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THESIS

**UTILIZATION OF SMALL BUSINESSES IN NAVY
SUBCONTRACTING**

by

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June 2016

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UTILIZATION OF SMALL BUSINESSES IN NAVY SUBCONTRACTING

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ABSTRACT

While the Department of Defense met its FY2012 small-business subcontracting goal, the Department of the Navy (DON) is quite possibly leaving behind the potential for more small-business participation in the area of subcontracting. The DON utilizes many large prime contractors, especially when it comes to ships and complex weapons systems. Most of these large primes are obligated to subcontract work to small firms. Further, the DON is obligated by law to maximize small-business participation in contracting. This report will evaluate and determine whether opportunities for fuller utilization of small businesses in DON subcontracting exist. Also, the study will address to what extent individual commands within DON utilize small-business subcontracting and the effect of common methods for increasing small-business participation. Factors such as subcontracting plans, goals achievement, and incentives will be studied.

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LIST OF ACRONYMS AND ABBREVIATIONS

AT&L	Acquisition, Technology and Logistics
BBP	Better Buying Power
CMR	Commercial Market Representative
CSR	Contractor Social Responsibility
DOD	Department of Defense
DON	Department of Navy
eSRS	Electronic Subcontracting Reporting System
FAR	Federal Acquisition Regulation
FPDS	Federal Procurement Data System
FY	Fiscal Year
ISR	Individual Subcontracting Report
NAVFAC	Naval Facilities Engineering Command
ONR	Office of Naval Research
OSBP	Office of Small Business Programs
PCR	Procurement Center Representative
PIID	Procurement Instrument Identifier
SBA	Small Business Administration
SSR	Summary Subcontracting Report
SSUD	Small business Subcontracting Utilization Database
USD	Under Secretary for Defense
WSS	Weapons System Support

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EXECUTIVE SUMMARY

Small-business subcontracting is an important, and required, part of federal acquisition. The utilization of small-business subcontracting has been frequently discussed in scholarly journals. The GAO in particular has published several reports on the issues surrounding small-business subcontracting. Most of these reports highlight problems with finding suitably qualified small-business subcontractors and the lack of available data on subcontracting achievement. However, recent introductions and upgrades of online databases increases the fidelity and availability of subcontracting data.

The focus of this research is threefold: (1) Is the DON properly utilizing small-business subcontracting overall? (2) How well are individual contracting commands in the DON utilizing small-business subcontracting? (3) How effective are common methods designed to increase small-business utilization? The online databases FPDS and eSRS contain the data necessary to carry out this investigation. FY 2012 was studied as this gave ample time for changes made as a result of the 2010 Interagency Task Force on Federal Contracting Opportunities for Small Businesses to have occurred.

The SBA's Small Business Procurement Scorecard is one of the most commonly cited tools for assessing small-business utilization. In its FY 2012 scorecard the DOD was assessed a score of "B" for use of small businesses. The underlying data for prime contracting and subcontracting is contained in FPDS and eSRS, respectively. Through the use of ad hoc reports from both of these systems a DON Small Business Procurement Scorecard was created. The scorecard shows the DON is exceeding the DOD specified subcontracting goals in every category.

The use of the subcontracting plans of individual contracting commands was analyzed to determine which commands were best utilizing small-business subcontracting, and which were not. It was found early on in the research most commands are not doing a good job ensuring required subcontracting plan reports are being submitted to eSRS, as required. Of the 24 commands responsible for 10 or more contracts with subcontracting plans required, 12 achieved greater than 60% of its small-

business subcontracting participation goals. Particularly, ONR (65.2%) and NAVFAC Mid Atlantic (64.3%) have done well. However, the lack of achievement across most socio-economic goals and the low performance of most commands lead to the determination that the DON can achieve more small-business subcontracting.

Best value determination, use of incentives, and Corporate Social Responsibility were the common approaches studied to determine which, if any, were successful in encouraging small-business subcontracting participation. When using available data it was determined these did not increase small-business subcontracting. The use of mandates, however, was successful. Also, the data showed how a few DON contracting commands were able to demonstrate successful use of small-business subcontracting, suggesting an engaged contracting officer could on their own increase small-business subcontracting participation.

The DON has not done poorly in utilizing small-business subcontracting and as evidenced by the DON scorecard is doing more than its share within the DOD. But the lack of achievement against individual small-business subcontracting plans show there is still more to be done. The wide range of goals achievement across contracting commands demonstrate the need for more focused attention by DON. The low rate of subcontracting report submission is also worrisome as it is more difficult to gain an accurate picture of subcontracting achievement with missing data. The DON can and should learn from the successful commands and apply these lessons agency wide.

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I. INTRODUCTION

In July 2013, the Small Business Administration (SBA) released its Fiscal Year (FY) 2012 Small Business Procurement Scorecards for all federal agencies. The Department of Defense (DOD) received an overall grade of “B,” with 20.41% of prime contracts going to small businesses and 35.5% of subcontracts being awarded to small businesses. This is a slight improvement from the FY2011 results of 19.8% and 35.2%, respectively (Small Business Association [SBA], 2013). However, little is known of how individual contracting agencies within the DOD fared in achieving its overall small-business goals.

