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# EXPANDING OTHER TRANSACTION AUTHORITY TO SUPPORT THE PIVOT TO A MORE COMMERCIALY FOCUSED WARFIGHTING ACQUISITION SYSTEM

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## SUMMARY\*

There is increasing emphasis on the Department of War's (DoW's) use of Other Transaction (OT) agreements to obtain commercial solutions to provide better capabilities faster. Executive Orders and related DoW directives call for OTs to be more widely used and to better reach commercial solution providers, regardless of project type or entity status. But existing statutory OT authorities contain requirements for research and development (R&D) (10 U.S.C. § 4021), and/or prototyping projects (10 U.S.C. § 4022), amongst other conditions.<sup>1</sup>

One option to address this issue would be for Congress to expand DoW's OT statutory authority to support the DoW's full utilization of OTs in its commercial pivot. To that end, any expanded authority could allow DoW to competitively award OTs for purely commercial transactions, without R&D, prototyping, or other conditions. In addition, DoW's agency rules on the permissible uses of OTs under 10 U.S.C. §§ 4021 and 4022 should be rescinded. The existing rules in 32 Code of Federal Regulations (CFR) Part 3 are more restrictive than the authority provided for in the statutes. They may thus create unnecessary protest risk without significantly contributing to the effective uses of OTs. Therefore, any direction on the use of OTs, beyond what is in the statutes, should be limited to guidance such as the DoW OT Guide.

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\* This paper is not intended to constitute legal advice or the practice of law. It is part of MITRE's on-going efforts to support the Department of War's acquisition transformation efforts by contributing to the dialogue of acquisition practitioners, inside and outside of the DoW, on ways to effectively execute the changes directed by the President of the United States and the Secretary of War.

## INTRODUCTION

There has been a push over the past decade to increase DoW's use of OT agreements.\*\* As discussed in this paper, this push has significantly accelerated in the past year. There has been a plethora of commentary,<sup>2</sup> the introduction of landmark pieces of legislation to overhaul the Warfighting Acquisition System, and orders from the President of the United States<sup>3</sup> and Secretary of War (SecWar) directing a preference for OTs to acquire commercial solutions.<sup>4</sup> This push has evolved from increasing the use of OTs<sup>5</sup> to speed warfighting innovation (i.e., research, prototyping, and follow-on production activities) to using them to obtain commercial solutions (regardless

of whether the acquisition involves innovation). However, the relevant authorities, i.e., 10 USC §§ 4021 and 4022 and 32 CFR Part 3, have not kept up with mandates to expand the use of OTs. Thus, DoW's OT authority should be expanded by adding a new statutory provision—10 USC § 4022a. This provision should authorize the use of OTs to acquire commercial solutions without the requirements for research, prototyping, and conditions on participation contained in §§ 4021 and 4022. In addition, the corresponding CFR provisions should be rescinded in their entirety, and DoW should augment its existing guidance<sup>6</sup> to reflect this expanded use of OT authority.

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\*\* The authors recognize that the Federal Acquisition Regulations (FAR) and Defense Federal Acquisition Regulations (DFARS) contain a variety of provisions meant to facilitate commercial and/or simplified acquisition procedures (see e.g., FAR Parts 12 and 13 and DFARS Part 212 and 213). The potential roles of FAR and DFARS processes and procedures, particularly after the completion of their on-going revisions, is a significant topic that would require a separate paper to adequately explore.

