



# Subcontracting Program Update

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# Agenda



- Objective
- DoD Subcontracting Goals and Achievements
- DoD Department/Agency Subcontracting Compliance
- Status of DoD ISRs in eSRS
- Policy Updates
- Resources and POCs



# Objective

Provide everything you ever wanted to know about subcontracting,  
but were afraid to ask!

Provide helpful tools and resources for your use in the everyday  
efforts with subcontracting!



# Federal Agency Subcontracting Goals and Achievements

- Subcontracting Goals:
  - SBA assigns subcontracting goals to each Federal Agency
  - Subcontracting goals for remaining socioeconomic categories are statutory
- Subcontracting Achievements based on \$ reported in Summary Subcontract Reports (SSR)
  - Individual Subcontract Plan: all subcontracting under prime and subcontracts with the awarding agency
  - Commercial Subcontract Plan: includes all subcontract awards under the commercial plan, based on total \$ subcontracted for Federal government and non-Federal government
  - DoD Comprehensive Subcontract Plan: includes all subcontract awards under comprehensive plan

# DoD Subcontracting History

(Goals and Achievements)

(\$ = Billions; rounded up)



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	
		%	%	\$	%	%	\$	%	%	\$	%	%	\$	%	%	\$
2017		34.0			5			5			3			3		
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



# Changes to SBA Scorecard for Federal Agencies

FY 16 & Prior	
<b>Prime</b>	<b>80%</b>
<b>Sub</b>	<b>10%</b>
<b>Peer Review</b>	<b>10%</b>

30% taken from prime & 10% added to 3 categories

FY 17 & Beyond	
<b>Prime</b>	<b>50%</b>
<b>Sub</b>	<b>20%</b>
<b>Peer Review</b>	<b>20%</b>
<b>New Category</b>	<b>10%</b>



# DoD Department/Agency Subcontracting Compliance

- eSRS “Delinquent ISR Report”
  - SBA assess agency subcontracting compliance, beginning with May 2015 ISRs
- FPDS modification (May 2015)
  - Revised CAR data element for “Subcontract Plan” to show types of subcontracting plans (Individual, Commercial and DoD CSP)
  - When coded as “Individual Subcontract Plan” we should expect to see an ISR in eSRS, except for orders under BOAs and BPAs, in which case the contractor submits SF 294
- If there is no ISR, contractor is delinquent with reporting requirements
- DoD departments/agencies responsible for review and follow up on ISRs. Completion dates are Dec 15 and Jun 15. ISRs should be “accepted”.
- The DoD departments and agencies are responsible for review and follow up on SSRs under a Commercial Subcontracting Plan. Completion date is Dec 15.

# Who is Responsible for Reviewing DoD Subcontract Reports?



DATE	RESPONSIBLE PARTY
ISRs submitted under Individual Subcontract Plan by the prime contractor	Awarding Contracting Officer
ISRs submitted under Individual Subcontract Plan by the subcontractor	Upper-tier contractor awarding subcontract
SSRs submitted under Individual Subcontract Plan	Designated SSR Review Team
SSRs submitted under Commercial Subcontract Plan	Contracting Official who Approved Plan
SSRs submitted under DoD Comprehensive Subcontract Plan	DCMA CSP Team





# FY 15 DoD ISRs (as of 7/2017)

Status	Prime Contractor
Total # Reports Submitted	13,172
Accepted	12,709
Pending	320
Rejected	128
Reopened	5
Revised	9
Total Requiring Review, follow up & Accepted by Awarding Contracting Office	462

Using ad-hoc report function



# FY 16 DoD ISRs (as of 7/2017)

Status	Prime Contractor
Total # Reports Submitted	13,063
Accepted	12,393
Pending	481
Rejected	140
Reopened	9
Revised	40
Total Requiring Review, follow up & Accepted by Awarding Contracting Office	670



# FY 17 DoD ISRs (as of 7/2017)

Status	Prime Contractor
Total # Reports Submitted	6,342
Accepted	5,201
Pending	1,016
Rejected	104
Reopened	2
Revised	32
Total Requiring Review, follow up & Accepted by Awarding Contracting Office	1,144



# DoD FY 17 Subcontract Report Schedule

DATE	REQUIRED ACTION
Apr 30, 2017	Due date for Contractors' ISRs/SF 294s
June 15, 2017	DoD completes review of ISRs/SF 294s
June 30, 2017	Dept / Agency Subcontracting Program Managers submit semi-annual eSRS Status Report to OSBP and DPAP
Oct 30, 2017	Due date for Contractors' ISRs/SF 294s and SSRs
Dec 15, 2017	DoD completes review of ISRs/SF 294s and SSRs
Dec 30, 2017	Dept / Agency Subcontracting Program Managers submit semi-annual eSRS Status Report to OSBP and DPAP
Mar 15, 2018	SBA determines subcontracting achievements for all Federal agencies

# FAR and DFARS Cases (7/25/2017)



CASE	SYNOPSIS	STATUS
FAR 2016-011: Revision of Limitations on Subcontracting	Implements SBA's final rule (81 FR 34243) for section 1651 of the NDAA for FY 2013 (Pub. L. 112-239), which revised the limitations on subcontracting and the Non-manufacturer rule. Also implements SBA's regulatory clarifications concerning application of the limitations on subcontracting, non-manufacturer rule, and size determination of joint ventures.	06/05/2017 CAAC Legal concurrence with draft interim FAR rule. FAR staff preparing to send to OFPP after DoD approval to publish. (Includes "Similarly Situated Entities" rule)

