



# Updates: Subcontracting Program

## TRIAD

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Subcontracting Policy and Regional Councils  
DoD Office of Small Business Programs**

**January 30, 2018**



# Agenda

- Goals and Achievements
- SBA and DoD Scorecards
- NDAA FY 18 (Highlights)
- FAR /DFARS Open Cases (Highlights)
- Policies Impacting Subcontracting
- FY 18 Subcontract Report Submission Schedule
- DoD Regional Councils



# DoD FY 18 Prime Contract Goals

Category	Goal
Small Business	22%**
SDB	5%*
WOSB	5%*
HUBZone	3%*
SDVOSB	3%*

\*\* Negotiated between Agency and SBA

\* Statutory Goals



# DoD FY 18 Subcontract Goals

Category	Goal
Small Business	33%**
SDB	5%*
WOSB	5%*
HUBZone	3%*
SDVOSB	3%*

\*\* Negotiated between Agency and SBA

\* Statutory Goals

# 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

# Federal Agency Subcontracting Achievements



Summary  
Subcontract Report



Summary  
Subcontract Report



Summary  
Subcontract Report



Individual  
Subcontract Plan

Commercial  
Subcontract Plan

DoD Comprehensive  
Subcontract Plan



<b>SBA Scorecard</b>	
<b>Prime</b>	<b>50%</b>
<b>Subcontracting</b>	<b>20%</b>
<b>Peer Review</b>	<b>20%</b>
<b>Small Business Concerns Comparison</b>	<b>10%</b>

<b>DoD Internal Scorecard</b>	
<b>Prime Performance</b>	<b>50%</b>
<b>Socioeconomic Performance</b>	<b>20%</b>
<b>Subcontracting Performance</b>	<b>10%</b>
<b>SAT Threshold Performance</b>	<b>10%</b>
<b>Component SB Duties</b>	<b>5%</b>
<b>Self-Assessment of SB Initiatives</b>	<b>5%</b>



# 2018 National Defense Authorization Act

- Sec. 225 - Support for National Security Innovation and Entrepreneurial Education -
- Sec. 805 - Increased Simplified Acquisition Threshold (SAT) from \$150K to \$250K (FAR Case 2018-004)
- SEC. 806. Requirements related to the micro-purchase threshold from \$3,000 to \$10,000 (FAR Case 2018-004)
- SEC. 820. Change to definition of subcontract in certain circumstances
- Sec. 846 - Procurement through Commercial E-Commerce Portals
- Sec. 864 - Other Transaction Authority for Certain Prototype Projects





# 2018 National Defense Authorization Act

- Sec. 1708 - Inclusion of SBIR and STTR Programs in Technical Assistance
- Sec. 1709 - Requirements Relating to Competitive Procedures and Justification for Awards under the SBIR and STTR Programs
- Sec. 1710 - Pilot Program for Streamlined Technology Transition from the SBIR and STTR Programs of the Department of Defense
- Sec. 1714 - Report on Utilization of Small Business Concerns for Federal Contracts



## FAR / DFARS Open Cases

FY	FAR	DFARS
2018	10	24
2017	17	31
2016	6	8
2015	12	7
2014	1	0
2013	2	0
2011	1	0

[https://www.acq.osd.mil/dpap/dars/case\\_status.html](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 from 01/10/2018 to 02/07/2018.



## 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.

11/17/2017 CAAC Legal concurrence with draft final FAR rule. FAR and DAR staff resolving issues.



## 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

12/20/2017: CAAC received Small Business Team draft proposed FAR rule and FRN. Will discuss draft proposed FAR rule on 01/17/2018.

# 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

04/20/2017: Case manager forwarded draft proposed rule to DARS Regulatory Control Officer. DARS Regulatory Control Officer 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.

09/18/2017: DARS Regulatory Control Officer identified issues with draft final DFARS rule to case manager. Case manager and DARS Regulatory Control Officer resolving issues.