## BACKGROUND

OTs are flexible agreements that are not subject to the Federal Acquisition Regulations (FAR) or other related regulations. As such, they are particularly appealing to non-traditional contractors and provide other advantages through which to incentivize innovation by lowering barriers to entry.<sup>7</sup> DoW's history with OTs goes back to 1989, when the Defense Advanced Research Projects Agency (DARPA) was provided the authority to enter into these agreements. The FY2015 National Defense Authorization Act (NDAA) expanded the existing prototyping authority by providing a path to follow-on production award without subsequent competition. The DoW's OT authority has continued to expand since then but has continued to require research and/or prototyping, amongst other limitations.<sup>8,9</sup>

The current Administration and DoW have made OTs a critical part of their pivot to an acquisition system that prioritizes commercial acquisitions to obtain better capabilities faster. For example, SecWar's March 6, 2025 directive, "Directing Modern Software Acquisition to Maximize Lethality," emphasized keeping pace with commercial technology and required the use of OTs

as the default award approach "for acquiring capabilities under the [Software Acquisition Pathway]."<sup>10</sup> Executive Order 14265, "Modernizing Defense Acquisition and Spurring Innovations in the Defense Industrial Base" (April 9, 2025), included "a first preference for commercial solutions and a general preference for Other Transactions Authority..."<sup>11</sup> Consistent with that direction, DoW's recent "Acquisition Transformation Strategy," requires the use of commercial products and services as the default acquisition approach and the use of OTs for prototype and follow-on production efforts where appropriate.<sup>12</sup> All of these directives emphasize having the commercial sector, vice the DoW, bear as much of the cost as possible of developing and testing new technology.

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## RECOMMENDATIONS

### New OT Legislation:

The statutory basis for OTs still reflect their original roots in technology development.<sup>13</sup> 10 U.S.C. § 4021, *Research projects: transactions other than contracts and grants*, permits DoW to enter into agreements for “basic, applied, and advanced research projects.”<sup>14</sup> 10 U.S.C. § 4022, *Authority of the Department of Defense to carry out certain prototype projects*, authorizes agreements for prototypes relevant to enhancing mission effectiveness and agreements for follow-on production of successful prototypes.<sup>15</sup> This provision also provides conditions regarding which types of business entities can participate in OT agreements under different circumstances.<sup>16, 17</sup> These conditions may detrimentally constrain DoW’s use of OTs to support a broad pivot toward commercial acquisitions—particularly for acquisitions of solutions that are established enough to not require any DoW prototyping.<sup>18</sup> Even after recent legislative activity, there may be room for additional broadening of OT authorities to meet DoW’s more aggressive uses of these instruments. This broadening could help make the Department’s acquisition system more commercial and technologically oriented.<sup>19, 20</sup>

Effective acquisitions have always necessitated a range of legal authorities so programs can select an execution option that is a good fit for their requirements. For example, even under previous incarnations of the much-disparaged FAR, programs could obtain required solutions as unique government requirements under Parts 15 and 16. They could also rapidly obtain commercial solutions using simplified procedures and standardized clauses, under Parts 8, 12 and 13.<sup>21</sup> Thus, it is axiomatic that OTs—which are designed to be more flexible than traditional FAR acquisitions but require more customization—would also have a range of execution options available.

One way Congress could address this issue is to enact a new statute—10 USC § 4022a—that authorizes DoW

to enter into OT agreements without the need to first complete a successful prototype. Instead, competition requirements could be satisfied by requiring the use of competitive procedures to the maximum extent practicable, similar to 4022(b)’s language regarding the award of prototyping agreements. Competition requirements could also be satisfied if there had been a “recent and relevant” previous competition.<sup>22</sup> The definitions of what constitutes “recent and relevant” should be left to guidance; e.g., it could be defined in an update to the DoW OT Manual.<sup>23</sup> In addition, a new statute could further the goal of enabling greater use of OTs for commercial acquisitions by not including the restrictions on business entity types or contribution requirements from 10 USC § 4022. There is precedent for broad OT authority outside of Title 10. Other federal agencies currently have congressional OT authority that does not limit or restrict OT awards to R&D and prototyping efforts.<sup>24</sup> Specifically, the Department of Commerce,<sup>25</sup> the Department of Homeland Security’s Domestic Nuclear Detection Office,<sup>26</sup> the Federal Aviation Administration,<sup>27</sup> the National Aeronautics and Space Administration,<sup>28</sup> the National Science Foundation,<sup>29</sup> and the Office of the National Cyber Director<sup>30</sup> all have OT authorities that enable them to award OTs without limitations or restrictions to carry out their missions.

