



Department of the Navy
Office of Small Business Programs

The Department of the Navy eSRS Reporting System

24 August 2022

Source: DoD eSRS Government Training

Mr. Bradley D. Taylor
Assistant Director
Office of Small Business Programs

“Small Business...
The First Option”

Subcontracting Program Responsibilities

Department of the Navy Office of Small Business Programs

Role	Registration	Applicability
Super User	<ul style="list-style-type: none"> ▪ Agency: <ul style="list-style-type: none"> ✓ Dept of Defense (9700) ✓ Other components or organizations as necessary ▪ User Level: <ul style="list-style-type: none"> ✓ Agency ✓ Other levels as necessary 	<ul style="list-style-type: none"> ▪ DoD Small Business Subcontracting Program Manager ▪ Has full access to eSRS for DoD, including all departments and agencies ▪ Able to view/accept/reject all contractor ISRs and SSRs; although does not have this responsibility ▪ Able to run reports on all data
Agency Coordinator (AC)	<ul style="list-style-type: none"> ▪ Agency: <ul style="list-style-type: none"> ✓ Top Level of Department/agency ✓ Dept of Defense (9700) ▪ User Level: <ul style="list-style-type: none"> ✓ Agency 	<ul style="list-style-type: none"> ▪ eSRS Coordinator for DoD department, agency or organization ▪ Has full access to eSRS for their parent organization, sub-commands, and below ▪ Manages and approves organization registration requests ▪ Able to view/accept/reject contractor ISRs and SSRs; although does not have this responsibility ▪ Able to run reports on data at registered agency level ▪ Assist Subcontracting Program Manager with preparing component eSRS status report



Subcontracting Program Responsibilities (cont.)

Department of the Navy Office of Small Business Programs

Point of Contact (POC)	<ul style="list-style-type: none"> ▪ Agency: <ul style="list-style-type: none"> ✓ Top Level of Department/agency ✓ Dept of Defense (9700) ▪ User Level: <ul style="list-style-type: none"> ✓ Agency 	<ul style="list-style-type: none"> ▪ Subcontracting Program Manager for the department, agency or organization ▪ Has same access to eSRS as the AC ▪ Responsible for preparing and submitting component's eSRS status report to DPAP and OSBP
Contracting Official (CO)	<ul style="list-style-type: none"> ▪ Agency: <ul style="list-style-type: none"> ✓ Contracting organization ✓ Dept of Defense (9700) as necessary ▪ User Level: <ul style="list-style-type: none"> ✓ Contracting Office ✓ Contracting Office Number 	<ul style="list-style-type: none"> ▪ Individual responsible for awarding the contract (PCO) or approving the Commercial Subcontracting Plan ▪ Responsible for reviewing/ accepting/rejecting contractor ISRs for specific contracts and SSRs under Commercial Subcontracting Plan which he/she approved ▪ Able to run reports on data at their registered agency level
Designated Government User (DGU)	<ul style="list-style-type: none"> ▪ Agency: <ul style="list-style-type: none"> ✓ Department/Agency/ Contracting Org which he/she supports ✓ Top Level of Department/agency ✓ Dept of Defense (9700) as necessary ▪ User Level: <ul style="list-style-type: none"> ✓ Agency 	<ul style="list-style-type: none"> ▪ Small Business Professional, ACO, Source Selection Official, GAO or IG Official ▪ Able to view contractor ISRs and SSRs, cannot take action ▪ Able to run reports on data at their registered agency level



Subcontracting Plans and Reports

Department of the Navy
Office of Small Business Programs

Type Report	Type Subcontracting Plan	Due Date from Contractor	Reviewer		Due Date for Department/ Agency Action
			Prime Contract	Lower Tier Subcontract	
ISR/SF 294	Individual	Apr / Oct 30	PCO who awarded contract	SBLO, Contractor awarding the subcontract	Jun / Dec 15
	Commercial	Not required	Not required	Not required	Not required
	Comprehensive	Not required	Not required	Not required	Not required
SSR	Individual	Oct 30	DoD SSR Review Team	DoD SSR Review Team	Dec 15
	Commercial	Oct 30	CO who approved commercial plan	Not applicable	Dec 15
	Comprehensive	Apr / Oct 30	DCMA CSP Team	DCMA CSP Team	Jun / Dec 15



Quick Reference Guides and Videos for Federal Contractors

- eSRS Resource Page - <https://www.esrs.gov/resources> for:
 - Prime Contractor and Subcontractor ISR Reporting
 - Prime Contractor SSR Reporting for Individual and Commercial Plans
 - Prime Contractor Task Order Reporting
- Sample Step by Step ISR and SSR Reporting Guides: <https://www.esrs.gov/>

User Guides for Federal Acquisition Workforce

- eSRS Home Page (Documents Column) - <https://www.esrs.gov/> for:
 - Contracting Officers
 - Agency Coordinators
 - Points of Contact
 - Designated Government User
 - DoD Subcontracting Business Rules and Processes - <https://business.defense.gov/Portals/57/Documents/Rules%20and%20Processes%20eSRS%20Subk%20Plans%20Reports01%2009%2020.pdf?ver=2019-12-02-113212-443>





U.S. Small Business
Administration

Legislative & Regulatory Update

**For Small Business Government Contracting
Programs**

August 19, 2022

Legislative Action

National Defense Authorization Act for Fiscal Year 2022

[Pub. Law 117-81](#), signed by the President on 12/27/21

Sect. 861 - Keeps the Miller Act threshold for bonding protection for small-business subcontractors on construction projects at its present level, instead of raising it for inflation.

Sect. 863 - Requires update to SAM.gov for small business status changes and notification to agencies where the firm has a pending offer, if the change would affect eligibility.

Sect. 864 - Gives OHA jurisdiction over HUBZone appeals.

Sect. 866 - Requires DoD report on CMMC effects on small business.

The Price Act

Promoting Rigorous and Innovative Cost Efficiencies for Federal Procurement and Acquisitions Act of 2021

[Pub. Law 117-88](#), signed by the President on 2/22/22

- DHS operates a Procurement Innovation Lab aimed at experimenting with innovative acquisition techniques
- Directs DHS to issue an annual report on innovative procurement techniques, including those used to meet small-business goals.
 - Sunsets after 3 years
- Requires OMB to convene the CAO Council to examine best practices in acquisition innovation, including in contracting with small businesses
 - CAO Council may form a working group to address
 - CAO Council (or the working group) must issue a report on innovative acquisition techniques that lead to meeting or exceeding small-business goals

House version of NDAA FY23 – Passed House

[H.R. 7900](#), passed House on 7/14/22

- Would give qualified 8(a) firms an additional program year
- Raise sole-source thresholds to \$8 mil for most contracts, \$10 mil for manufacturing
- Extend deadline for transfer of SD/VOSB certification from VA to SBA
- Require more detailed analysis for nonmanufacturer rule waivers
- Allow interim partial payments on requests for equitable adjustment
- Require agencies to submit bundling data to SBA

Passed the House; Sent to Senate

- [H.R. 7670](#), the Women-Owned Small Business Program Transparency Act, would require SBA to issue an annual report on the WOSB Program.
- [H.R. 5879](#), the Hubzone Price Evaluation Preference Clarification Act of 2021, would extend the HUBZone price evaluation preference to unrestricted task orders.
- [H.R. 7694](#), the Strengthening Subcontracting for Small Businesses Act of 2022, would require agencies to, when awarding a contracting with subcontracting opportunities, use evaluation factors for subcontracting plans and prior small-business subcontracting.

Introduced in the House

- [H.R. 4697](#), to strike section 8(a)(11), which is the basis of [bona-fide-place-of-business rule](#) in the 8(a) program
 - SBA has temporarily waived the requirement through Sept. 30, 2023: [SBA Announces Moratorium on Bona Fide Place of Business Requirements for the 8\(a\) Business Development Program](#)
- [H.R. 6347](#), Military Spouse Entrepreneurs Act of 2021 – to establish a 5-year pilot procurement program for small businesses owned and controlled by military spouses, with a 5% goal
- [H.R. 6504](#), Native Pacific Islanders of America Equity Act - to define a Native CHamoru Organizations as a nonprofit corporation owned by Guam natives or direct ancestors, define Native Northern Marianas Organizations, and give both such organizations the same treatment as Native Hawaiian Organizations for SDB and HUBZone eligibility.
- [H.R. 6923](#), the Accelerating Small Business Growth Act - create a grant program to help transportation agencies carry out innovative programs to compete for federally funded transportation projects.