## DFARS Open Cases

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

Implements section 872 of the NDAA for FY 2016 (Pub. L. 114-92), which amends section 834 of NDAA FYs 1990/ 1991 (Pub. L. 101-510), as added by section 821 of NDAA for FY 2015 (Pub. L. 113-291), to provide for temporary extension / amendment of the Test Program for Comprehensive Small Business Subcontracting Plans.

09/18/2017: DARS Regulatory Control Officer identified issues with draft final DFARS rule to case manager. Case manager / DARS Regulatory Control Officer resolving issues.

**Note:** DoD Class Deviation 2018-O0010 (01/08/, extends expiration date to be “December 31, 2027



# Policies Impacting Subcontracting

## FAR 19.7 Highlights of Subcontract Plan Requirements (Jan 2017)

- On IDIQ contracts, the Contracting Officer may establish subcontracting goals at the order level (but not a new subcontracting plan) (e)

**Note: eSRS should allow reporting beginning April 1, 2018**

- Requires subcontracting plans even for modifications under the plan threshold if modifications would cause contract to exceed plan threshold **or** a size re-representation of a company from small to other than small (f)

**Note: eSRS should allow reporting beginning April 1, 2018**

# 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)
- After November 30, 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) (iii)

**Note: eSRS should allow reporting beginning April 1, 2018**

# 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

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

- Purchases from a corporation, company, or subdivision that is an affiliate of the Contractor or subcontractor are not included in ISRs or SSRs (I)
  - Subcontract awards by affiliates shall be treated as subcontract awards by the Contractor.
  - Subcontract award data reported by the Contractor and subcontractors shall be limited to awards made to their immediate next-tier subcontractors.
  - Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe.





# Policies Impacting Subcontracting

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

- Only subcontracts involving performance in the United States or its outlying areas should be included in ISRs and SSRs with the exception of subcontracts under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas. (I)
- Requires prime contractor to resubmit a corrected subcontracting report within 30 days of receiving the contracting officer's notice of report rejection (I)(1)(i)



# Policies Impacting Subcontracting

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

- SSR submitted under Individual Subcontracting Plan(I)(2)(i)
  - Encompasses all subcontracting under prime contracts and subcontracts with an executive agency, regardless of the dollar value of the subcontracts (A)  
Also includes indirect costs on a prorated basis when the indirect costs are excluded from the subcontracting goals
  - May be submitted on a corporate, company or subdivision (e.g. plant or division operating as a separate profit center) basis (B)
  - Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated (E)



# Policies Impacting Subcontracting

## DFARS

- DoD Class Deviation 2018-O0007, 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 in lieu of ISR to CO, in lieu of ISR in eSRS
- SSR Coordinator responsible for approving SSRs under Individual Subcontract Plan
- Procuring contracting office responsible for approving ISR, even when contract administration has been delegated to the Defense Contract Management Agency or ONR



# Policies Impacting Subcontracting

## DFARS (Dec 2017)

- DFARS 219.705-4, Reviewing the subcontracting plan. (ii) The contracting officer may use the checklist at PGI 219.705-4 when reviewing subcontracting plans in accordance with FAR 19.705-4.
- DFARS PGI 219.705-4, Reviewing the subcontracting plan. 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, Post-award responsibilities of the contracting officer. (f) See PGI 219.705-6(f) for guidance on reviewing subcontracting reports.
- DFARS PGI 219.705-6, Post-award responsibilities of the contracting officer. (f) 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

January 2018, Version 2

- URL:  
<http://business.defense.gov/Acquisition/Subcontracting/>
- Select: “Subcontracting for Contracting and Small Business Professionals (Government and Industry)”
- Document: “DoD Subcontracting Program – Business Rules and Processes for (1) Electronic Subcontracting Reporting System (eSRS), (2) Subcontracting Plans, (3) Preparing and Reviewing Related Subcontract Reports” and appendices