It makes sense to keep 10 USC § 4021 and 10 USC § 4022 in their current forms and add a new 10 USC § 4022a instead of amending either of the existing Title 10 OT statutes. The expanding commercial use of OTs is unlikely to diminish the existing uses of OTs for R&D and prototyping. But now there will also be a greater need for an authority that permits DoW to enter into agreements for purely commercial items with no developmental work that needs to be accomplished prior to acquiring final end items.<sup>31</sup> Thus, these statutes will continue to provide valuable authorities to execute innovative and developmental efforts.

### Rescind Existing DoW OT Regulations

DoW should use the rule making process to rescind 32 CFR Section 3—the sections of the CFR that proscribe DoW's use of OTs. The existing rules as written create potential protest risk for OTs at a time in which the Department seeks to expand their use. Per Section 32, Part 3, of the Code of Federal Regulations, authorized members of the DoW can enter into OTs “for prototype projects that are directly relevant to weapons or weapons systems proposed to be acquired or developed.”<sup>32</sup> These limitations do not reflect the full range of activity taking place using the authority provided by 10 USC §§ 4021 and 4022, no less the broader range of uses the DoW is likely to pursue as it implements SecWar's Acquisition Transformation Strategy.<sup>33</sup> The Court of Federal Claims (COFC) addressed this issue in a recent bid protest of an Army enterprise business system, *Telesto Group, LLC v. United States*. The court commented in a footnote that the rules in 32 CFR Section 3 limit DoW's use of OTs to weapons system development only.<sup>34</sup> It opined that the award may have been successfully challenged based on the use of an OT not being proper. But the court ultimately did not consider that ground because it was not raised by the plaintiff. However, COFC appears to have signaled they will entertain challenges to OTs

if DoW does not follow its own rules on OT use. Thus, having rules that are more restrictive on OT uses than what is in the statute may increase the Department's protest risk as COFC appeared to signal in *Telesto*.

At the same time, any clarity provided by DoW rules on OTs could be more effectively achieved through guidance. The rules appear to be out-of-date and/or largely repetitive of what is already required by the 10 USC §§ 4021 and 4022. For example, the rules do not reflect the renumbering of the OT statutes that took place in 2015, as well as a broader Title 10 renumbering update in 2024.<sup>35</sup> At the same time, the DoW has published, and updated, a comprehensive guide to executing and administering OTs.<sup>36</sup> Any updated guidance (e.g., the OT Guide) should not be overly proscriptive. Instead, it should discuss the “left and right bounds” to OT use under the law and provide exemplars of different types of successful OT uses. Thus, the requirements needed to effectively award OTs are well-covered by the statutes and OT Guide while the DoW agency rules create more confusion than clarity. Rescinding these rules is also consistent with the Administration's focus on reducing the overall number of agency regulations and relying on guidance as much as possible.<sup>37</sup>

## CONCLUSION

OTs already play a critical role in executing DoW's acquisition transformation efforts and that role is likely to expand quickly. This growth would be facilitated by expanding the Department's OT statutory authority beyond its roots in weapons R&D and prototyping to cover a broader range of activity that extends to acquiring commercial solutions on commercial terms. At the same time, DoW's rules on OTs are not only unnecessarily constraining but, through the creation of protest risk, could impede the Department's objectives of using OTs as a way of improving its ability to deliver capabilities to the warfighter at speed.