Introduced in the House

- [H.R. 7628](#), IMPROVE the SBA Act would
 - mandate annual testimony from SBA's GCBD,
 - require agencies to allocate small-business-contract credit to no more than one socioeconomic category,
 - create a confidential questionnaire for first-tier small business subcontractors, and
 - require that a contractor's failure to submit timely subcontracting reports result in a negative effect on past performance
- [H.R. 7685](#), the Truth in Small Business Contracting Credit Act, would restrict small-business goaling credit so a contract would apply only for one socioeconomic category (e.g., SDB but not WOSB)
- [H.R. 8273](#), Small Business Payment for Performance Act, would require agencies to make partial payment on requests for equitable adjustment on a small-business construction contract, upon receipt of the request

Introduced in the Senate

- [S. 3928](#), the Accelerating Small Business Growth Act - create a DOT grant program (\$20mil over four years) to fund programs for SDBs to compete for contracts and subcontracts funded by DOT financial assistance.
- [S. 3929](#), the Disadvantaged Business Enterprise Supportive Services Expansion Act – raise the funding cap for FHWA supportive services program, and provide for supportive services programs at FTA and FAA

Passed House and Senate – in conference

- [H.R. 4521](#), America COMPETES Act of 2022
 - Sect. 50101 – would require one-third small-business purchasing for certain items from frontline operational components (TSA, Secret Service, FEMA, and others)
 - Sect. 50103 – would create a DHS mentor-protégé program for small businesses, HBCUs, and MSIs.
 - Sect. 61007 – would include small-business contracting percentage in the annual report of the Defense Production Act Fund

Executive Action

OMB Memorandum: Advancing Equity in Procurement

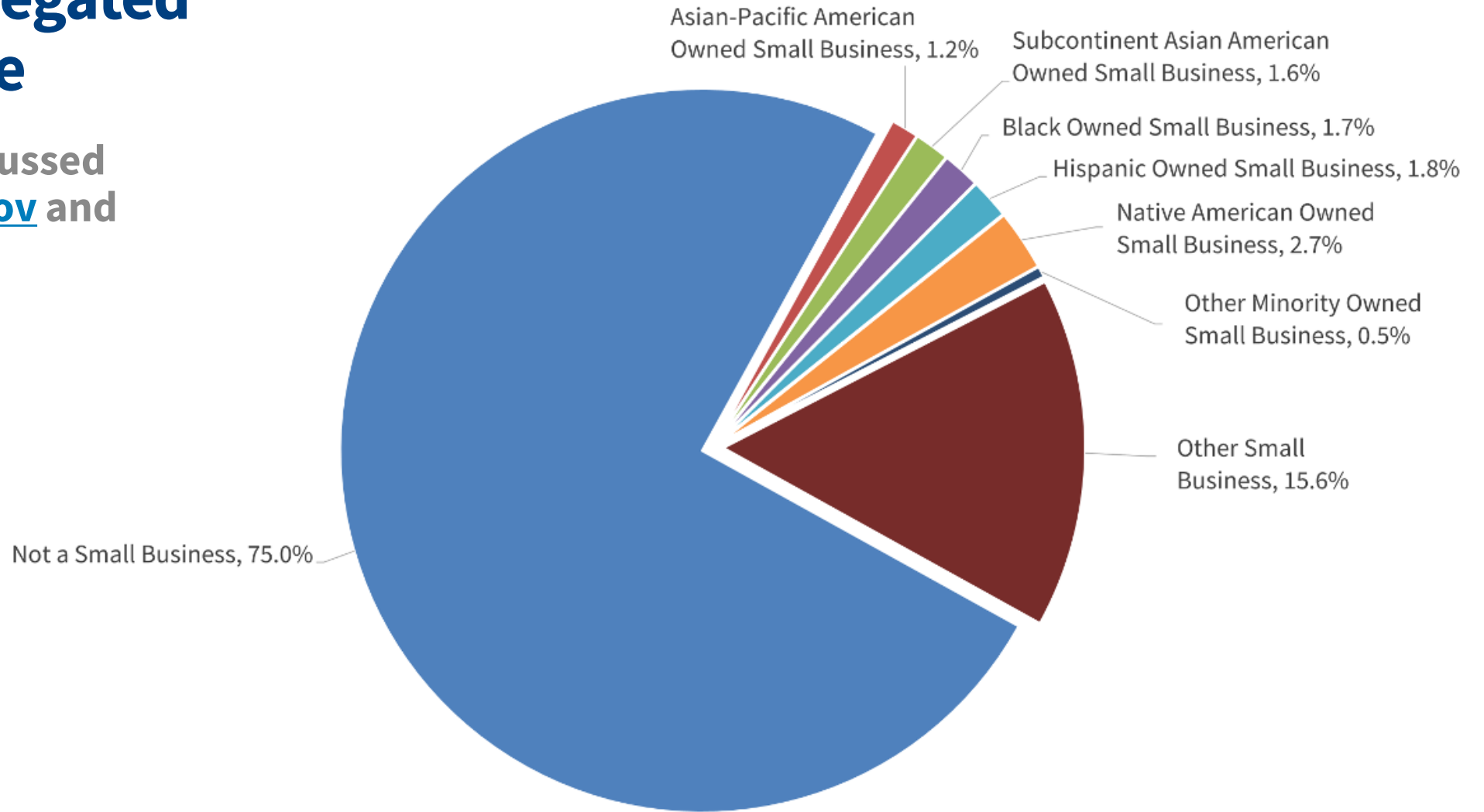
M-22-03, Dec. 2, 2021 – implementing Executive Order 13985

1. Raises governmentwide SDB contracting goal to 11% for FY22, on the way to 15% by 2025.
2. Implements major changes to Category Management.
 - A. automatic Tier 2 credit for socioeconomic small businesses (SDB, WOSB, HUBZone, SDVOSB)
 - B. reinforced importance of small-business goal achievements
 - C. making SBA and Dept. of Commerce voting members on the Category Management Leadership Council.
3. Seeks to increase new entrants and reverse the decline in the small business supplier base.
4. Makes Federal senior managers accountable for small business contracting goals.
5. Ensures OSDBUGs have access to senior leadership

SBA Disaggregated Data Release

[SBA.gov](https://www.sba.gov) – as discussed on [whitehouse.gov](https://www.whitehouse.gov) and analyzed by CEA

FY 2020 Federal Contracting¹ by Race² and Business Size



1. Includes only small-business-eligible dollars (\$559 billion in FY 2020). This includes all Federal contracts except those excluded by SBA's Goaling Guidelines. This data does not apply the double-credit and subcontracting adjustments required by statute for SBA's annual scorecard.
2. Racial and ethnic categories are reflected here as they appear in the System for Award Management when an entity registers to do business with the government. Classifications are self-reported. The other small business category reflects those firms who did not report as being minority-owned.

OFPP Memo on SDB Strategies

Strategies for Meeting and Exceeding the Small Disadvantaged Business Goal for Fiscal Year 2022, June 2022

- Encourages agencies to maximize use of the 8(a) program
- Suggest that agencies review acquisitions under the SAT, which are required by statute to be set aside for small businesses.
- References the GSA Schedule, SBA's DSBS.SBA.gov, and SBA PCRs as other resources to facilitate awards to SDBs.

Recent SBA and FAR Regulatory Action

Final Rules (4): Revised Monetary Based Size Standards

[87 FR 18607](#) ; [87 FR 18627](#); [87 FR 18646](#); [87 FR 18665](#) (March 31, 2022)

- SBA issued four final rules to address monetary-based size standards, including all used in government procurement
- Reviewed 468 size standards
 - 229 increases
 - No decreases because of COVID-19
- Notable changes
 - Engineering Services, 541330 to \$22.5 million
 - Administrative Management and Consulting Services, 541611 to \$21.5 million
 - Architectural Services, 541310 to \$11 million

SBA Final Rule: Calculation of Employee-Based Size Standards

[87 FR 34094](#), EFFECTIVE 7/6/22

- Adopts a 24-month average to calculate a business's number of employees for size purposes
- Permits businesses in SBA's loan, SBIC, and surety programs to use 5-year average receipts, in addition to 3-year average receipts

SBA Proposed Rule: Manufacturing and Employee-Based Size Standards

[87 FR 24752](#) EFFECTIVE: 4/26/22

- Reviewed 432 employee-based size standards
 - Proposed to increase 150 size standards
 - 120 of the increases are in manufacturing industries
 - Proposed to retain 282 size standards
- Proposes to retain the 500-employee size standard for the nonmanufacturer rule
- If finalized, would add 250 small businesses

SBA Proposed Rule: Adoption of 2022 NAICS for Size Standards

[87 FR 40034](#)

- Proposes to reorganize SBA's size standard table for OMB's new NAICS revision.
- New NAICS codes were effective in January.
- The NAICS 2022 revision creates 111 new industries.
- Comments closed August 4.

