



DoD Subcontracting Program Southeast Regional Council April 23 2018

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DoD Office of Small Business Programs**



Agenda

- POC Information
- Goals and Achievements
- Assessing Federal Agency SB Performance in Subcontracting
- FY 17 and 18 Subcontract Reporting
- Policies and Issues Impacting Subcontracting





POC Information

- Janice Buffler, Associate Director
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- DoD Department/Agency Subcontracting Program Managers (POCs)
DoD Department/Agency eSRS Agency Coordinators (POCs)

<http://business.defense.gov/Acquisition/Subcontracting/Small-Business-Professionals-Government-and-Industry/>



Subcontracting Goals and Achievements



DoD Subcontracting History

(Goals and Achievements)

(\$ = Billions; rounded up) (*unofficial)

<http://business.defense.gov/About/Goals-and-Performance/>



Fiscal Year	Total Subcont Dollars	SB Awards			SDB Awards			WOSB Awards			HubZone Awards			SDVOSB Awards		
		Goal	Achieved		Goal	Achieved		Goal	Achieved		Goal	Achieved		Goal	Achieved	
		%	%	\$	%	%	\$	%	%	\$	%	%	\$	%	%	\$
2018		33.0			5			5			3			3		
2017	\$129.1*	34.0	32.1*	\$41.5*	5	4.2*	\$5.4*	5	5.6*	\$7.2*	3	1.4*	\$1.9*	3	2.2*	\$2.9*
2016	\$123.5	34.5	33.9	\$41.8	5	4.4	\$5.4	5	5.7	\$7.0	3	1.4	\$1.8	3	2.1	\$2.6
2015	\$133.4	36.0	32.3	\$43.1	5	4.4	\$5.8	5	5.3	\$7.1	3	1.4	\$1.8	3	2.0	\$2.7
2014	\$133.8	36.7	33.2	\$44.4	5	4.6	\$6.2	5	5.7	\$7.7	3	1.5	\$2.0	3	2.1	\$2.8
2013	\$147.1	36.7	35.4	\$52.0	5	4.8	\$7.0	5	5.7	\$8.3	3	1.5	\$2.2	3	2.2	\$3.1



Assessing Federal Agency SB Performance in Subcontracting



SBA's Methodology for Assessing Federal Agency FY 18 SB Performance

SBA Scorecard	
Prime	50%
Subcontracting (achievements)	20%
Peer (Compliance) Reviews	20%
Small Business Concerns Comparison	10%



Federal Agency Subcontracting Achievements

SBA Scorecard Methodology
Subcontracting = 20% of Total Score

Summary
Subcontract Report



Individual
Subcontract Plan

Summary
Subcontract Report



Commercial
Subcontract Plan

Summary
Subcontract Report



DoD Comprehensive
Subcontract Plan

DoD's Methodology for Assessing Departments/Agencies SB Performance



DoD Internal Scorecard Beginning FY 18

Prime Performance

50%

Socioeconomic Performance

20%

Subcontracting Performance

10%

SAT Threshold Performance

10%

Component SB Duties

5%

Self-Assessment of SB Initiatives

5%



How DoD Scores its 25 Components with Procurement Authority Beginning FY 18

Subcontracting = 10% of Total Score

Subcontracting Grade

=



Individual Subcontract Reports
Approved in eSRS

Total # Individual Subcontract
Reports in eSRs



FY 17 and 18 Subcontract Reporting





Status of FY 17 ISRs in eSRS

(as of 4/19/2018)

DEPT/ AGENCY	TOTAL SUBMITTED	ACC	PEN	REV	REJ	REOP
DoD	12,955	12,408	357	59	119	12

$$12,408 \div 12,955 = 95\%$$



FY 18 Subcontract Reports Schedule





DoD FY 18 Subcontract Report Schedule

DATE	REQUIRED ACTION
Apr 30, 2018	Due date for Contractors' ISRs/SF 294s
June 15, 2018	DoD completes review of ISRs/SF 294s
June 30, 2018	Dept / Agency Subcontracting Program Managers submit semi-annual eSRS Status Report to OSBP and DPAP
Oct 30, 2018	Due date for Contractors' ISRs/SF 294s and SSRs
Dec 15, 2018	DoD completes review of ISRs/SF 294s and SSRs
Dec 30, 2018	Dept / Agency Subcontracting Program Managers submit semi-annual eSRS Status Report to OSBP and DPAP



Policy Updates





FAR / DFARS Open Cases (as of 4/20/2018)

FY	FAR	DFARS
2018	10	29
2017	17	28
2016	6	6
2015	10	7
2014	1	0
2013	1	0
2011	1	0

https://www.acq.osd.mil/dpap/dars/case_status.html

<https://www.regulations.gov/>



FAR Open Cases

FAR Case 2018-003 (Proposed): Credit for Lower-Tier Small Business Subcontracting

Implements section 1614 of the NDAA for FY 2014, as implemented in the SBA regulations on 12/23/2016 (81 FR 94246)

Allows prime contractors to receive credit toward goals in their small business subcontracting plans for subcontracts awarded by their subcontractors

11/15/2017: DARC Director tasked Small Business Team to draft rule. Report due date extended to 05/07/2018.