## REFERENCES

1. See e.g., Government Accountability Office (GAO) Report, “Other Transaction Agreements – Improved Contracting Data Would help DoD Assess Effectiveness, Page 31 (September 2025). Available at: <https://www.gao.gov/assets/gao-25-107546.pdf> (Accessed December 5, 2025)
2. “Other Transactions: A Flexible and Efficient Acquisition Tool for the Department of Defense”, The National Law Review, by Scott Arnold, Samarth Barot, Blank Rome LLP, March 28, 2025; available at: [https://natlawreview.com/article/other-transactions-flexible-and-efficient-acquisition-tool-department-defense#google\\_vignette](https://natlawreview.com/article/other-transactions-flexible-and-efficient-acquisition-tool-department-defense#google_vignette) (Accessed December 4, 2025); “Protecting IP, Data Rights in Other Transaction Agreements”, National Defense Magazine, by Jeremy Burkart, July 15, 2025; available at: <https://www.nationaldefensemagazine.org/articles/2025/7/15/viewpoint-protecting-ip-data-rights-in-other-transaction-agreements> (Accessed December 4, 2025); “Hegseth issues edict on DoD software acquisition”, Defense Scoop, by Jon Harper, March 7, 2025; available at: <https://defensescoop.com/2025/03/07/hegseth-memo-dod-software-acquisition-pathway-cso-ota/> (Accessed December 4, 2025); “Commission on Defense Innovation Adoption—Final Report”, Atlantic Council, by Whitney McNamara, Peter Modigliani, Matthew MacGregor, Eric Lofgren, January 2024; available at: <https://www.atlanticcouncil.org/wp-content/uploads/2024/01/Commission-on-Defense-Innovation-Adoption-Final-Report.pdf> (Accessed December 4, 2025)
3. Modernizing Defense Acquisitions and Spurring Innovation in the Defense Industrial Base Executive Order, issued on April 9, 2025; available at: <https://www.whitehouse.gov/presidential-actions/2025/04/modernizing-defense-acquisitions-and-spurring-innovation-in-the-defense-industrial-base/> (Accessed December 4, 2025)
4. U.S. Department of War, “Acquisition Transformation Strategy, Rebuilding the Arsenal of Freedom”, pages 2, 8, 10-11, and 32; available at: <https://media.defense.gov/2025/Nov/10/2003819441/-1/-1/1/ACQUISITION-TRANSFORMATION-STRATEGY.PDF> (Accessed November 24, 2025)
5. “OTA” generally refers to the legal authority while “OT” refers to specific agreements. For further information, see: <https://aida.mitre.org/ota/>
6. Guide to Research Other Transactions Under 10 U.S.C. §4021 (September 2023); available at: <https://arpa-h.gov/sites/default/files/2024-06/DoD%20Research%20OT%20Guide%20-%20Sep%202023.pdf> (Accessed on 2 December 2025) and DoD Other Transactions Guide (July 2023); available at: [https://www.acq.osd.mil/asda/dpc/cp/policy/docs/guidebook/DoD%20OT%20Guide%20\(July%202023\)%20-%20508%20Update\\_11Jul2025.pdf](https://www.acq.osd.mil/asda/dpc/cp/policy/docs/guidebook/DoD%20OT%20Guide%20(July%202023)%20-%20508%20Update_11Jul2025.pdf) (Accessed on 2 December 2025)
7. See e.g., CSIS report; available at: [https://www.csis.org/analysis/departments-defense-other-transaction-authority-trends-new-rd-funding-paradigm#:~:text=Other%20notable%20platform%20portfolio%20trends,\\$0.7%20billion%20in%20FY%202019](https://www.csis.org/analysis/departments-defense-other-transaction-authority-trends-new-rd-funding-paradigm#:~:text=Other%20notable%20platform%20portfolio%20trends,$0.7%20billion%20in%20FY%202019)
8. Pub. L. 114–92, div. A, title VIII, §815(e), Nov. 25, 2015, 129 Stat. 896. See also “Department of Defense Other Transaction Authority Trends: A New R&D Funding Paradigm”, Center for International and Strategic Studies (CSIS), CSIS Briefs (December 8, 2020); available at: [https://www.csis.org/analysis/departments-defense-other-transaction-authority-trends-new-rd-funding-paradigm#:~:text=Other%20notable%20platform%20portfolio%20trends,\\$0.7%20billion%20in%20FY%202019](https://www.csis.org/analysis/departments-defense-other-transaction-authority-trends-new-rd-funding-paradigm#:~:text=Other%20notable%20platform%20portfolio%20trends,$0.7%20billion%20in%20FY%202019) (Accessed November 24, 2025)