SBA Final Rule: Past Performance Ratings for JV members and Subcontractors

[87 FR 43731](#)

- Small business can use past performance from a joint venture, provided it worked on the joint venture's contracts
- Small business can use past performance from a first-tier subcontract to go after a prime contract
 - Subcontracting plans will direct primes to provide a rating to the small business within 15 days
 - The small business must make the request to the prime contractors no later than 30 days after the end of the period of performance of the contract with the government.
- Effective 8/22/22

Direct Final Rule: Small Businesses in U.S. Territories

87 FR 50925

- Adds Guam, U.S. Virgin Islands, American Samoa, and Northern Marianas to:
 - Definition of a “covered territory business”
 - Exception from limit of three protégés in SBA’s Mentor-Protégé Program
 - Eligibility for state-run surplus property programs
- Effective October 18, 2022 unless adverse comments are received by Sept. 19.

Proposed Rule: Veteran-Owned, Service-Disabled Veteran-Owned Certification

87 FR 40141 For new SBA program to start 1/1/23

- Would establish an SBA certification program for VOSBs and SDVOSBs
- Generally, SBA adopts existing application requirements from the VA
 - SBA considering eliminating incarceration from the "good character" requirement for certification
- Certification is required for set-aside or sole source SDVO or VOSB contracts
- Eligible for a term of three years from certification
 - Currently VA verified-firms maintain eligibility through transfer date
 - Self-certified firms must apply within one-year grace period
- Comments closed 8/5/22

Direct Final Rule: Extending HUBZone Map Freeze

[86 FR 23863](#)

- Extends the HUBZone Map freeze until June 30, 2023
 - Qualified census tract data using the 2020 Census results will not be available until late 2022.
 - Applies to all current Redesignated Areas and Qualified Base Closure Areas, and most current Qualified Disaster Areas.
 - The HUBZone Map has been updated to reflect the new expiration date for those areas.
 - After SBA receives the Census data from HUD, SBA will post a list identifying areas newly designated as Qualified Census Tracts, Qualified Non-metropolitan Counties, and Redesignated Areas, so that firms can plan accordingly.

Nonmanufacturer Rule Class Waivers: Terminations

[87 FR 29424](#) (radiology equipment); [87 FR 34921](#) (furniture)

- SBA terminated the class waivers of the nonmanufacturer rule for;
 - radiology equipment, NAICS code 334517; and
 - furniture under NAICS codes 337215, 337127, and 337113.
- Small businesses will need to provide the product of a small-business manufacturer for set-aside contracts, unless the agency obtains an individual waiver.

Notice of new WOSB Program NAICS Codes

[87 FR 15468](#) EFFECTIVE 3/18/22

- SBA identified new NAICS codes for the WOSB program
- Underrepresented industries are qualified for EDWOSB set-asides/sole-source procurements
 - 113 underrepresented NAICS codes
- Substantially underrepresented industries are qualified for WOSB set-asides/sole-source procurements
 - 646 substantially underrepresented NAICS codes
- SBA will issue a notice to update for 2022 NAICS codes

FAR Final Rule: Small Business Programs Overseas

87 FR 24836

- Amends FAR 19.000 to specify that agencies “may apply” Part 19 (Small Business Programs) outside the United states and its outlying areas.
 - If applied, participants must meet definition of small business concern
 - And must submit representations
 - **Note:** SBA definition of “Small business concern” at 13 CFR 121.105:
“place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor.”
- Applies bundling definition to contracts performed entirely outside the U.S. (they previously were exempted)

FAR Proposed Rule: Small Business Program Amendments

[87 FR 10327](#)

- Size changes
 - Size determined at offer on a multiple-award contract, even if price not evaluated (e.g., two-step eval)
 - IT value-added reseller size standard of 150 employees
 - Allow status protests based on ostensible subcontractor
- Allow set-asides for socioeconomic programs where multiple-award contract was set aside for small business
- Cannot exercise an option past 5th year on an 8(a) contract if firm is no longer an 8(a) participant
- Comments closed 4/25/22

FAR Proposed Rule: Update of HUBZone Program

[86 FR 31468](#)

- Published June 14, 2021
- Implements SBA's comprehensive revision (84 FR 65222)
 - Removes requirement for firm to be HUBZone qualified at both offer and award for HUBZone set-asides—instead just offer
- Authorizes sole source awards under SAT
- Comments closed 6/14/21. Finalizing review.

FAR Proposed Rule: WOSB Certification

[86 FR 55769](#)

- Would require agencies to check SBA's DSBS for WOSB/EDWOSB designation for WOSB/EDWOSB set-asides and sole-source awards
- Firms may submit offers on WOSB/EDWOSB set-asides if certification is pending
- Would remove mentions of the WOSB repository, which no longer exists



U.S. Small Business
Administration



What's up with SAM?

Marnie Tyson

Marnie@@WashingtonPTAC.org

Massive Disruptions

Change to UEI April 2022

- 20% of entities are having issues*
- 10x the issues they planned for*
- Over 8 weeks to update in some cases
- Companies are losing awards, work and delayed payments

* From the GSA meeting on Aug 3, 2022

What is GSA Doing to Fix?

- Expiration extensions
- Continual Process Improvement (most recent 8/10)
- PTAC Escalation privilege – limited - contact your [local PTAC](#) for support
 - EVS/ UEI issues
 - CAGE issues

Watch Your Language

UEI & CAGE code or
Full Registration



UEI only



What do you want to do?

Choose what you need and we will show you what information to prepare.

Register for Financial Assistance Awards Only

- To apply for grants and loans as described by 2 CFR 200. [🔗](#)
- Includes getting a Unique Entity ID and entity registration.



Register for All Awards

- To bid on federal contracts and other procurements, as described by the Federal Acquisition Regulation (FAR). [🔗](#)
- To apply for grants and loans as described by 2 CFR 200. [🔗](#)



Get a Unique Entity ID Only

- May be required to report subawards, such as federal subcontracts or sub-grants
- You will get a Unique Entity ID. This is NOT an entity registration.



[What's the difference between getting a UEI only and registration](#) [🔗](#)

RENEW EARLY

- EVERYONE – prime, subs, grants, np, gov...
- No less than 2 months before expiration

Why

- No harm to renew early
- Fix problems while still active
- Avoid inactive status
- Pushes updates to other systems

Best practices

- Clean up your paperwork first
- Less is more
- Communication Expectation
- Patience and understanding is appreciated
- Be as proactive as possible



**When in Doubt
Contact Your Local PTAC**

<https://www.aptac-us.org/>



PTAC

Procurement Technical Assistance Center

DOD INDIAN INCENTIVE PROGRAM

THIS PROCUREMENT TECHNICAL ASSISTANCE CENTER IS FUNDED IN PART THROUGH A COOPERATIVE AGREEMENT WITH THE DEPARTMENT OF DEFENSE

SPONSORED BY THE AMERICAN INDIAN CHAMBER EDUCATION FUND

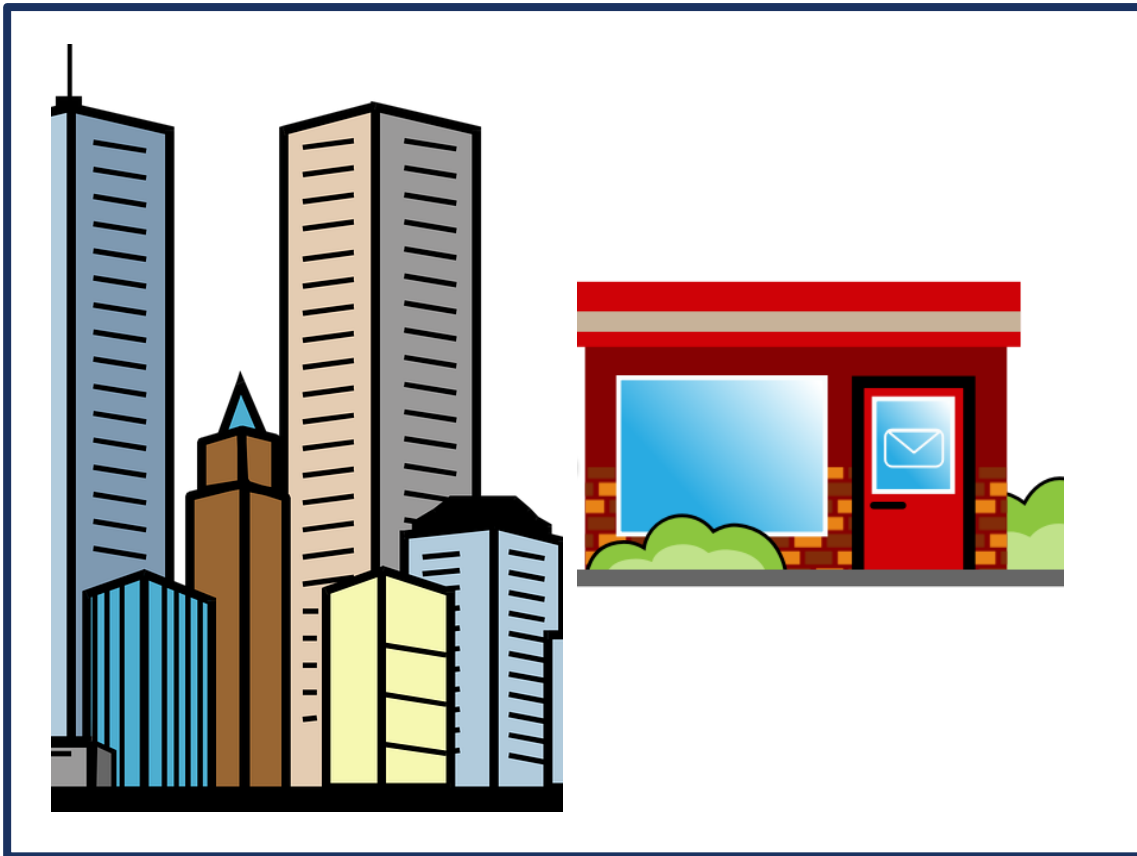
WHAT IS THE DOD INDIAN INCENTIVE PROGRAM?

