSULTATION.—The Council shall obtain
19 input from the public, including from the APEX Ac-
20 celerators program (formerly known as the Procure-
21 ment Technical Assistance Center network) and
22 other contractor representatives, to identify procure-
23 ment policies and regulations that are obsolete, over-
24 ly burdensome or restrictive, not adequately har-
25 monized, or otherwise serve to create barriers to

1 small business concerns and nontraditional defense
2 contractors contracting with the Department or that
3 unnecessarily increase bid and proposal costs.

4 (3) EXAMINATION OF ACTIONS.—The Council
5 shall consider the input obtained under paragraph
6 (2) and any other information determined to be rel-
7 evant by the Council to identify legislative, regu-
8 latory, and other actions to increase competition and
9 remove barriers to small business concerns and non-
10 traditional defense contractors participating in the
11 procurement process of the Department of Defense.

12 (4) IMPLEMENTATION.—Not later than 2 years
13 after the date of the enactment of this Act, the Sec-
14 retary of Defense shall implement the regulatory and
15 other non-legislative actions identified under para-
16 graph (3), as determined necessary by the Secretary,
17 to remove barriers to entry for small business con-
18 cerns and nontraditional defense contractors seeking
19 to participate in Department of Defense procure-
20 ment.

21 (5) BRIEFING.—Not later than two years after
22 the date of the enactment of this Act, the Secretary
23 of Defense shall provide to the Committees on
24 Armed Services of the Senate and House of Rep-
25 resentatives a briefing on the legislative actions iden-

1 tified under paragraph (3) and the actions imple-
2 mented under paragraph (4).

3 (c) CONSIDERATION OF COST-EFFICIENCY AND
4 QUALIFY.—The Secretary of Defense shall advocate for
5 and prioritize contracting policies that ensure that cost ef-
6 ficiency and quality of goods and services are key deter-
7 mining factors in awarding procurement contracts.

8 (d) DEFINITIONS.—In this section—

9 (1) the term “nontraditional defense contrac-
10 tors” has the meaning given such term in section
11 3014 of title 10, United States Code; and

12 (2) the term “small business concern” has the
13 meaning given such term under section 3 of the
14 Small Business Act (15 U.S.C. 632).

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