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9. Interestingly, the statutory placement of 10 USC §§ 4021 and 4022 seems to still reflect their historical origins as research related vehicles vice general procurement mechanisms. Subtitle A, Part V of Title 10 is entitled “Acquisition”. Within Part V, Subparts A-D cover “General Matters,” “Acquisition Planning,” “Contracting Methods and Contract Types,” and “General Contracting Provisions,” respectively. §§4021 and 4022 are in Subpart E, which is entitled “Research and Engineering.” It is beyond the scope of this paper to opine on whether any statutory changes should include recodifications within Title 10.
10. “Directing Modern Software Acquisition to Maximize Lethality” (2025), available at: <https://media.defense.gov/2025/Mar/07/2003662943/-1/-1/1/Directing-Modern-Software-Acquisition-To-Maximize-Lethality.pdf> (Accessed November 20, 2025)
11. Available at: <https://www.federalregister.gov/documents/2025/04/15/2025-06461/modernizing-defense-acquisitions-and-spurring-innovation-in-the-defense-industrial-base> (Accessed November 20, 2025)
12. U.S. Department of War, “Acquisition Transformation Strategy, Rebuilding the Arsenal of Freedom”, pages 7-8 and 16; available at: <https://media.defense.gov/2025/Nov/10/2003819441/-1/-1/1/Acquisition-Transformation-Strategy.pdf> (Accessed November 24, 2025)
13. In particular, these provisions are useful for accessing nontraditional defense contractors. See e.g., GAO Report, “Other Transaction Agreements—Improved Contracting Data Would help DoD Assess Effectiveness, Page 2 (September 2025); available at: <https://www.gao.gov/assets/gao-25-107546.pdf> (Accessed December 5, 2025)
14. 10 USC § 4021(a). available at: [https://uscode.house.gov/view.xhtml?req=\(title:10%20section:4021%20edition:prelim\)%20OR%20\(granuleid:USC-prelim-title10-section4021\)&f=treesort&edition=prelim&num=0&jumpTo=true](https://uscode.house.gov/view.xhtml?req=(title:10%20section:4021%20edition:prelim)%20OR%20(granuleid:USC-prelim-title10-section4021)&f=treesort&edition=prelim&num=0&jumpTo=true) (Accessed November 20, 2025)
15. 10 USC § 4022(a); available at: <https://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title10-section4022&f=treesort&num=0&saved=%7CKHRpdGxIOjEwIHNIY3Rpb246NDAYMSBIZGIOaW9uOnByZWxpbSkGT1lgKGdyYW51bGVpZDpVUOMtcHJlbGltLXRpdGxIMTAtc2VjdGlvbjQwMjEp%7CdHJIZXNvcnQ%3D%7C%7C0%7Cfalse%7CprelimByZWxpbSkGT1lgKGdyYW51bGVpZDpVUOMtcHJlbGltLXRpdGxIMTAtc2VjdGlvbjQwMjEp%7CdHJIZXNvcnQ%3D%7C%7C0%7Cfalse%7Cprelim> (Accessed on November 20, 2025)
16. See 10 U.S.C. § 4021(d); available at: <https://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title10-section4022&f=treesort&num=0&saved=%7CKHRpdGxIOjEwIHNIY3Rpb246NDAYMSBIZGIOaW9uOnByZWxpbSkGT1lgKGdyYW51bGVpZDpVUOMtcHJlbGltLXRpdGxIMTAtc2VjdGlvbjQwMjEp%7CdHJIZXNvcnQ%3D%7C%7C0%7Cfalse%7Cprelim> (Accessed November 20, 2025).

This provision states that:

(d) Appropriate Use of Authority.-(1) The Secretary of Defense shall ensure that no official of an agency enters into a transaction (other than a contract, grant, or cooperative agreement) for a prototype project under the authority of this section unless one of the following conditions is met:

(A) There is at least one nontraditional defense contractor or nonprofit research institution participating to a significant extent in the prototype project.