- The Department of Defense (DoD) Indian Incentive Program (IIP) is designed to encourage the use of Indian Organizations, Indian-Owned Economic Enterprises, Alaska Native Corporations and Native Hawaiian Small Business Concerns
- The program is managed by the Department of Defense (DoD) Office of Small Business Programs (OSBP).

INDIAN INCENTIVE PROGRAM (IIP)

- The IIP allows eligible prime contractors to receive a rebate of **5%** of the ***total*** amount subcontracted to Indian Organizations, Indian-Owned Economic Enterprise and Native Hawaiian Small Business Concerns
- ***DFARS Clause 252.226-7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns***, must be in the contract in order to participate in the Indian Incentive Program

WHO CAN PARTICIPATE?



Any of the Following:

- Large business prime contractors
- Small business prime contractors
- DoD sub-tier contractors (at any tier)

WHAT ARE THE CONTRACT REQUIREMENTS?

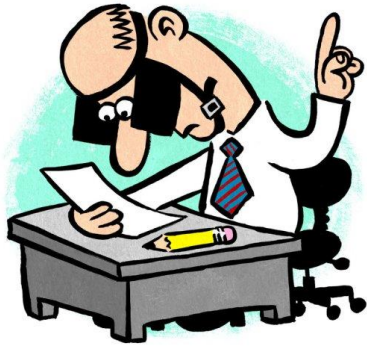
- The DoD contract must be \$500k or more
- For Prime contract IIP requests, the contract must include DFARS clause 252.226-7001.
- For DoD sub-tier contract IIP requests:
 - The prime contract must include DFARS clause 252.226-7001
 - The subcontract must include the substance of DFARS clause 252.226-7001

Contracts/subcontracts may be modified to add the clauses prior to completion of contract performance upon request of the prime contractor.

WHEN CAN OR CAN'T AN IIP REQUEST BE SUBMITTED?

An IIP Request Can Be Submitted:

- On the condition that the contract is open, and the prime contractor is still performing.



An IIP Request Cannot Be Submitted:

- While a challenge is pending regarding the validity of the Indian business status or the certification of a Native Hawaiian Small Business Concern.
- If a DoD subcontractor is determined an ineligible participant.
- If the contract is closed.



HOW DO I PREPARE AN IIP REQUEST?

- Request an IIP payment through rebate request package, which includes:
 - Cover letter (Latest version of cover letter templates for Contracting Officer and Prime Contractor are available on DoD OSBP website).
- Certification documents of subcontractor
 - Prime Contractor's rebate request package is required to include all invoices from subcontractor.
 - Validated invoice summary sheet.
 - Once a complete package is prepared, it may be emailed to OSBP - osd.pentagon.ousd-atl.mbx.osbp-iip1@mail.mil.

WHERE DO I SUBMIT MY IIP REQUEST?

- Contracting officers submit IIP package to DoD OSBP Office after validating the material and verifying the package is correct and complete.
- Prime contractors submit IIP package to the Contracting Officer after validating / verifying package is correct/complete:
 - Prime contractors who submit requests and receive payments on behalf of subcontractors at any tier are obligated to pay the subcontractors the incentive.



WHERE DO I SUBMIT MY IIP REQUEST?

- DoD Sub-tier contractors:
 - Submit IIP request through the prime contractor who verifies the information is correct, verifies the package is complete, endorses the package, and forwards it to the government Contracting Officer at the agency administering the contract for processing. The Contracting Officer will then submit the complete package to OSBP after review.

INDIAN INCENTIVE PROGRAM (IIP)

The average time frame for receipt of the 5% rebate depends on

- The availability of FY funds
- Number of requests awaiting funds prior to your request
- Incomplete requests (requests lacking Native American ownership documentation, tribal affiliation, invoice summary sheet, etc.), and other factors.

All complete and eligible IIP requests not funded in the fiscal year that they were submitted will be rolled over to the next fiscal year.

Rebate requests that arrive in the OSBP office are processed on a first-come first-served basis.





Government Contracts and Inflation

James F. Nagle

Oles Morrison Rinker & Baker LLP

www.oles.com

nagle@oles.com

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Worst Inflation in Over 40 Years

- Worse in Federal Contracts – e.g. Buy American Act, Small Business, Minimum Wage and Other Wage Laws, Cybersecurity, Environment.
- Ramifications for the government: fewer bidders - many contractors refuse to bid on firm fixed price basis - and higher bids to cover higher costs and higher risk.
- Consequences for contractors: bid wrong and you can lose a lot of money or the company!
- DOD Memo, May 25, 2022 “Guidance on Inflation and Economic Price Adjustments”

Overview of Remedies

- Type of contract
- Remedy Granting Clauses – e.g. Changes
- P.L. 85-804 Relief, FAR Part 50

Contract Types

- Cost reimbursement
 - Cost reimbursement contracts
 - Cost reimbursement line items in other type contracts
 - Nowhere prohibited in the FAR. Contracting officers are allowed to do something which is not mentioned in the FAR if they think it is in the best interest of the government and is not prohibited by any other authority
- Incentive contracts
- Economic price adjustment
- The FAR allows the government to change contract type during performance of an already awarded contract. FAR 16.103(c)

Incentive Contracts

- FAR 16.4 – tied to costs
- Fixed price incentive, cost plus incentive
- Both the government and the contractor share in cost savings or cost increases.

Fixed Price with Economic Price Adjustment

- FAR 16.203
- Used during periods of great price volatility for contracts with extended performance periods
- Advantage to the contractor: some protection against price increases.
- Advantage to the government: more bidders, lower prices and the government gets to take advantage of price drops.
- To avoid violating the Anti-Deficiency Act there is a cap on potential price increases but no cap on price decreases

Firm Fixed Priced Contracts

- If a contractor is already working under a firm fixed price contract, relief is limited. COs may want to help but may not have the money or justification
- CO may reduce Contractor's Exposure Without Raising Government Cost
 - Delete work under Changes or Convenience Termination Clauses
 - Substitute Less Expensive Materials
 - Waiver e.g. Buy American Act
- Contractor Files Claims
 - Must hunt for a contractual act of the government that increases price
- But Methods of Computing Equitable Adjustment May Limit Relief

Questions?

James F. Nagle
nagle@oles.com
(206) 623-3427



THE PROCUREMENT PLAYBOOK

LEGAL INSIGHT FOR GOVERNMENT CONTRACTORS

OLES MORRISON

OLES
MORRISON
RINKER
BAKER LLP



SMALL BUSINESS TRAINING WEEK 2022

VIRTUAL **SBTW22**

EXPAND ★ INNOVATE ★ DIVERSIFY

JUNE 21-23, 2022

Part 2: Subcontracting Plan Compliance & Assessing Liquidated Damages

STEPHANIE LEWIS

National Subcontracting Program Manager

SBA'S ROLE IN SUBCONTRACTING: TYPE OF REVIEWS

- Pre-Award Subcontracting Plan Reviews
 - SBA's PCRs review subcontracting plans prior to contract awarded (advisory)
- Post-Award Compliance Reviews
 - SBA's CMRs monitor subcontracting goal achievement after contract award

SBA COMMERCIAL MARKET REPRESENTATIVES (CMRS)

Area 1 - Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Commonwealth of Puerto Rico & the U.S. Virgin Islands

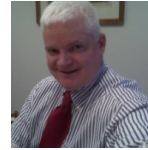
MR. CHRISTOPHER SAO

christopher.sao@sba.gov



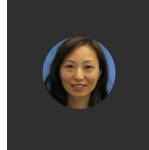
MR. GENE SPILLANE

eugene.spillane@sba.gov



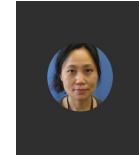
MS. MALINDA CHEN

malinda.chen@sba.gov



MS. SANDY LIU

sandy.liu@sba.gov



Area 2 - District of Columbia, Delaware, Maryland, Pennsylvania, Virginia, West Virginia

