

## Table of Contents

Disclaimer

Introduction

### Governance & Organization

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Resource 1: *Governance & Organization*

### Training & Engagement

---

Resource 2: *Sample Compliance Training*

Resource 3: *Ethics Case Files*

Resource 4: *Other Ethics Resources*

### Policies & Procedures

---

Resource 5a: *Code of Conduct*

Resource 5b: *Ethics & Compliance Program Policy*

Resource 5c: *Case Management & Investigations Policy*

Resource 5d: *Non-Retaliation & Whistleblower Protection Policy*

Resource 5e: *Conflicts of Interest Policy*

Resource 5f: *Anti-Corruption & Business Courtesies Policy*

Resource 5g: *Antitrust & Fair Competition Policy*

Resource 5h: *Third-Party Due Diligence Policy*

Resource 5i: *Government Contracting Integrity Policy*

Resource 5j: *Mandatory Disclosures Policy*

Resource 5k: *Time Charging Policy*

Resource 5l: *Records Retention Policy*

Resource 5m: *Export & Import Compliance Policy*

Resource 5n: *Sanctions Compliance Policy*

Resource 5o: *Industrial Security Program Policy*

Resource 5p: *Information Security & Cybersecurity Policy*

Resource 5q: *Confidential Information Policy*

Resource 5r: *IT Acceptable Use & Online Conduct Policy*

Resource 5s: *AI Policy*

Resource 5t: *Data Privacy & Protection Policy*

Resource 5u: *Procurement Integrity Policy*

Resource 5v: *Equal Employment Opportunity Policy*

Resource 5w: *Non-Harassment Policy*

Resource 5x: *Workplace Violence Prevention Policy*

Resource 5y: *Drug-Free Workplace Policy*

Resource 5z: *Environmental, Health & Safety Policy*

Resource 5aa: *Human Trafficking & Forced Labor Prevention Policy*

Resource 5ab: *Government Relations Policy*

Resource 5ac: *Insider Information Policy*

### Auditing and Monitoring

---

Resource 6: *Self-Auditing Your Ethics and Compliance Program*

## Disclaimer

The Small Business Toolkit (Toolkit) is based on best practices of Defense contractors at the time of publication. Each section of the Toolkit is for reference only and is to be used at the consumer's own risk. The Defense Industry Initiative (DII) disclaims any and all liability for any consequences arising out of your use or deployment of any or all aspects of this Toolkit. DII does not guarantee that any or all aspects of this Toolkit have been updated to reflect any changes or developments in the law. As such, DII is not responsible for any subsequent regulatory or legal changes that may render sections of this Toolkit obsolete.

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## Introduction

The Defense Industry Initiative on Business Ethics and Conduct (DII) has developed this Toolkit to provide guidance to small businesses on how to design, implement, maintain, and augment business ethics and conduct compliance programs. The Toolkit contains four complementary sections.

### 1. Governance & Organization

Guidance as to who within a small business should be responsible for leading a compliance program, different models to use in establishing an ethics and compliance function, and how to implement an effective program, even with a department of one.

### 2. Policies & Procedures

Templates that can be adopted by small businesses with little or no revisions, and that include mandatory policies (e.g. combating human trafficking, drug free workplace, equal employment opportunity) as well as optional policies that would be necessary depending on the type of work a contractor performs (e.g. industrial security for those who handle classified information).

### 3. Training & Engagement

Training presentation and access to videos and other engagement resources on key risk areas and ethics and compliance topics, which small businesses can use to train their employees.

### 4. Auditing, Monitoring & Mentoring

Tools to allow small businesses to self-audit their business ethics and conduct compliance program and determine where gaps may exist.

## The Genesis of the Toolkit

In 2015, following the publication of DII's Model Code of Conduct and Supplier Toolkit, multiple suspension and debarment offices from agencies across the federal Government invited DII to discuss the challenges faced by small businesses in understanding and complying with their obligations as federal contractors. A key concern repeatedly raised by agency officials during these meetings was the lack of existing resources available to small businesses.

Federal procurement policy has included mechanisms intended to increase prime and subcontract awards to small businesses, which are implemented across a number of government agencies. Significantly less time and attention is paid to ensuring that small businesses develop the necessary know-how to implement appropriate internal systems to ensure compliance with the myriad federal statutes, regulations, and contract provisions imposed on small businesses when contracting with the federal Government.

Set within this context, DII committed to provide functional, easily usable, and scalable guidance on how to design, implement, maintain and augment a business ethics and conduct compliance program.

### Guiding Principles Behind DII's Small Business Toolkit

In creating the Small Business Toolkit, DII continues to use FAR 52.203-13, Contractor Code of Business Ethics and Conduct, as the baseline for contractor ethics and compliance expectations. The clause remains the clearest federal contracting source for core program elements: a code, ethics awareness and training, internal controls, timely detection and disclosure, and prompt corrective action.

The Toolkit also reflects the U.S. Sentencing Guidelines for Organizations and DOJ's Evaluation of Corporate Compliance Programs. The Sentencing Guidelines recognize that an effective compliance program can mitigate penalties. DOJ's ECCP, updated in 2024, has become an important enforcement benchmark for assessing whether a program is well designed, adequately resourced and empowered, and working in practice.