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(B) All significant participants in the transaction other than the Federal Government are small businesses (including small businesses participating in a program described under section 9 of the Small Business Act (15 U.S.C. 638)) or nontraditional defense contractors.

(C) At least one third of the total cost of the prototype project is to be paid out of funds provided by sources other than the Federal Government.

(D) The senior procurement executive for the agency determines in writing that exceptional circumstances justify the use of a transaction that provides for innovative business arrangements or structures that would not be feasible or appropriate under a contract, or would provide an opportunity to expand the defense supply base in a manner that would not be practical or feasible under a contract.

17. The House version of the NDAA would have removed some of these participation requirements. See page 382 of the FY26 NDAA, “Removing Barriers and Complexity in Use of Other Transaction Authorities”; *available at: [https://armedservices.house.gov/uploadedfiles/h.r.\\_3838\\_fy26\\_ndaa\\_as\\_reported\\_to\\_the\\_house.pdf](https://armedservices.house.gov/uploadedfiles/h.r._3838_fy26_ndaa_as_reported_to_the_house.pdf)* (Accessed on December 2, 2025)
18. For example, the GAO recently found that the requirements that must be satisfied before transitioning from a prototype to a production OT led some programs they looked at to choose FAR based contracting options for production. GAO Report, “Other Transaction Agreements—Improved Contracting Data Would help DoD Assess Effectiveness, Page 25 (September 2025); *available at: <https://www.gao.gov/assets/gao-25-107546.pdf>* (Accessed December 5, 2025)
19. For example, if it had been enacted, H.R. 3838, the Streamlining Procurement for Efficient Execution and Delivery (SPEED Act), would have expanded OTs to traditional and Nontraditional Defense Contractors (NDCs), simplified the prototype to production process, and allowed for more frequent solicitations. S.5618, the Fostering Reform and Government Efficiency in Defense Act (FoRGED), would also expand participation opportunities for NDCs, raise financial thresholds, allow for production transactions without bidding in exceptional circumstances, and allow for more flexible use of open topics. While these potential provisions would have all supported some greater uses of OTs, none of them addressed the statutory language in 10 USC § 4022 that ties OTs to prototyping. See e.g., “The Speed and FoRGED Acts Compared”, War on the Rocks (July 1, 2025); *available at: <https://warontherocks.com/2025/07/the-speed-and-forged-acts-compared/>* (Accessed on November 21, 2025). Ultimately, these provisions do not appear to have been adopted in the final FY26 NDAA. Instead, the main expansion of OT authority was language limited to the use of OTs, without research and development or prototyping requirements, for military facility construction and repair projects and for follow-on production awards. See Section 2802 (“§2808a. Facility Construction or Repair: Transactions Other than Contracts or Grants”). In addition, Section 1831 (“Modification to Procurement for Experimentation Purposes”) modifies the language in 10 USC § 4023 to allow for a broader range of purchases to support experimentation. National Defense Authorization Act for Fiscal Year 2026, Pub. L. No. 119-16 § 2801 (2025); *available at: <https://rules.house.gov/bill/119/s-1071>* (Accessed December 16, 2025)