MS. RAHEL MOLALIGNE



Area 3 - Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

MS. ARNETTE L. MAYHEW

arnette.mayhew@sba.gov



D. GARY W. HEARD

gary.heard@sba.gov



SBA COMMERCIAL MARKET REPRESENTATIVES (CMRS) CONTINUED

Area 4

Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin

MS. DEBORAH CRUMITY

deborah.crumity@sba.gov



Area 5

Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming

MS. SOPHIA CHOU

sophia.chou@sba.gov



Area 6

Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Washington, Territories of Guam, and Northern Marianas Islands

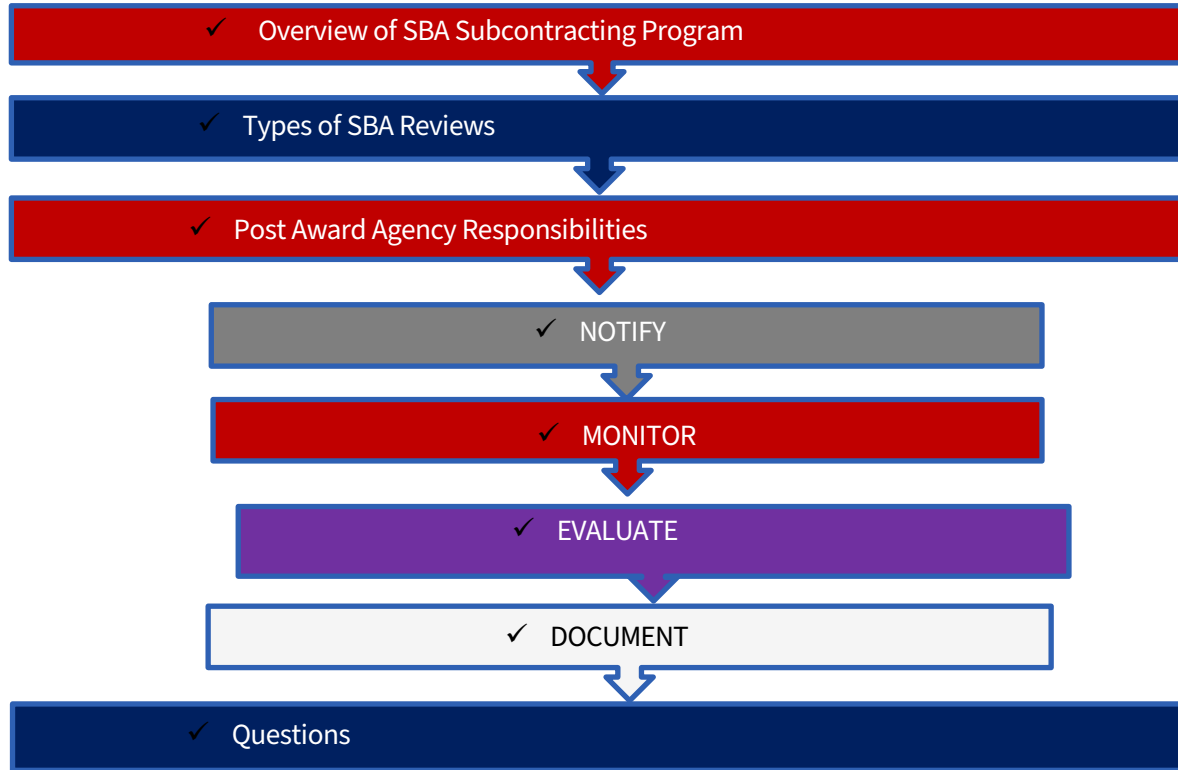
MS. JANICE NIETES



SMALL BUSINESS TRAINING WEEK 2022
SBTW 22
EXPAND • INNOVATE • DIVERSIFY

[sba.gov](#) INCREASING COMPETITION IN THE DEFENSE INDUSTRIAL BASE

POST-AWARD SB SUBCONTRACTING PROGRAM AGENDA



SBA SUBCONTRACTING PROGRAM :

WHO PROVIDES POST-AWARD SB SUBCONTRACTING PROGRAM OVERSIGHT?

SBA'S CMRs provide oversight over the SB Subcontracting Program

CMRs are responsible for:

Performing compliance reviews of prime contractors with subcontracting plans

Providing post-award subcontracting training

Providing counseling to SBs regarding gaining access to subcontract opportunities

Facilitating the matching of primes contractors with SBs



Small Business Act, Section 8(d) – 15 USC 633(h)(1), 637, 644, 657(a) , 657(f), 13 CFR 125.3

TYPES OF SBA REVIEWS

Performance Review

Subcontracting Program Compliance Review

Follow-up Review



Subcontracting Orientation and Assistance Review (SOAR)

SOAR (TRAINING)

- Provided to OTSBs with their first subcontracting plan, or a new Official that Administers the Subcontracting Program
- Can be used as a “refresher” type training
- Recommended for companies that have received a **Marginal** or **Unsatisfactory** rating on a Subcontracting Program Compliance Review



PERFORMANCE REVIEW

- Involves the Individual Subcontracting Reports (ISRs) and Summary Subcontract Reports (SSRs) submitted by OTSBs in eSRS
- Focuses on subcontracting achievements on a contract-by-contract basis through the ISR (SF-294, if applicable) and on overall performance through the SSR
- Assesses on-time submission of ISRs and SSRs
- Offers CMR assistance in locating tools to locate small business sources
- Gives the prime contractor feedback on how it is progressing on accomplishing its subcontracting plan goals and identifies shortfalls/weaknesses so that it can make adjustments to ensure goal achievement and maximum practicable utilization of small business subcontractors

SUBCONTRACTING PROGRAM COMPLIANCE REVIEW (SPCR)

- Performance is evaluated by means of on-site or virtual compliance reviews and follow-up reviews.
- Determines a contractor's achievements in meeting the goals and other elements in its subcontracting plan for both open contracts and contracts completed during the previous twelve months.
- The review letter is provided to the company's CEO and each Contracting Officer receives a copy



SUBCONTRACTING PROGRAM COMPLIANCE REVIEWS- CONTINUED

- Compliance review includes:
 - Evaluating whether the prime contractor assigned the proper NAICS code and corresponding size standard to a subcontract and whether small business subcontractors' claim for the size or socio-economic status claimed are supported
 - Validating the prime contractor's methodology for completing its subcontracting reports
 - Validating whether the prime contractor is monitoring its “other-than-small subcontractors” with regard to their flow-down subcontracting plans and reporting
 - Determining achievement of the negotiated subcontracting goals
 - Identifying the prime contractor’s plan of action to achieve the subcontracting goals

FOLLOW-UP REVIEW

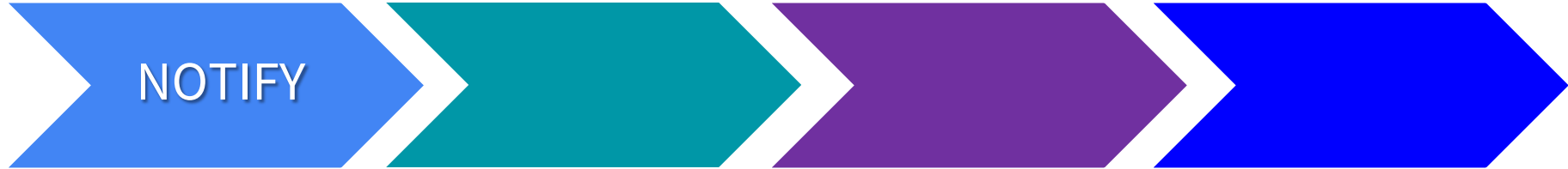


- Companies that receive a *Marginal* or *Unsatisfactory* rating on a Subcontracting Program Compliance Review must submit a Corrective Action Plan to SBA
- Within a year, SBA will conduct a Follow Up Review to assess the contractor's progress towards correcting deficiencies and implementing SBA's recommendations identified during the previous SPCR

POST AWARD AGENCY RESPONSIBILITIES



POST AWARD AGENCY RESPONSIBILITIES



When to Notify SBA?