Those internal-control concepts became mandatory for covered contracts in 2008, when the FAR was amended to require contractor codes, ethics awareness programs, internal control systems, and disclosure to the Government of credible evidence of specified criminal violations, civil False Claims Act violations, or significant overpayments.

The clause imposes distinct requirements related to codes of conduct, ongoing business ethics awareness and compliance programs, and internal control systems. DII has grouped these requirements into four categories and provides resources on each one:

- 1. Governance & Organization**
- 2. Policies & Procedures**
- 3. Training & Engagement**
- 4. Auditing, Monitoring & Mentoring**

## Why Should Small Businesses Implement a Business Ethics and Conduct Compliance Program?

Small businesses may question the need for a business ethics and conduct compliance program. With a limited number of employees and resources, implementing a compliance program may seem unnecessarily complicated and expensive. However, upon closer examination, numerous reasons—ranging from regulatory and contractual requirements to good governance—counsel in favor of all small businesses having some form of a compliance program, as follows:

1. The FAR requires that all government contractors conduct themselves with the highest degree of integrity and honesty. Contractors should have a written code of business ethics and conduct as well as an employee business ethics and compliance training program and an internal control system that promotes compliance with such a code. To that end, this training program and internal control system should:
  - a. Be suitable to the size of the company and extent of its involvement in Government contracting;
  - b. Facilitate timely discovery and disclosure of improper conduct in connection with Government contracts; and
  - c. Ensure corrective measures are promptly instituted and carried out.
2. Although FAR 52.203-13 exempts small businesses from the covered-contract requirement to establish a formal internal control system, adopting policies without any mechanism to promote compliance still presents legal and practical risk. Contractors are assessed under multiple frameworks, including the FAR, responsibility and suspension/debarment rules, the Sentencing Guidelines, and DOJ policy. Even scaled or informal compliance measures can help small businesses prevent and detect misconduct, meet disclosure obligations, and demonstrate responsibility as they perform and grow.
3. Mandatory disclosure is a separate concern. Whether or not FAR 52.203-13 applies, the current FAR and implementing class deviations through acquisition reform efforts continue to recognize suspension or debarment risk when a principal knowingly fails to timely disclose credible evidence of specified criminal violations, civil False Claims Act violations, or significant overpayments in connection with a Government contract or subcontract. DOJ's Corporate Enforcement and Voluntary Self-Disclosure Policy adds another practical incentive for early escalation, disclosure analysis, cooperation, and remediation. For small businesses, the takeaway is the same: potential issues need a reliable path to Legal, leadership, or another responsible reviewer.
4. Responsibility considerations arise not only during contract performance, but also as a threshold matter for award eligibility. Even as acquisition reform efforts emphasize speed, flexibility, and streamlined rules, contracting officers still make affirmative responsibility determinations that consider integrity, business ethics, and eligibility under applicable laws and regulations. When a small business is found nonresponsible, the matter is generally referred to the SBA for a Certificate of Competency determination. Under either process, the existence or absence of a compliance program may affect the review.

5. Other business considerations also support having a business ethics and conduct compliance program. Reputational risk can be a significant concern, and an established compliance program can help distinguish a small business when pursuing future opportunities, including teaming agreements or mentor-protégé relationships with larger primes. For small businesses engaged in exit planning or preparing for a future sale, documented compliance practices can also reduce transaction risk.
6. Establishing a business ethics and conduct compliance program is not a one-size-fits-all exercise. The FAR, the Sentencing Guidelines, and DOJ's ECCP all recognize that programs should be scaled to the organization's size, government-contracting activity, and risk profile. Rather than prescribing a uniform approach, these frameworks allow organizations to design compliance measures appropriate to their circumstances. Factors that may influence the structure and scope of a small business's compliance program include:
  - a. Size of the organization. A small business with a limited workforce and resources would not be expected to maintain the same level of formality or dedicated compliance personnel as a larger contractor.
  - b. Nature of the organization's business. In commercial item contracting, the Government employs a single, streamlined set of instructions, requires a consolidated list of representations and certifications, and includes terms and conditions that more closely resemble those found in typical commercial contracts. By contrast, small businesses performing work that implicates export controls, counterfeit electronic parts, or security clearance requirements are subject to additional regulatory obligations and potential penalties.
  - c. Prior history of misconduct, if any. Past compliance issues—such as inaccurate certifications or reporting failures—may warrant more targeted training, monitoring, or auditing.
  - d. Experience in the federal marketplace. A small business with an established history of government contracting would generally be expected to maintain more developed compliance practices than a company performing its first government contract.
  - e. Risk profile associated with government contracts. The type, complexity, and regulatory sensitivity of a contractor's work directly affect the level of compliance risk and, accordingly, the design of its compliance program.

None of these factors is static. As FAR clauses, class deviations, acquisition policy, and DOJ enforcement policy continue to evolve, small businesses should periodically reassess their risks and adjust their compliance systems accordingly.

The resources in the Toolkit are scalable and purposefully designed to be adapted to the particular needs of a small business. As part of the Toolkit, DII provides guidance on how a small business can implement each section of the Toolkit – both for small businesses that are establishing a compliance program for the first time and for small businesses that are seeking to augment an existing compliance program.