20. *Id.* Section 309 of the FoRGE Act would have, if enacted, allowed for some direct to production efforts. However, those efforts would have had to be for emergent needs, using proven technology, and would have required high level determinations of being exceptional circumstances. See FY26 NDAA, “Removing Barriers and Complexity in Use of Other Transaction Authorities”; available at: [https://armedservices.house.gov/uploadedfiles/h.r.\\_3838\\_fy26\\_ndaa\\_as\\_reported\\_to\\_the\\_house.pdf](https://armedservices.house.gov/uploadedfiles/h.r._3838_fy26_ndaa_as_reported_to_the_house.pdf) (Accessed on December 2, 2025). Thus, even if it had been enacted, this authority would not have allowed for the broad use of OTs for commercial transactions described in this paper.
21. The FAR available at: <https://www.acquisition.gov/browse/index/far> (Accessed November 24, 2025)
22. The process for Agreements Officers to make these determinations could be analogous to how Contracting Officers currently make fair opportunity decisions for IDIQ task orders under FAR Part 16.
23. “Other Transactions Guide”, Office of the Under Secretary of Defense for Acquisition and Sustainment, Version 2, July 2023; available at: [https://www.acq.osd.mil/asda/dpc/cp/policy/docs/guidebook/DoD%20OT%20Guide\\_July%202023.pdf](https://www.acq.osd.mil/asda/dpc/cp/policy/docs/guidebook/DoD%20OT%20Guide_July%202023.pdf) (Accessed November 24, 2025)
24. Agencies authorized to Use OTs available at <https://aida.mitre.org/ota/> (Accessed December 2, 2025)
25. 15 U.S.C. § 4659, available at: <https://www.law.cornell.edu/uscode/text/15/4659> (Accessed December 3, 2025)
26. 6 U.S.C. § 596, available at: <https://www.law.cornell.edu/uscode/text/6/596> (Accessed December 3, 2025)
27. 49 U.S.C. § 106, available at: <https://www.law.cornell.edu/uscode/text/49/106> (Accessed December 3, 2025)
28. 51 U.S.C. § 20113, available at: <https://www.law.cornell.edu/uscode/text/51/20113> (Accessed December 3, 2025)
29. 42 U.S.C. § 19116, available at: <https://www.law.cornell.edu/uscode/text/42/19116> (Accessed December 3, 2025)
30. 6 U.S.C. § 1500, available at: <https://www.law.cornell.edu/uscode/text/6/1500> (Accessed December 3, 2025)
31. There are many related topics, outside the scope of this paper, that are worth exploring. For example, should “enterprise OTs” be created that allow for sub-orders to be issued (like IDIQs).
32. See 32 CFR Part 3, available at: <https://www.ecfr.gov/current/title-32/subtitle-A/chapter-I/subchapter-A/part-3> (Accessed November 20, 2025)
33. U.S. Department of War, “Acquisition Transformation Strategy, Rebuilding the Arsenal of Freedom”, pages 7 and 16; available at: <https://media.defense.gov/2025/Nov/10/2003819441/-1/-1/1/Acquisition-Transformation-Strategy.pdf> (Accessed November 24, 2025)
34. See *Telesto Group, LLC v. United States*, No. 24-1784 (Fed. Cl. June 2, 2025), footnote 10.

35. See 32 CFR Part 3, which was initially promulgated on June 5, 2000 and had its numbering redesignated on August 27, 2002; *available at*: <https://www.ecfr.gov/compare/2017-08-04/to/2017-08-03/title-32/subtitle-A/chapter-I/subchapter-A/part-3> (Accessed November 24, 2025). In contrast, the statute now numbered as 10 USC 4022 was amended in 2015, 2017, 2018, 2019, 2021, 2022, 2023, and 2024. See <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title10-section4022&num=0&edition=prelim> (Accessed November 24, 2025)
36. "Other Transactions Guide", Office of the Under Secretary of Defense for Acquisition and Sustainment, Version 2.0, July 2023; *available at*: [https://www.acq.osd.mil/asda/dpc/cp/policy/docs/guidebook/DoD%20OT%20Guide July%202023.pdf](https://www.acq.osd.mil/asda/dpc/cp/policy/docs/guidebook/DoD%20OT%20Guide%20July%202023.pdf) (Accessed November 24, 2025)
37. See e.g., "Fact Sheet: President Donald J. Trump Launches Massive 10-to-1 Deregulation Initiative"; *available at*: <https://www.whitehouse.gov/fact-sheets/2025/01/fact-sheet-president-donald-j-trump-launches-massive-10-to-1-deregulation-initiative/> (Accessed on November 24, 2025) (Describing President Trump's order for agency's to identify 10 existing rules, regulations, or guidance documents to be repealed for each new rule, regulation, or guidance promulgated.)

## ABOUT THE AUTHORS

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