- When contract contains a subcontracting plan
- When modification contains a subcontracting plan
- When existing subcontracting plan is amended

NOTIFY SBA

What goes to SBA's Govt Contracting Area Office

- Each commercial subcontracting plan and any associated approvals;
- Any subcontracting plan submitted in response to a sealed bid solicitation;
- The final subcontracting plan (negotiated acquisitions); and
- Notification of the opportunity to review plan modifications

What goes to SBA's Govt Contracting Area Office

- Award document (including subcontracting plan)
- Commercial plan and any associated approvals

FAR 19.705-6

SUBCONTRACTING PLAN FIELD IN FPDS

- Ensure the contract is reflected in FPDS as soon as possible
 - Contractor will receive “contract not found” error code if contract is not in FPDS at the time they try to enter their ISR report
- “Subcontracting Plan Required” field must be marked for the contractor to submit an ISR report
- To be in compliance with reporting requirements, contractors resort to submitting a paper SF294 if the contract has not been entered in FPDS
- Data flows from FPDS to eSRS in real time

FPDS SUBCONTRACTING PLAN CODES

Code	Description	Explanation
A	Plan Not Included - No Subcontracting Possibilities	A Subcontracting Plan was not included in the contract because subcontracting possibilities do not exist (FAR 19.705-21)
B	Plan Not Required	No Subcontracting Plan was required. (Ex. The action did not meet the dollar thresholds in FAR 19.702(a)).
C	Plan Required - Incentive Not Included	Includes a Subcontracting Plan but does not include additional incentives (FAR 19.702(a) and FAR 19.708(c)). This value is end dated as of May 1, 2015.
D	Plan Required - Incentive Included	Includes a Subcontracting Plan and also includes additional incentives (FAR 19.702(a), FAR 19.708(c) and DFARS 219.708(c)). This value is end dated as of May 1, 2015.
E	Plan required (Pre-2004)	Plan Required (Pre 2004)
F	Individual Subcontract Plan	Applies to a specific contract with goals that covers the entire contract period, including option periods (FAR 19.701)
G	Commercial Subcontract Plan	Commercial plan” means a subcontracting plan (including goals) that covers the offeror’s fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line) (FAR 19.701)
H	DOD Comprehensive Subcontract Plan	A subcontracting plan based on a plant, division, or company-wide basis. This value is only valid for DoD. (DFARS 219.702).

POST AWARD AGENCY RESPONSIBILITIES



MONITORING PLAN PERFORMANCE IN ESRS.GOV

- Review SSRs and ISRs (where applicable) in eSRS
- Ensure contractors' timely subcontracting report submissions into the eSRS

FAR 19.705-6 & 13 CFR 125.3(d)

ESRS ASSISTANCE & TRAINING

The screenshot shows a web browser window displaying the eSRS website. The browser's address bar shows the URL http://www.esrs.gov/documents/eSRS_Contractor_User_Guide.pdf. The page header features the eSRS logo and the text "Integrated Acquisition Environment Electronic Subcontracting Reporting System". Below the header, the "Resources" section is visible, containing a "Quick Reference Guides" list and a "Webinars" section. A red arrow points from the "Contractor Submitting an Individual Subcontract Report (ISR)" link to the "Government Review of the Individual Subcontract Report (ISR)" link.

Resources

Quick Reference Guides

- [Quick Reference for Federal Government Contractors Filing SSR for Commercial Plan](#)
- [Quick Reference for Federal Government Contractors Filing SSR for Individual Plan](#)
- [Quick Reference for Federal Government Contractors Submitting SDB Participation Report](#)
- [Quick Reference for Federal Government Contractors Submitting SDB Year-End Report](#)
- [Quick Reference for Federal Government Prime Contractors Filing ISR](#)
- [Quick Reference for Federal Government Subcontractors Filing ISR](#)
- [Quick Reference Recommendation for Federal Government Employees Generating Reports](#)

Webinars

For Contractor Users:

- [Contractor Submitting an Individual Subcontract Report \(ISR\)](#)
- [Contractor Submitting an Summary Subcontract Report \(SSR - Individual\)](#)

For Government Users:

- [Government Review of the Individual Subcontract Report \(ISR\)](#)
- [Government Review of the Summary Subcontracting Report \(SSR\)](#)

WHEN ARE REPORTS DUE IN ESRS.GOV REPORT SUBMISSIONS

Types of Reports	Applies to	Includes	Reports Due
Individual Subcontracting Report (ISR)	Individual Plans	Subcontract dollars from inception of K thru report date	Semi-annual. Reporting period ends Mar 31 and Sept 30 (due by Apr 30/Oct 30) & within 30 days of contract completion
Summary Subcontracting Report (SSR) (Individual)	Individual Plans	Summary of ALL Subcontracting under a prime or subcontract with the agency (with and without subcontracting plans) during the FY	Annual. Reporting period ends Sept 30, due by Oct 30
Summary Subcontracting Report (SSR) (Commercial/DOD Comprehensive)	Commercial or DOD Comprehensive Plan	Commercial: Subcontract dollars for both commercial & govt. business during FY Comprehensive: Subcontract dollars for all DOD business during FY	Commercial Plan - Annual. Reporting period ends Sept 30, due by Oct 30 DOD Comprehensive Plan – Semi-annual. Reporting period ends Mar 31 and Sept 30 (due by Apr 30/Oct 30).

ISR/SSR REPORTING EXTENSIONS

Extended Due Date for ISR and SSR Reports

FY20 Year-End ISR and SSR Reports:

ISR 30-day extension; SSR 60-day extension

FY21 Mid-Year & Year-End ISR and SSR Reports:

15 -day extension

FY22 Mid-Year ISR and SSR Reports:

10-day extension

Type of Report	Reporting Period Ending Date	Report's Normal Due Date	Extended Due Date	Government must Review and Acknowledge or Reject the Report(s) no later than
Mid-Year ISR & SSR	March 31, 2022	April 30, 2022	May 10, 2022	June 9, 2022

ACCEPTING OR REJECTING ISR/ SSR REPORTS

Accepting is not “approving”

Who Accepts or Rejects ISRs/SSRs?

ISRs – Contracting Officer (FAR 19.705-6(f)(2))

SSRs –

- For Commercial Plan – Contracting Officer that approved the commercial plan (FAR 19.705-6(f)(3)(i))
- For Individual Plan – Individual Assigned by Agency (usually the OSDBU office)
 - For DOD contracts, see next slide
- For DOD Comprehensive Plan - DCMA

DOD SSRS (FOR INDIVIDUAL PLANS)

All SSRs (for Individual Plans) should be submitted to DOD (9700) – even if the contract is with one of DOD’s sub-tier agencies

DFARS 252.219-7003(f)(i) and (ii):

(i) The ISR shall be submitted to the contracting officer at the procuring contracting office, even when contract administration has been delegated to the Defense Contract Management Agency.

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

FAR 52.219-9(l)(2)(C) - SSRs:

For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime contractors.

MONITORING "INDIVIDUAL" SUBCONTRACTING REPORTS

Click on Individual

eSRS Integrated Award Environment
Electronic Subcontracting Reporting System
FOR GOVERNMENT

- Home
- Reports
 - Individual
 - Summary
 - Year-End SDB
 - SDB Participation
- Agencies
 - Organizations
 - Contacts
- Contracts
- Reporting
- My Account

eSRS Home ? help

Pending Actions

- [5 New Agency Contact Registrations](#)
- [1548 Individual Report\(s\) Pending](#)
- [82 Summary Report\(s\) Pending](#)
- [590 Year-End Report\(s\) Pending](#)
- [167 SDB Participation Report\(s\) Pending](#)

Note: Some pending Summary and Year-End Reports may be incomplete, but should be reviewed for accuracy.

[For Help: Federal Service Desk](#) [Turn Accessibility Mode On](#) [eSRS Agency Coordinator Guide](#) [eSRS CO Guide](#) [eSRS P Generating Reports](#) [Government Review of the Individual Subcontract Report \(ISR\)](#) [Government Review of the Sum](#)

FINDING REPORTS IN ESRS.GOV

Click Search Filters

Then Click Magnifier

powered by simplicity

E.GOV USA.GOV

Individual Subcontracting Reports

All Individual Reports Accepted Individual Reports Pending Individual Reports Advanced Search ? help

Search Filters

Status: Pending
Report Year: 2017
Report Type: regular
Show Me: Prime Reports
Days Since Last Action: (>=)

Keywords: searches duns, vendor name, contracting office id and submitter email

Apply Search Clear

Items 1-20 of 25344 < Previous | Jump 1 | Next >

Contract Number	Contractor	Agency ID	Prime/Sub	Status	Type	Period	Year	Office ID	Sub By	Date Submitted	Options
HHS123456789	Wallace Inc.	75 99	Prime	ACC - May 30, 2017 3:24 pm	regular	Mar 31	2017	9999901	earlyretirement@please.com	May 30, 2017 1:51 pm	Save PDF

1. Status:

Accepted

2. Unique Entity ID (DUNS):

██████████

3. Verify Data:

If the data provided on this step from FPDS is correct, please choose "yes". Otherwise, choose "no" and contact your contracting officer to correct the problem.
Yes

4. Unique Entity ID (SAM):

██████████

5. Corporation, Company or Subdivision Covered

a. Vendor Name:

██████████

b. Vendor Physical Address:

Street Address:

██████████

City:

