



## Virtual Small Business Training Week 2021 August 17 - 19

### Session Q&As

Day 2: Wednesday, August 18 @ 3:20pm – 4:20pm

Session: Subcontracting Program

<b>Q</b>	<p>Contracting officers receive automated email notifications when contractors submit ISR/SSRs in eSRS. However, often, contractors fail to initiate ISRs/SSRs in eSRS and do not submit the required reports. Contracting officers that administer high volumes of contracts, are challenged with tracking missing ISR/SSRs, and are completely unaware of contractors' failures to submit ISRs.</p> <p>Is there a tool or function within eSRS to generate report data, based on FPDS-NG data that feeds to eSRS?</p>
<b>A</b>	<p>Refer to the eSRS Contracting Officer (CO) User Guide of 20 March 2018 at <a href="https://www.esrs.gov/documents/eSRS_Contracting_Officer_User_Guide.pdf">https://www.esrs.gov/documents/eSRS_Contracting_Officer_User_Guide.pdf</a>.</p>
<b>Q</b>	<p>Does eSRS have the capability to alert contracting officers, based on FPDS-NG data feeds to eSRS, when contractors fail to submit ISRs and SSRs?</p>
<b>A</b>	<p>Refer to the eSRS Contracting Officer (CO) User Guide of 20 March 2018 at <a href="https://www.esrs.gov/documents/eSRS_Contracting_Officer_User_Guide.pdf">https://www.esrs.gov/documents/eSRS_Contracting_Officer_User_Guide.pdf</a>.</p>
<b>Q</b>	<p>Using Far Part 13 Simplified Acquisition procedures does not require subcontracting plans even when it exceeds the subcontracting threshold correct?</p>
<b>A</b>	<p>Per FAR , any contractor receiving a contract for more than the simplified acquisition threshold must agree in the contract that small business, veteran-owned small business (VOSB), service-disabled veteran-owned small business (SVOSB), Historically Utilized Business (HUBZone) small business, small disadvantaged business (SDB) and women-owned small business (WOSB) concerns will have the maximum practicable opportunity to participate in contract performance consistent with its efficient performance.</p> <p>The federal government requires that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with these same small business components. It requires the adoption of FAR Clause 52.219-8, "Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns," in all purchases/contracts over</p>

	<p>simplified acquisition threshold that offer subcontracting opportunities. The legislation requires certain prime contractors and subcontractors to prepare formal subcontracting plans.</p> <p>As prescribed in FAR 19.708(b), the contracting officer shall, when contracting by negotiation, insert FAR Clause 52.219-9, "Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan," in solicitations and contracts that offer subcontracting possibilities and are expected to exceed \$750,000, including options, or \$1.5 million for construction. This clause does not apply to small business concerns.</p> <p>Offerors submitting a proposal in response to the government’s solicitation must submit a small business subcontracting plan that complies with the requirements of FAR Clause 52.219-9. Subcontracting plans are not required:</p> <ul style="list-style-type: none"> <li>• From small business concerns</li> <li>• For personal services contracts</li> <li>• For contracts or contract modifications that will be performed entirely outside of the United States and its outlying areas</li> <li>• For modifications to contracts within the general scope of the contract that do not contain the clause at 52.219-8, "Utilization of Small Business Concerns" (or equivalent prior clauses, e.g., contracts awarded before the enactment of Public Law 95-507).</li> </ul>
<p><b>Q</b></p>	<p><b>Recently, a large business requested waiver of a subcontracting plan based on all the work to be “subcontracted” for the requirement will be performed outside of the US. The large business noted that personnel, facilities, material, supplies, and services for the effort will be performed in-house, in the U.S. The Large Business noted that waiver of the subcontracting plan would alleviate administrative cost of reporting zero goals in eSRS.</b></p> <p><b>Based on FAR interpretation (FAR 19.705-2), a contracting officer determination that there are no subcontracting possibilities is not feasible because the Prime noted that subcontract work will be done overseas. IAW FAR, a subcontracting plan is still required.</b></p> <p><b>Does the contracting officer have any other grounds/or justification for waiving the requirement for a subcontracting plan in this scenario?</b></p>
<p><b>A</b></p>	<p>Per FAR 19.702(b)(3), subcontracting plans are not required for contracts or contract modifications that will be performed entirely outside of the United States and its outlying areas. Per FAR 19.705-2(c), if it is determined that there are no subcontracting possibilities, the determination shall include a detailed rationale, be approved at a level above the contracting officer, and placed in the contract file.</p>
<p><b>Q</b></p>	<p><b>What are your thoughts on experience?</b></p>
<p><b>A</b></p>	<p>I do not know what experience is being referred to by the question.</p>
<p><b>Q</b></p>	<p><b>There are some AbilityOne vendors that does not feel they should be submitting Subcontracting Plans because they are under the umbrella of “Non Profit”.</b></p>

	<p><b>There are some Nonprofit companies that don't quite understand the requirements at FAR 19.704 as well as how to complete the plan and apply the percentages to the socioeconomic categories.</b></p> <p><b>Is there any discussion on exempting AbilityOne on submitting a Plan?</b></p>
<b>A</b>	I am not aware of any initiative to exempt AbilityOne primes from submitting subcontracting plans when required by the FAR.
<b>Q</b>	<b>Ensure Smalls do market research in FPDS (SAM.gov) to find out who the primes are in the NAICS they operate in and ensure they are targeting those Primes to let them know what their capabilities are?</b>
<b>A</b>	Concur that it is important for small businesses to conduct market research in order to better target potential large businesses in pursuit of subcontracting opportunities.
<b>Q</b>	<b>What if a Large provides a subcontracting plan with a small 8a tribal to win the contract and then when awarded they drop the small what do we do at that point?</b>
<b>A</b>	The large prime must still make a good faith effort to meet their goals. Per FAR 52.219-9(14), the prime must make assurance in their subcontracting plan that they will not prohibit a subcontractor from discussing with the Contracting Officer any material matter pertaining to payment to or utilization of a subcontractor.

**Questions Below Were Answered Live During the Presentation and Do Not Require an Additional Response**

<b>Q</b>	Are there any statistics for what Prime Contractors have had to provide in liquidated damages for not meeting SB Goals proposed? 52.219-16 Liquidated Damages-Subcontracting Plan.
<b>Q</b>	What can be done if contractor past performance on subk isn't favorable?
<b>Q</b>	How would we specifically track a Large Business's proposed participation commitment that uses a Commercial Subcontracting Plan?
<b>Q</b>	Since there appears to be such a heavy emphasis on past performance of the subcontractor how do you propose small businesses get in the door with prime contractors? This emphasis appears to reward the prime contractor for using the same suppliers and puts many other small businesses at a disadvantage when trying to work with the primes.
<b>Q</b>	What can be done when a SB Prime is not paying their subcontractors (large and small)?
<b>Q</b>	SBP's seems to be the police in ensuring the KOs/COs review ISR's in eSRS. is it really our responsibility?
<b>Q</b>	Can you speak to when a large prime win a contract based off the small business it uses and then change small business after winning the contract?