FAR Open Cases

FAR Case 2017-008 (Final): Duties of Office of Small and Disadvantaged Business Utilization

Implements section 1812, paragraph (a) of section 1813, and paragraph (b) of section 1821 of the NDAA for FY 2017 (Pub. L. 114-328), which amend 15 U.S.C. 644(k) to provide additional duties of the Office of Small and Disadvantaged Business Utilization.

03/27/2018 Final rule to FARSEC for preparation of FAC.

13. Review summary data provided by purchase card issuers greater than micropurchase threshold and less than SAT
14. Assist SB contractors and subcontractors in finding resources for education and training on compliance with contracting regulations
15. Review all subcontracting plans
16. Work with SBs when SB provides notification that solicitation, RFP or RFQ restricts ability of SB to compete for the award



FAR Open Cases

FAR Case 2016-002 (Proposed): Applicability of Small Business Regulations Outside the United States

Considers applicability of Small Business Regulations on contracts performed outside the United States

01/17/2018 DAR staff notified FAR staff that DARC agreed to draft proposed FAR rule. Awaiting CAAC concurrence.

DFARS Open Cases



DFARS Case 2017-D016 (Proposed): Mentor-Protege Program Modifications

Implements section 1823 and paragraph (b) of section 1813 of NDAA for FY 2017 (Pub. L. 114328). Amend section 831 of the NDAA for FY 1991 (Pub. L. 101-510) regarding the Pilot Mentor-Protégé Program by revising the definition, revising requirements associated with affiliation between mentor firms and their protégé firms, and adding new types of assistance for mentors to provide to their protégés

03/30/2018 DARS Regulatory Control Officer submitted draft proposed DFARS rule to OIRA. OIRA reviewing.



DFARS Open Cases

DFARS Case 2017-D005 (Proposed): Submission of Summary Subcontract Reports

Clarifies the entity to which Summary Subcontract Reports are to be submitted and the entity that acknowledges receipt of, or rejects, the reports

04/26/2017: Case manager forwarded draft proposed rule to DARS Regulatory Control Officer. DARS Regulatory Control Officer reviewing.



DFARS Open Cases

DFARS Case 2016-D011 (Final): Amendment to Mentor Protege Program

Implements section 861 of the NDAA for FY 2016 (Pub. L. 114-92), which amends section 831 of the NDAA for FY 1991 (Pub. L. 101-510) to provide amendments to the Pilot Mentor-Protégé Program.

01/31/2018 OIRA cleared final DFARS rule. DARS regulatory Control Officer preparing for publication, pending DoD ATP. Confirm any required systems changes.



DFARS Open Cases

DFARS Case 2015-D013 (Final): Temporary Extension of Test Program for Comprehensive Small Business Subcontracting Plans

Implements

- section 826, **NDAA FY 17** (Pub. L. 114-328), which amends section 834, NDAA FYs 1990/1991 (Pub. L. 101-510),
 - as added by section 821, of **NDAA FY 15** (Pub. L. 113-291) and section 872, **NDAA FY 16** (Pub. L. 114-92,
- to provide for temporary extension / amendment of the Test Program for Comprehensive Small Business Subcontracting Plans.

04/13/2018: Published final DFARS rule in Federal Register (83 FR 15997). Effective upon publication in DFARS.



Policies Impacting Subcontracting Reporting

DFARS

- **DoD Class Deviation 2018-00007**, Small Business Subcontract Reporting (12/13/2017)
 - Changes entity to which contractor submits SSR for Individual Subcontract Plan from military dept/agency to DoD (9700)
 - Allows contractors to submit SF 294 to CO, in lieu of submitting the ISR in eSRS for orders against BOAs and BPAs
- **DoD Class Deviation 2018-00013**, Micro-Purchases / Simplified Acquisition Thresholds, Special Emergency Procurement Authority (4/13/2018)



Policies Impacting Subcontract Reporting

- **19.704 (10)(iii) / 52.219-9 (d)(10)(iii) (Jan 2017),** Subcontracting plan requirements. Assurances that the offeror will --- After November 30, 2017, include subcontracting data for each order when reporting subcontracting achievements for indefinite-delivery, indefinite-quantity contracts intended for use by multiple agencies

Note: Beginning April 1, 2018, eSRS will allow “batch uploads” reporting on orders, not individual ISR reporting

Policies Impacting Subcontracting



FAR 52.219-9 Highlights of Subcontract Plan Requirements (Jan 2017)

- Contractor may accept subcontractor's written representations of size status; may accept representation in government's System for Award Management (SAM) (c)(2)
- For Individual Subcontracting Plan, and if required by CO, goals shall also be expressed in terms of total contract \$, in addition to required goals in terms of total subcontract \$ (d)(1)

Policies Impacting Subcontracting



FAR 52.219-9 Highlights of Subcontract Plan Requirements (Jan 2017)