# FAR and DFARS Cases (7/25/2017)



CASE	SYNOPSIS	STATUS
FAR 2016-002: Applicability of Small Business Regulations Outside the United States	Considers applicability of small business regulations to contracts performed outside the United States	<ul style="list-style-type: none"><li>07/03/2017 FAR staff notified DAR staff of CAAC differences from DARC suggested changes. DAR and FAR staff resolving draft proposed FAR rule open issues.</li></ul> (Overseas for DOD is exempt per new statute)

# FAR and DFARS Cases (7/25/2017)



CASE	SYNOPSIS	STATUS
DFARS 2017-D005: 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 DAR editor. DAR editor reviewing.

# FAR and DFARS Cases (7/25/2017)



CASE	SYNOPSIS	STATUS
DFARS 2015-D013, Temporary Extension for Comprehensive Small Business Subcontracting Plans	Implements section 872 of the NDAA for FY 2016 (Pub. L. 114-92), which amends section 834 of the NDAA for FYs 1990 and 1991 (Pub. L. 101-510), as added by section 821 of the NDAA for FY 2015 (Pub. L. 113-291), NDAA for FY 2017 (Pub. L. 114-328), to provide for the temporary extension and amendment of the Test Program for Comprehensive Small Business Subcontracting Plans	DAR reviewing draft – final; will forward to Office of Information and Regulatory Affairs (OIRA) for publication in Federal Register



# Section 1614 (c) P.L. 113-66

## Credit for certain small business subcontractors



- If subcontracting goals pertain only to a single contract with the executive agency, the prime contractor shall receive credit for SB concerns performing as first tier subcontractors or subcontractors at any tier
- If the subcontracting goals pertain to more than one contract with one or more executive agencies, or to one contract with more than one executive agency, the prime contractor may only count first tier subcontractors that are SB concerns

As of 7/25/2017, no FAR case has been opened to implement these changes to the SB Act.

# FAR/DFARS 19.7/52.219-9/252.219-7003, Subcontract Plan (Jan 2017)



## Highlights

- Contractor may accept subcontractor's written representations of size status; may accept representation in government's System for Award Management (SAM) (c)(2)
- Authorizes Contracting Officers to calculate subcontracting goals in terms of total contract \$, in addition to required goals in terms of total subcontract \$ (d)(1)
- **After November, 2017, requires contractor to report subcontracting data for each order when reporting subcontracting achievements for IDIQ/IQIQ contracts intended for use by multiple agencies (d)(10)**
- 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)

# FAR/DFARS 19.7/52.219-9/252.219-7003, Subcontract Plan (Jan 2017)



## Highlights

- 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)
- 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)

# FAR/DFARS 19.7/52.219-9/252.219-7003, Subcontract Plan (Jan 2017)



## Highlights

- Requires contractor to confirm that a HUBZone subcontractor is certified as such by SBA (e)(4)
- 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 (e)(6)
- Requires contractor to assign NAICS codes to subcontracts (e)(7)
- 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)
- Requires prime contractor to resubmit a corrected subcontracting report within 30 days of receiving the contracting officer's notice of report rejection (l)(1)(ii)



# FAR/DFARS 19.7/52.219-9/252.219-7003, Subcontract Plan (Jan 2017)

## Highlights

- Requires contractor to include indirect costs in the Summary Subcontract Report (SSR), on a prorated basis, even if excluded from subcontracting plan (I)(2)(i)
- Requires subcontracting plans even for modifications under the plan threshold if modifications would cause contract to exceed plan threshold (19.705-2(a))
- On IDIQ contracts, the Contracting Officer may establish subcontracting goals at the order level (but not a new subcontracting plan) (19.705-2(e))

# OSBP Website Updates and Resources



- New guidance documents have been posted on new OSBP website <http://business.defense.gov/Acquisition/Subcontracting/>
  - “DoD Checklist for Reviewing Subcontracting Plans” (May 2017)
  - “DoD Subcontracting Program – Business Rules and Processes for (1) Electronic Subcontracting Reporting System (eSRS) and (2) Preparing and Reviewing Related Subcontract Reports” with appendices (March 2017)

# OSBP Website Updates and Resources



- The appendices in the “Business Rules and Processes” guidance document are also provided as separate documents  
<http://business.defense.gov/Acquisition/Subcontracting/>
  - “DoD Subcontracting Program -- The Basics of Subcontracting” (March 2017)
  - “DoD Subcontracting Program -- Guide to Preparing and Reviewing an Individual Subcontract Report (ISR) for an Individual Subcontracting Plan” (March 2017)
  - “DoD Subcontracting Program -- Guide to Preparing and Reviewing a Summary Subcontract Report (SSR) for an Individual Subcontracting Plan” (March 2017)
  - “DoD Subcontracting Program -- Guide to Preparing and Reviewing a Summary Subcontract Report (SSR) for a Commercial Subcontracting Plan” (March 2017)