██████████

State (All U.S. Territories are available under the State drop down):

██████████

Country:

United States

Zip+4:

██████████

c. Vendor Mailing Address:

Street Address:

██████████

City:

██████████

State (All U.S. Territories are available under the State drop down):

██████████

Country:

United States

Zip+4:

██████████

6. Date Signed:

November 9, 2021

Information flows from
FPDS, so if FPDS is
incorrect, the CO will have
to correct it within FPDS

7. Contracting Office Agency ID:

██████

8. Contracting Office Agency Name:

DEPT OF THE ARMY

9. Contracting Office ID:

██████

10. Contracting Office Name:

██████████████

11. Funding Agency ID:

██████

12. Funding Agency Name:

DEPT OF THE ARMY

13. Funding Office ID:

██████

14. Prime Contract Number:

11111111111111111111

15. Product/Service Code:

██████

16. Ultimate Contract Value:

██████████████

17. Is your contract administered by an office other than the Contracting Office that awarded the contract?:

No



1. Contact Information:
 [REDACTED]

2. Reporting Period From Inception of Contract Thru::

Sept 30
a. Year:
 2021

3. Type of Report:
 regular

4. Agency Awarding Contract:
 [REDACTED]

5. Report Submitted As:
 [REDACTED]

Prime Contractor – CO reviews ISR

Subcontractor – next higher tier reviews ISR



SUBCONTRACT AWARDS: Taskorders

Items 1-2 of 2

Task Order #

Notes

Task Order #	Notes
[REDACTED]	<ul style="list-style-type: none"> ① Small Business Concerns: \$█ ① Large Business Concerns: \$█ ① Small Disadvantaged Business: \$█ ① Women-Owned Small Business: \$█ ① Historically Black Colleges and Universities and Minority Institutions: \$█ ① HUBZone Small Business: \$█ ① Veteran-Owned Small Business: \$█ ① Service-Disabled Veteran-Owned Small Business: \$█ ① Alaska Native Corporations (ANCs) and Indian Tribes (Not Certified): \$█ ① Alaska Native Corporations (ANCs) and Indian Tribes (Not Small Businesses): \$0

123456678

Verify Amounts w/
Subcontracting Plan

SUBCONTRACT AWARDS

1. Dollars and Percentages in the Following Blocks:

Does Not Include Indirect Dollars - If the approved individual Subcontracting Plan did not indicate that indirect Subcontract Dollars were included in the dollars and percentage goals:

	Current Goal: GOALS			Actual Cumulative: AWARDS		
	Whole Dollars	Percentage of Total Subcontract Awards	Percentage of Total Contract Value	Whole Dollars	Percentage of Total Subcontract Awards	Percentage of Current Contract Value
2a. SMALL BUSINESS CONCERNS	40,041,880	22.8	0	102,627,915	35.2	0
2b. LARGE BUSINESS CONCERNS	35,407,323	N/A	N/A	57,367,676	64.8	0
2c. TOTAL	75,449,203	100	0	159,995,591	100	0
	Current Goal:			Actual Cumulative:		
	Whole Dollars	Percentage of Total Subcontract Awards	Percentage of Total Contract Value	Whole Dollars	Percentage of Total Subcontract Awards	Percentage of Current Contract Value
3. SMALL DISADVANTAGED BUSINESS (SDB) CONCERNS	2,022,317	1.2	0	38,178,264	4.4	0
4. WOMEN-OWNED SMALL BUSINESS (WOSB) CONCERNS	2,022,317	1.2	0	25,682,770	3	0
5. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) AND MINORITY INSTITUTIONS (MI) <i>* This field is required only for NASA contracts that were awarded on or after November 14, 2014.</i>	0	0	0	0	0	0
6. HUBZone SMALL BUSINESS (HUBZone SB) CONCERNS	1,213,390	0.6	0	4,148,653	0.5	0
7. VETERAN-OWNED SMALL BUSINESS CONCERNS	1,213,390	0.6	0	55,988,349	6.5	0
8. SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS CONCERNS	1,213,390	0.6	0	5,133,070	0.6	0
9. ALASKA NATIVE CORPORATIONS (ANCs) AND INDIAN TRIBES THAT HAVE NOT BEEN PROTECTED BY THE	n	n	n	n	n	n

This Column used only if subk plan also based goals on TCV

This Column used only if subk plan also based goals on TCV

POLL – Is this contractor performing well?

Determine goal achievement by comparing percentage goal to percentage actual

4. Which method do you use to collect subcontracting data for this report? :

commitment basis or payment basis

5. Certification :

This is a testament that the data being submitted on the report is accurate and that the dollars and percentages reported do not include lower tier subcontracts (except as set forth for ANC and Indian Tribes for more information visit <http://www.arnet.gov/far/facframe.html> see FAC 05-019). If "No" is selected the report will be "Rejected"

Yes

6. Remarks :

If you entered (0) zero in the small business section of this report or failed to meet the dollar or percentage goals in the Individual Subcontracting Plan, use this section to explain the reason for any shortfalls and your future plan of action. You may also enter explanations and/or comments you think will be helpful to the Government official who reviews this report.

Goals are based on SB Plan dated 8-10-2017, in Option Year 4

Two delivery orders released against the prime contract. We have exceeded all goals except for the HUBZone goal. Planned HUBZone contractor could not perform work due to the current workload. Working to identify alternative HUBZone contractor. Reached out to HUBZone Council who had three sources and we have reached out to them.

7. Contractor's Subcontracting Plan Administrator

This is the name and contact information of the Contractor's employee who is responsible for ensuring the contractor's compliance with its subcontracting plan.

a. Contractors Official who Administers this Subcontracting Plan :

0000000000

b. Phone Number of Individual who Administers this Subcontracting Plan :

██████████

c. E-mail address of Individual who Administers this Subcontracting Plan :

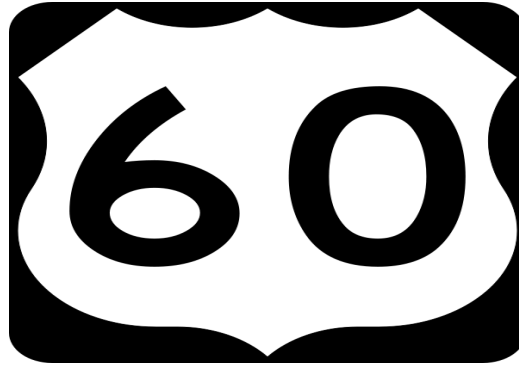
██████████

8. Please enter the email address of the Government employee(s) and/or other person(s) to be notified that you have submitted this report:

By listing an e-mail address, a notification will be sent to listed parties advising them that a subcontracting report has been submitted in eSRS for the Government's review. The Federal Government Agency will not be notified via email unless you enter a notification e-mail address.

████████████████████

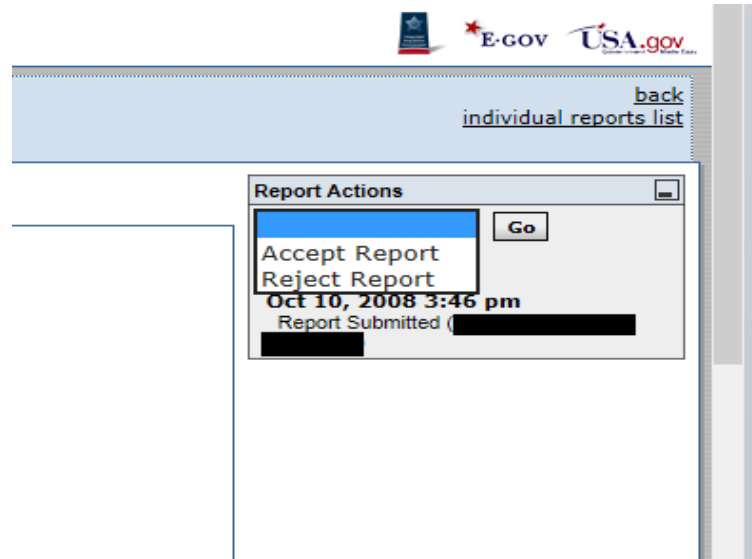
ACCEPTING OR REJECTING ISR AND SSR



IAW FAR 19.705-6(f) and 13 CFR 125.3(d)(2), the CO has 60 days after the report ending date to review ISRs

ACCEPT/REJECT REPORTS IN ESRS

Note: If a report is rejected, the contractor must be provided with an explanation in the text box that appears.



HOW DO I KNOW WHETHER TO ACCEPT OR REJECT AN ISR/SSR?