- Requires contractor to make good faith effort to utilize proposed SBs during contract performance (d)(12)
- Requires contractor to notify Contracting Officer in writing if contractor fails to use small businesses as proposed in the performance of the requirement (d)(13)
- Restricts prime contractors from prohibiting a subcontractor from discussing payment or utilization matters with the Contracting Officer (d)(14)
- Requires contractor to pay small business subcontractors on time and in accordance with terms/conditions of subcontract, and notify Contracting Officer when payment is reduced or untimely payment (d)(15)



Policies Impacting Subcontracting

FAR 52.219-9 Highlights of Subcontract Plan Requirements (Jan 2017)

- Requires contractor to assist small businesses by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns (e)(1)
- Requires contractor to provide adequate/timely consideration of the potentialities of small businesses in all “make-or-buy” decisions (e)(2)
- Requires contractor to counsel/discuss subcontracting opportunities with small businesses (e)(3)
- Requires contractor to confirm that a HUBZone subcontractor is certified as such by SBA (e)(4)



Policies Impacting Subcontracting

FAR 52.219-9 Highlights of Subcontract Plan Requirements (Jan 2017)

- Requires contractor to provide notice to subcontractors concerning penalties/remedies for misrepresentations of business status (e)(5)
- Requires contractor to provide the name, location and socioeconomic status of the subcontractor in the notification to unsuccessful offerors for subcontracts greater than \$150k in which SB received SB preference (e)(6)
- Requires contractor to assign NAICS codes to subcontracts (e)(7)



Policies Impacting Subcontracting

FAR 52.219-9 Highlights of Subcontract Plan Requirements (Jan 2017)

- Contracting Officer will consider prior compliance, of the offeror with other such subcontracting plans under previous contracts, in determining responsibility of the offeror for award of the contract (h)



Policies Impacting Subcontracting

DFARS (Dec 2017)

- **DFARS 219.705-4 / DFARS PGI 219.705-4,**
 - When reviewing the subcontracting plan, contracting officers may use the document entitled “DoD Checklist for Reviewing Subcontracting Plans.” The document is available at <http://business.defense.gov/Acquisition/Subcontracting/>



Policies Impacting Subcontracting

DFARS (Dec 2017)

- **DFARS 219.705-6 / DFARS PGI 219.705-6**
 - When reviewing subcontracting reports, contracting officers may use the document entitled “DoD Subcontracting Program—Business Rules and Processes for (1) Electronic Subcontracting Reporting System (eSRS) and (2) Preparing and Reviewing Related Subcontract Reports.” The document is available at <http://business.defense.gov/Acquisition/Subcontracting/>

Policies Impacting Subcontracting



March 2018, Version 3

- Appendices are also provided separate stand-alone documents:
 - “DoD Subcontracting Program -- The Basics of Subcontracting”
 - “DoD Checklist for Reviewing Subcontracting Plans”
 - “DoD Subcontracting Program -- Guide to Preparing and Reviewing an Individual Subcontract Report (ISR) for an Individual Subcontracting Plan”
 - “DoD Subcontracting Program -- Guide to Preparing and Reviewing a Summary Subcontract Report (SSR) for an Individual Subcontracting Plan”
 - “DoD Subcontracting Program -- Guide to Preparing and Reviewing a Summary Subcontract Report (SSR) for a Commercial Subcontracting Plan”



Changes to FPDS Data Element “Subcontract Plan”



Code	FPDS Description on Contract Action Report (CAR)
A	Plan Not Included – No Subcontracting Possibilities
B	Plan Not Required
C	Plan Required – Incentive Not Included (ended 5/1/2015)
D	Plan Required – Incentive Not Included (ended 5/1/2015)
E	Plan Required (Pre 2004)
F	Individual Subcontract Plan (implemented 5/1/2015)
G	Commercial Subcontract Plan (implemented 5/1/2015)
H	DoD Comprehensive Subcontract Plan (implemented 5/1/2015)





Issues Impacting Subcontracting Reporting / Reviewing

- **Issue:** SSRs under a Commercial Subcontracting Plan submitted to incorrect organization, making it difficult to determine the contracting office responsible for accepting the SSR.
- **Recommendation:** Signature page should include
 - Company Information:
Name, title, phone #, email of the person within the company who is submitting the plan; company name; signature and date
 - DoD Contracting Organization Information:
Name, title, phone #, email of the person approving the plan; department/agency contracting organization name; signature and date
 - Company Information:
Name, title, phone # and email of the person within the company who is submitting the SSR
- **Recommendation:** Contractor must identify the one contract subject to the plan; contract with longest period of performance (latest completion date)



Issues Impacting Subcontract Reporting/Reviewing

- **Issue:** Administering Contracting Office and Awarding Contracting Offices are different. The awarding office is responsible for accepting ISR; however, eSRS “places” the ISR at the administering contracting office based in contract information in FPDS
- **Recommendation:** DoD uses a “work-around”
 - Create additional role in the eSRS registration of the awarding contracting official to be at Dept of Defense (9700)

