



5001-06-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

[Docket DARS-2018-0018]

RIN 0750-AJ42

Defense Federal Acquisition Regulation Supplement: Submission of Summary Subcontract Reports (DFARS Case 2017-D005)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to change the entity to which contractors submit Summary Subcontract Reports in the Electronic Subcontracting Reporting System (eSRS) and to change the entity that acknowledges receipt of, or rejects, the reports in eSRS.

DATES: Effective **[Insert date of publication in the FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer D. Johnson, telephone 571-372-6100.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the *Federal Register* at 83 FR 30666 on June 29, 2018, to implement a policy that streamlines the submission and review of Summary Subcontract Reports (SSRs) for DoD contractors and brings the DFARS into compliance with changes to the Federal Acquisition Regulation (FAR). Instead of submitting multiple SSRs to departments and agencies within DoD, contractors with individual subcontracting plans will submit a single, consolidated SSR in eSRS at the DoD level. The consolidated SSR will be acknowledged or rejected in eSRS at the DoD level.

There were no public comments submitted in response to the proposed rule. There are no changes made to the final rule.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule amends the clause at DFARS 252.219-7003, Small Business Subcontracting Plan (DoD Contracts), and its Alternate I. The objective of the rule is to simplify the submission and review of SSRs in eSRS.

DoD does not apply the clause and its Alternate I to solicitations and contracts with a value at or below the Simplified Acquisition Threshold, because subcontracting plans are not required at that dollar value.

DoD currently applies the clause and its Alternate I to solicitations and contracts for the acquisition of commercial items, including commercially available off-the-shelf (COTS) items, as defined at FAR 2.101. Not applying this guidance to contracts for the acquisition of commercial items, including COTS items, would exclude contracts intended to be included in the streamlined SSRs and undermine the overarching purpose of the rule. As such, DoD is applying the rule to contracts for the acquisition of commercial items, including COTS items.

III. Expected Cost Savings

This rule amends the DFARS to implement a policy that streamlines the submission and review of SSRs for DoD contractors. Instead of the current practice of submitting multiple SSRs to various departments or agencies within DoD, contractors with individual subcontracting plans will submit one consolidated SSR at the DoD level in eSRS. The consolidated SSR will be acknowledged or rejected in eSRS at the DoD level.

This rule impacts only large businesses that have individual subcontracting plans and at least one contract with DoD. Although the clause at DFARS 252.219-7003, Small Business Subcontracting Plan (DoD Contracts), and its Alternate I currently require large business contractors to submit SSRs to the department or agency within DoD that administers the majority of the contractor's individual subcontracting plans,

these contractors frequently must submit SSRs to each department or agency within DoD with which they have contracts. This results in extra work for the contractors and creates problems with duplicate subcontracting data. By requiring submission and review of SSRs at the DoD level, this rule resolves these issues.

The following is a summary of the estimated public cost savings calculated in 2016 dollars at a 7-percent discount rate and in perpetuity:

SUMMARY	Public	Government	Total
Present Value	-\$384,404	-\$101,487	-\$485,891
Annualized Costs	-\$26,908	-\$7,104	-\$34,012
Annualized Value Costs (as of 2016 if Year 1 is 2019)	-\$21,965	-\$5,799	-\$27,764

To access the full regulatory cost analysis for this rule, go to the Federal eRulemaking Portal at www.regulations.gov, search for "DFARS Case 2017-D005," click "Open Docket," and view "Supporting Documents."

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including

potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This final rule is considered to be an E.O. 13771 deregulatory action. The total annualized value of the cost savings is \$27,764 (as of 2016 if Year 1 is 2019). Details on the estimated cost savings can be found in section III of this preamble.

VI. Regulatory Flexibility Act

A final regulatory flexibility analysis (FRFA) has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The FRFA is summarized as follows:

This final rule is necessary to provide updates on the submission and review of Summary Subcontract Reports (SSRs) in the Electronic Subcontracting Reporting System (eSRS). This rule amends the DFARS to require contractors with individual subcontracting plans to submit a single, consolidated SSR in

eSRS at the DoD level instead of submitting multiple SSRs to departments and agencies within DoD. The consolidated SSR will be acknowledged or rejected in eSRS at the DoD level. The rule will bring the clause at DFARS 252.219-7003, Small Business Subcontracting Plan (DoD Contracts), and its Alternate I, into compliance with the requirement for a consolidated SSR in the clause at FAR 52.219-9, Small Business Subcontracting Plan.

There were no issues raised by the public in response to the initial regulatory flexibility analysis provided in the proposed rule.

The rule will apply to DoD contractors who have individual subcontracting plans and must comply with the clause at DFARS 252.219-7003. Small entities are not required to comply with this clause and, therefore, will not be affected by the rule.

The rule does not impose any reporting or recordkeeping requirements on any small entities.

There are no known alternative approaches that would accomplish the stated objectives.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 252

Government procurement.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR part 252 is amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for part 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

2. Amend section 252.219-7003 by—

a. Removing the clause date of "(APR 2018)" and adding "(DEC 2018)" in its place;

b. Revising paragraphs (a), (b), (f)(1)(ii), and (f)(2)(ii);

c. Removing paragraph (f)(2)(iii); and

d. In Alternate I—

i. Removing the clause date of "(APR 2018)" and adding "(DEC 2018)" in its place; and

ii. Revising paragraphs (a), (b), (f)(1)(ii), and (f)(2).

The revisions reads as follows:

252.219-7003 Small Business Subcontracting Plan (DoD Contracts).

* * * * *

(a) *Definitions. Summary Subcontract Report (SSR) Coordinator,* as used in this clause, means the individual who is registered in the Electronic Subcontracting Reporting System (eSRS) at the Department of Defense level and is responsible for acknowledging receipt or rejecting SSRs submitted under an individual subcontracting plan in eSRS for the Department of Defense.

(b) Subcontracts awarded to qualified nonprofit agencies designated by the Committee for Purchase From People Who Are Blind or Severely Disabled (41 U.S.C. 8502-8504), may be counted toward the Contractor's small business subcontracting goal.

* * * * *

(f) (1) * * *

(ii) Submit the consolidated SSR for an individual subcontracting plan to the "Department of Defense."

(2) * * *

(ii) The authority to acknowledge receipt of or reject SSRs submitted under an individual subcontracting plan resides with the SSR Coordinator.

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Alternate I. * * *

(a) *Definitions. Summary Subcontract Report (SSR) Coordinator,* as used in this clause, means the individual who is registered in the Electronic Subcontracting Reporting System (eSRS) at the Department of Defense level and is responsible for acknowledging

receipt or rejecting SSRs submitted under an individual subcontracting plan in eSRS for the Department of Defense.

(b) Subcontracts awarded to qualified nonprofit agencies designated by the Committee for Purchase From People Who Are Blind or Severely Disabled (41 U.S.C. 8502-8504), may be counted toward the Contractor's small business subcontracting goal.

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(f) (1) * * *

(ii) Submit the consolidated SSR to the "Department of Defense."

(2) For DoD, the authority to acknowledge receipt of or reject SSRs submitted under an individual subcontracting plan in eSRS resides with the SSR Coordinator.

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