ISR

- Do goals match what is in the subcontracting plan
- Do achievements seem realistic based on what you know about the contract
- Do the remarks adequately explain any goal shortfalls
- Are all percentages less than 100%

SSR

- Commercial Plan (Contracting Officer that approved that year's commercial plan is accepting or rejecting it)
 - Do the allocations seem reasonable
 - Do the remarks explain any abnormalities or very low subcontracting achievements to any category
 - Is it signed by CEO (most senior executive at facility)

IMPORTANCE OF THE REMARKS BLOCK

ISR

- To explain goal shortfalls
- To explain circumstances
 - which orders have order-level goals, merger information
- To explain good faith efforts & action plan to meet goals by contract's end
- To explain contract information that should be noted/part of record

SSR

If contractor files an individual plan SSR that encompasses the DUNS/UEI numbers of several entities, it is helpful if they list these entities in the Remarks block

SUMMARY SUBCONTRACT REPORT (SSR)

- Follow similar process for SSRs in eSRS
- For commercial plans, the authority to acknowledge or reject SSRs for commercial plans resides with the contracting officer who approved that year's commercial plan
- Commercial Plan SSRs contain an allocation for each Federal agency the contractor has a contract with

The screenshot displays the eSRS Summary Subcontract Report (SSR) interface. The main table lists subcontract data by agency and category. Below the table, there is a section for specifying agencies to which the report and percentages of dollars are attributable to each.

Agency	Dollars	Percentage	Approver
DEPT OF THE ARMY (2100)	0.00		
ROCK ISLAND CONTRACTING CENTER (ROCK ISLAND-CC)	0.00		
DEPT OF THE NAVY (1700)	0.00		
Total	0.00		

Agency	Dollars	Percentage	Approver
DEPT OF THE ARMY (2100)	22,726.12	2%	
ROCK ISLAND CONTRACTING CENTER (ROCK ISLAND-CC)	1,081,108.20	95%	✓
DEPT OF THE NAVY (1700)	11,265.50	1%	
Total	1,115,099.82		

ORDER LEVEL GOALS

A contracting officer may establish separate subcontracting goals for each order under an indefinite-delivery, indefinite-quantity contract (FAR 19.705-1(b)(2))

POLL - Have you required order level goals when placing an order on a multi-agency IDIQ contract? (Y/N)

Goals shall **not** be in the form of a new subcontracting plan as a contract may not have more than one plan

eSRS has been expanded to allow contractors to input achievements for orders (see 13 CFR 125.3(h) and FAR 52.219-9(d)(10)(iii))



ORDER LEVEL REPORTING IN ESRS

Items 1-2 of 2		
Task Order #	Whole Dollar Amounts	Notes
123456678	<ul style="list-style-type: none"> ① Small Business Concerns: \$█ ① Large Business Concerns: \$█ ① Small Disadvantaged Business: \$█ ① Women-Owned Small Business: \$█ ① Historically Black Colleges and Universities and Minority Institutions: \$█ ① HUBZone Small Business: \$█ ① Veteran-Owned Small Business: \$█ ① Service-Disabled Veteran-Owned Small Business: \$█ ① Alaska Native Corporations (ANCs) and Indian Tribes (Not Certified): \$█ ① Alaska Native Corporations (ANCs) and Indian Tribes (Not Small Businesses): \$0 	

ORDER LEVEL REPORTING

When the CO for the overarching contract accepts or rejects the ISR, this also affects all order-level data submitted by the contractor as well

The agency placing the order cannot view the order-level report in eSRS

POST AWARD AGENCY RESPONSIBILITIES



EVALUATE

Evaluate prime contractor's compliance with its subcontracting plan by:

- Assessing whether prime contractor made a good faith effort to comply with plan
- Assessing prime contractor's written explanation concerning:
 - Failure to use a small business concern in same scope/amount/quality used in preparing & submitting the bid/proposal
 - Reduced or late payment

WHAT ARE GOOD FAITH EFFORTS?

- Breaking out contract work items into economically feasible unites to facilitate SB participation
- Conducting market research to identify SB subcontractors;
- Providing assistance to interested SBs with adequate and timely information about the plans, specifications, and requirements for performance of the prime contract;
- Negotiating in good faith;
- Directing SBs that need additional assistance to SBA;
- Assisting interested SBs in obtaining bonding, lines of credit, required insurance, necessary equipment, supplies, materials, or services;
- Utilizing the services of SB associations including local, state, and Federal SB assistance offices; and
- Participating in a formal Mentor-Protégé Program or SBA's Mentor-Protégé Program.

13 CFR 125.3(b)(3) and FAR 19.705-7

Maximizing Opportunities for Small Businesses!



FAILURE TO MAKE A GOOD FAITH EFFORT

Failure to make a good faith effort to comply with the subcontracting plan means willful or intentional failure to perform in accordance with the requirements of the subcontracting plan, or willful or intentional action to frustrate the plan.

EXAMPLES OF FAILURE TO MAKE GOOD FAITH EFFORTS (INCLUDE BUT NOT LIMITED TO)

- Failure to submit the acceptable individual or summary subcontracting reports in eSRS by the report due dates or as provided by other agency regulations within prescribed time frames;
- Failure to pay small business concern subcontractors in accordance with the terms of the contract with the prime;
- Failure to designate and maintain a company official to administer the subcontracting program and monitor and enforce compliance with the plan;
- Failure to maintain records or otherwise demonstrate procedures adopted to comply with the plan including subcontracting flow-down requirements;
- Adoption of company policies or documented procedures that have as their objectives the frustration of the objectives of the plan;
- Failure to correct substantiated findings from federal subcontracting compliance reviews or participate in subcontracting plan management training offered by the government;
- Failure to conduct market research identifying potential small business concern subcontractors through all reasonable means including outreach, industry days, or the use of federal database marketing systems such as SBA's Dynamic Small Business Search (DSBS) or SUBNet Systems or any successor federal systems;
- Failure to comply with regulations requiring submission of a written explanation to the contracting officer to change small business concern subcontractors that were used in preparing offers; or
- Falsifying records of subcontracting awards to SBCs.

POST AWARD AGENCY RESPONSIBILITIES



FAR 19.705-6/FAR 19.706

- *Documentation of good faith effort.*
 - At completion of the basic contract or any option
 - In the case of a commercial plan, at the close of the fiscal year for which the plan is applicable
 - If a contractor has failed to comply with the requirements of its subcontracting plan, which includes meeting its subcontracting goals, the contracting officer shall review all available information for an indication that the contractor has not made a good faith effort to comply with the plan
 - If no such indication is found, the contracting officer shall document the file accordingly

FAR 19.705-7(c)

When a contractor fails to make a good faith effort to comply with a subcontracting plan, the objectives are not achieved, and [15 U.S.C.637\(d\)\(4\)\(F\)](#) directs that liquidated damages shall be paid by the contractor.

FAILURE TO ACT IN GOOD FAITH

When Prime Contractor Fails to Act in Good Faith

The Contractor:

- May be considered for liquidated damages (FAR 19.705-7)
- Shall be in material breach of contract or subcontract
- May receive a negative past performance evaluation
- May be investigated for fraudulent activity
- May be eliminated from further consideration of a contract award with the requirement of a subcontracting plan

13 CFR 125.3(f)(5)

LIQUIDATED DAMAGES

Liquidated Damages are assessed in accordance with FAR 19.705-7 and FAR Clause 52.219-16.

- FAR 19.507-7 “Compliance with Subcontracting Plan”
 - Renamed on Sept 10, 2021 from “Liquidated Damages” (RIN 9000-AN87)
- FAR 52.219-16 “Liquidated Damages” clause

CO has the sole discretion to impose liquidation damages.
SBA CMRs can provide written recommendation to CO
for further disposition.

NOTICE OF FAILURE TO MAKE GOOD FAITH EFFORTS

If the contracting officer decides that the contractor failed to make a good faith effort to comply with its subcontracting plan, the contracting officer shall:

- give the contractor written notice in accordance with [52.219-16](#), Liquidated Damages—Subcontracting Plan, specifying the material breach, which may be included in the contractor's past performance information,
- advise the contractor of the possibility that the contractor may have to pay to the Government liquidated damages,
- provide a period of 15 working days (or longer period as necessary) within which to respond.

The notice shall give the contractor an opportunity to demonstrate what good faith efforts have been made before the contracting officer issues the final decision and shall further state that failure of the contractor to respond may be taken as an admission that no valid explanation exists.

FAR 19.705-7(d)

PAYMENT OF LIQUIDATED DAMAGES

- Issue a final decision to the contractor
- Require the payment of liquidated damages in an amount stated
- The contracting officer's final decision shall state that the contractor has the right to appeal under the clause in the contract entitled Disputes

Amount of Damages

- Calculations and procedures shall be in accordance with [52.219-16](#), Liquidated Damages—Subcontracting Plan
- The amount equal to the actual dollar amount by which the contractor failed to achieve each subcontracting goal
- For a Commercial Subcontracting Plan, the damage is based on the pro rata share of subcontracting attributable to the Government contracts

FAR 19.705-7(e) & (f)