# Policies Impacting Subcontracting

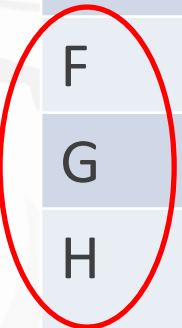
January 2018, Version 2

- 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)







# Policies Impacting Subcontracting

- Changes to FPDS
  - Oct 1, 2017: Changes contract numbering to include 13-character nomenclature for base contract and additional 13-character nomenclature for orders (BOAs, BPAs, IDIQ)
- eSRS “Batch Upload” functionality should be working
- eSRS allows contractors to show %’s to tenth decimal



# Issues Impacting Subcontracting Reporting / Reviewing

- **Issue:** SSRs under a Commercial Subcontracting Plan submitted to incorrect DoD organization, making it difficult to determine the contracting office responsible for accepting the SSR.
- **Recommendation:** Signature page should include
  - Company Information:  
Name, title, phone # and email of the person within the company who is submitting the plan; company name; signature and date
  - DoD Contracting Organization Information:  
Name, title, phone # and 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



# 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)

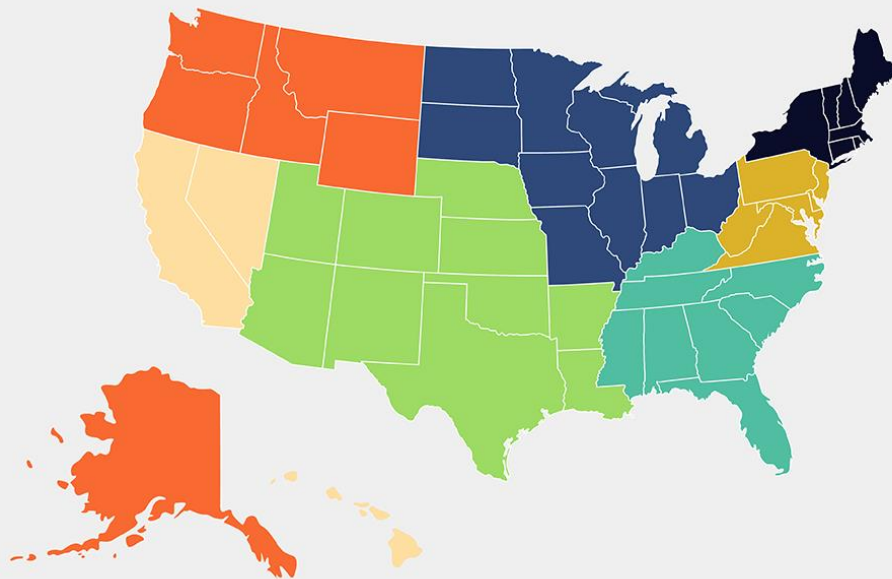
# DoD FY 18 Subcontract Report Schedule



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



# DoD Regional Councils



- Northeast
- Mid-Atlantic (MARC)
- Southeast (SERC)
- North Central (NCRC)
- South Central (SCRC)
- Pacific Northwest
- Western

<http://business.defense.gov/Acquisition/DoD-Regional-Councils/>



# DoD Regional Councils

## Regional Council Charter

- Mission: Forum and Training
- Members: SB Professionals (gov't/ industry) & Resource Partners
- Officers
- Committees
- Training Schedule



# DoD Regional Council Schedule

- Mar 13-14: DoD Pacific Northwest Regional Council, Puyallup, WA
  - Kay.j.riplinger-Balz@usace.army.mil
- (Mar 20: SBLO / SBA, Indianapolis, IN)
  - Lynda.parrett@sba.gov
- 11 Apr: DoD Western Regional Council, Irvine, CA
  - Derrick.hu@navy.mil
- 23 Apr: Southeast Regional Council, Atlanta, GA
  - Marlan.A.Snodgrass@usace.army.mil
- 13 Jun: DoD Western Regional Council, Honolulu, HI
- 9 Aug: DoD Western Regional Council, San Diego, CA