



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:** Proposed rule.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify the entity to which contractors submit Summary Subcontract Reports in the Electronic Subcontracting Reporting System (eSRS) and to clarify the entity that acknowledges receipt of, or rejects, the reports in eSRS.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before **[Insert date 60 days after date of publication in the FEDERAL REGISTER]**, to be considered in the formation of a final rule.

**ADDRESSES:** Submit comments identified by DFARS Case 2017-D005, using any of the following methods:

- o Federal eRulemaking Portal: <http://www.regulations.gov>.

Search for "DFARS Case 2017-D005." Select "Comment Now" and follow the instructions provided to submit a comment. Please include "DFARS Case 2017-D005" on any attached documents.

- o Email: [osd.dfars@mail.mil](mailto:osd.dfars@mail.mil). Include DFARS Case 2017-D005 in the subject line of the message.

- o Fax: 571-372-6094.

- o Mail: Defense Acquisition Regulations System, Attn: Ms. Jennifer D. Johnson, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov), approximately 2 to 3 days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

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

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD is proposing to revise the DFARS 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.

## **II. Discussion and Analysis**

The clause at DFARS 252.219-7003, Small Business Subcontracting Plan (DoD Contracts), and its Alternate I currently require contractors to submit SSRs to departments or agencies within DoD. DFARS 252.219-7003 and its Alternate I also inform contractors that the authority to acknowledge receipt of, or reject, SSRs resides with the SSR Coordinator at departments or agencies within DoD. This rule proposes to amend the DFARS clause to require contractors with individual subcontracting plans to submit a consolidated SSR at the DoD level, and to inform contractors that the authority to acknowledge receipt of or reject SSRs under individual subcontracting plans resides with the SSR Coordinator at the DoD level. These amendments will bring DFARS clause 252.219-7003 into compliance with the requirement for a consolidated SSR in FAR clause 52.219-9, Small Business Subcontracting Plan.

## **III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items**

This rule proposes to amend the clause at DFARS 252.219-7003, Small Business Subcontracting Plan (DoD Contracts), and its Alternate I. The objective of the rule is to provide clarification on 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 SAT, 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 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. Consequently, DoD plans to apply the rule to contracts for the acquisition of commercial items, including COTS items.

#### **IV. 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 the 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 solves 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:

Annualized Cost Savings	-\$25,514
Present Value Cost Savings	-\$364,492

To access the full Regulatory Cost Analysis for this rule, go to the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov), search for "DFARS Case 2017-D005," click "Open Docket," and view "Supporting Documents."

## **V. 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.

## **VI. Executive Order 13771**

This rule is expected to be an E.O. 13771 deregulatory action. Details on the estimated cost savings can be found in section IV. of this preamble.

## **VII. Regulatory Flexibility Act**

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because small entities are not required to comply with the clause at DFARS 252.219-7003, Small Business Subcontracting Plan

(DoD Contracts), or its Alternate I. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DoD is proposing to revise the Defense Federal Acquisition Regulation Supplement (DFARS) to streamline the submission and review of Summary Subcontract Reports (SSRs) in the Electronic Subcontracting Reporting System (eSRS). 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.

The objective of the rule is to provide clarification on the submission and review of SSRs in eSRS. The rule will bring the clause at DFARS 252.219-7003 and its Alternate I into compliance with the requirement for a consolidated SSR in the Federal Acquisition Regulation clause FAR 52.219-9, Small Business Subcontracting Plan.

The rule applies 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.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known, significant, alternative approaches to the proposed rule that would meet the requirements of the applicable statute.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (DFARS Case 2017-D005), in correspondence.

#### **VIII. 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.

**Amy G. Williams,**

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR 252 is proposed to be 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 "(DATE)" in its place;

b. Revising paragraph (a);

c. Revising paragraph (b);

d. Revising paragraph (f); and

e. In Alternate I—

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

ii. Revising paragraph (a);

iii. Revising paragraph (b); and

iv. Revising paragraph (f).

The revisions read 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 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) For DoD, the Contractor shall submit reports in eSRS as follows:

(i) The Individual Subcontract Report (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."

(2) For DoD, the authority to acknowledge receipt or reject reports in eSRS is as follows:

(i) The authority to acknowledge receipt or reject the ISR resides with the contracting officer who receives it, as described in paragraph (f) (1) (i) of this clause.

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

\* \* \* \* \*

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.

\* \* \* \* \*

(f) (1) For DoD, the Contractor shall submit reports in eSRS as follows:

(i) The Standard Form 294, Subcontracting Report for Individual Contracts, shall be submitted in accordance with the instructions on that form.

(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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