



DEFENSE CONTRACT MANAGEMENT AGENCY

DCMA Small Business Compliance Group Updates

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DCMA Small Business Compliance Group

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DCMA Small Business Compliance Group Updates



*In accordance with 13 CFR 121.411(g) **Signature Requirement**. Each offer, proposal, bid, or application for a Federal contract, subcontract, or grant shall contain a certification concerning the small business size and status of a business concern seeking the Federal contract, subcontract or grant. An authorized official must sign the certification on the same page containing the size status claimed by the concern.*

- Subcontractor has to sign on the same page of size and status certification
- Subcontractor has to sign as same page as notification of penalties
- New question on 640 reviews

Notification of NAICS before Subcontract Award



- In accordance with 13 CFR 125.3(c)(1)(v) A formal solicitation is not required for each subcontract, but the contractor must provide some form of written notice of the NAICS code and size standard assigned to potential offerors **PRIOR** to acceptance and award of the subcontract.
 - Have to tell subcontractors BEFORE subcontract award in writing NAICS and corresponding size standard for resulting subcontract
 - The subcontract itself then has to be assigned the same NAICS and corresponding standard that was provided to offerors before subcontract award.
 - If a different NAICS and corresponding size standard is assigned have to start the process over to meet the requirement

Naming Subcontractors in the Subcontracting Plan



- DFARS 252.219-7003(e) In those subcontracting plans which specifically identify small businesses, the Contractor shall notify the Administrative Contracting Officer (ACO) of any substitutions of firms that are not small business firms, for the small business firms specifically identified in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.
 - If you do not use a subcontractor and they are named in the subcontracting plan then the ACO has to be notified
 - Naming subcontractors in subcontracting plans is not required in all subcontracting plans
 - Remember the subcontracting plan is not the same as the participation plan
 - Will be checked in 640 reviews
 - Notification letter has been updated



- DFARS 252.219-7003 (g) Include the clause at Defense Federal Acquisition Regulation Supplement (DFARS) 252.219-7004, Small Business Subcontracting Plan (Test Program), in subcontracts with subcontractors that participate in the Test Program described in DFARS 219.702-70, if the subcontract is expected to exceed the applicable threshold specified in Federal Acquisition Regulation 19.702(a), and to have further subcontracting opportunities.
 - If you have a large business subcontractor that participates in the Comprehensive Subcontracting Program (CSP) with a subcontract over threshold (currently \$750,000) include the clause DFARS 252.219-7004 in subcontract
 - No subcontracting plan required, just a copy of the front page of the approved Comprehensive Subcontracting Plan
 - 640 Review will verify DFARS 252.219-7004 is in subcontracts with contractors who have a CSP and the subcontract is over \$750K



- 640 Reviews currently include FAR 52.232-40 Providing Accelerated Payments to Small Business Subcontractors
 - If a contractor received an accelerated payment from the government, the small business subcontractor has to receive an accelerated payment from the contractor
 - This is currently part of the 640 review.
- FAR 52.232-40(c) States that the substance of FAR 52.232-40 shall be in ALL subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial products or commercial services.
 - The flow down of FAR 52.232-40 has to be in all subcontracts with small business concerns
 - It has to be in all subcontracts with small businesses even if there is no accelerated payment
 - This includes non-commercial subcontracts and commercial subcontracts
 - This includes subcontracts at ALL dollar values
 - The 640 review previously did not review standard terms and conditions to verify the flow-down of FAR 52.232-40.
 - All future 640 reviews will check to see if this clause is flow-down in all subcontracts to small business concerns



DFARS 252.232-7017 ACCELERATING PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS— PROHIBITION ON FEES AND CONSIDERATION (APR 2020)

- (a) Definition. “Accelerated payment,” as used in this clause, means a payment made to a small business subcontractor as quickly as possible, with a goal of 15 days or less after receipt of payment from the Government or receipt of a proper invoice from the subcontractor, whichever is later.
- (b) In accordance with section 852 of Public Law 115-232, the Contractor shall not require any further consideration from or charge fees to the small business subcontractor when making accelerated payments, as defined in paragraph (a) of this clause, to subcontractors under the clause at FAR 52.232-40, Providing Accelerated Payments to Small Business Subcontractors.
- (c) Subcontracts. Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including those for the acquisition of commercial items.



- DFARS 252.232-7017(a) Accelerated payment to small business subcontractor has to be 15 days or less after payment from Government or proper invoice.
 - 640 reviews will verify if the contractor received accelerated payments from the Government that the small business subcontractor was paid in 15 days or less
- DFARS 252.232-7017(b) The small business subcontractor shall not be charged fees for receiving the accelerated payment.
- DFARS 252.232-7017(c) has to be in all subcontracts with small business concerns
 - This includes non-commercial subcontracts and commercial subcontracts
 - This includes subcontracts at ALL dollar values
- The 640 review previously did not review standard terms and conditions to verify the flow-down of DFARS 252.232-7017 to small business concerns
 - All future 640 reviews will check to see if this clause is flow-down in all subcontracts to small business concerns



FAR 52.242-5 PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (JAN 2017)

(a) Definitions . As used in this clause-

Reduced payment means a payment that is for less than the amount agreed upon in a subcontract in accordance with its terms and conditions, for supplies and services for which the Government has paid the prime contractor.

Untimely payment means a payment that is more than 90 days past due under the terms and conditions of a subcontract, for supplies and services for which the Government has paid the prime contractor.

(b) *Notice*. The Contractor shall notify the Contracting Officer, in writing, not later than 14 days after-

(1) A small business subcontractor was entitled to payment under the terms and conditions of the subcontract; and

(2) The Contractor -

(i) Made a reduced or untimely payment to the small business subcontractor; or

(ii) Failed to make a payment, which is now untimely.

(c) *Content of notice*. The Contractor shall include the reason(s) for making the reduced or untimely payment in any notice required under paragraph (b) of this clause.



Notify Contracting Officer if:

1) Reduced payment to subcontractor

- Payment amount is less than the amount stated in the subcontract

2) Untimely Payment is made

- Payment is over ninety (90) days late
- Payment has not been made to date

- Subcontractor should have been paid at least ninety (90) days prior per the terms and conditions of the subcontract

Notice to Contracting Officer:

- Shall be made within fourteen (14) days after the subcontractor should have been paid and made a reduced or untimely payment to the small business subcontractor; or failed to make a payment
- Include reason(s) the for making the reduced or untimely payment.



- Is there a signature on the same page as where a small business asserts their size?
- Were subcontractors notified in writing of the NAICS and corresponding size standard before subcontract award?
- Were subcontractors paid within 15 days when there were accelerated payments?
- Were FAR 52.232-40 and DFARS 252.232-7017 flowed down to small business subcontractors?
- Was the Contracting Officer notified within fourteen (14) days after a reduced or untimely payment?
- Was ACO notified if subcontractors were not utilized when named in the subcontracting plan(s)?
- Was DFARS 252.219-7004 flowed down to CSP participants?

Questions????

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