This report will attempt to answer the question of whether the Department of the Navy (DON) is fully utilizing small businesses in subcontracting. Also, individual commands within the DON will be studied to see which commands are successfully utilizing small businesses in subcontracting. Finally, different schools of thought on how to increase small-business subcontracting will be examined using available data to determine what method has had the most success in encouraging small-business subcontracting. The common approaches studied are use of mandates, best value determination, use of incentives, and Corporate Social Responsibility (CSR) (Snider, Halpern, Rendon, & Kidalov, 2013).

A. BACKGROUND

Due to the sizable nature of its acquisition programs, the DON is often perceived as using a few large prime contractors to conduct most of its work. While small businesses may not be able to compete for these big contracts, there is ample reason to believe small businesses can and should be considered when awarding subcontracts. This issue has been raised by the Interagency Task Force on Federal Contracting Opportunities for Small Businesses (Interagency Task Force on Federal Contracting Opportunities For Small Businesses, 2010) and the Under Secretary of Defense, Acquisition, Technology and Logistics (Kendall, 2013). This report will focus on the ability of the DON to use

small businesses in subcontracting and what method works best for encouraging small business utilization in subcontracting.

B. PROJECT SCOPE

This report will broadly look at the DON and to what extent it is contributing to the DOD's subcontracting achievement. The Small Business Administration (SBA) does not break down the DOD's small business achievement into its respective military departments. This presents an inaccurate picture of the DOD since the departments are quite different in its acquisition cultures and regulations. Poor performance by one department can theoretically be masked by the superior performance of another. Also, it is worth noting the purchasing power of one of the departments under the DOD is greater than all other federal agencies.

The small business utilization of the DON as a whole and of individual contracting agencies within the DON will be analyzed to ascertain its level of small business utilization. The previously stated methods for increasing small-business subcontracting will be tested against available data to determine what method has had the most success. Once collated, this data will present clearer picture of small-business subcontracting within the DON.

C. METHODOLOGY

The majority of research for this report is drawn from the use of online databases, most notably the Federal Procurement Data System (FPDS) and the electronic Subcontracting Reporting System (eSRS). From this data it can also be shown whether a contracting action contained incentives, small-business subcontracting goals, and if available a final report on small-business subcontracting achievement. When combined, this data will show which contracting agencies are best achieving its small-business subcontracting goals as stated in its subcontracting plans and which of the four methods of increasing small-business subcontracting is having the most desirable effect.

D. CONCLUSION

The DON is utilizing small businesses in subcontracting at a greater rate than the DOD overall and has achieved more than the DOD goal. However, in looking at individual contracting actions it is apparent there is still room for improvement. A few commands have shown an aptitude for achieving success in small-business subcontracting, notably the Office of Naval Research (ONR), Naval Facilities (NAVFAC) Engineering Command Mid-Atlantic, and NAVSUP Weapons System Support (WSS) Mechanicsburg. Lessons should be learned from these contracting commands and applied throughout the DON. The DON should concentrate on the use of small-business subcontracting mandates as this was the only method studied that was able to show successful small-business subcontracting participation.

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II. LITERATURE REVIEW

A. REQUIREMENTS

1. The Small Business Act

First enacted in 1953 and amended several times since, the Small Business Act is the genesis of all U.S. small business statutory requirements. Encompassing 47 sections, the Small Business Act created the Small Business Administration and codifies the U.S. government's policy of providing assistance to small businesses. Most importantly to this research, the Small Business Act defines the federal government's role in encouraging small-business participation in Federal contracts and subcontracts.

Section 8 of the Small Business Act clearly states that small businesses "shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency, including contracts and subcontracts" (Small Business Act, 2012, § 637(d)). This commonly referenced phrase has remained the standard in the government's drive to increase small-business participation in federal contracting. Section 8 further states how the federal government can increase and monitor small-business participation.

a. Subcontracting Plans

Perhaps the most powerful tool to compel small-business participation in subcontracting is the subcontracting plan requirement. The Small Business Act declares this plan shall become part of the contract itself, and if an offeror "fails to negotiate the subcontracting plan as required such offeror shall become ineligible to be awarded the contract" (Small Business Act, 2012, § 637(d)(4)). A small-business subcontracting plan is required for any contracting action that exceeds the simplified acquisition threshold, is to be awarded via negotiation, and offers subcontracting possibilities (Small Business Act, 2012, § 637(d)(4)).

The subcontracting plan itself is required to include several sections explaining how it will comply with the agreed upon small-business subcontracting plan. Two

requirements contained in the Small Business Act are paramount to determining if the prime contractor is fully utilizing small-business subcontracting. The first requirement is to include percentage goals for utilization of small businesses plus the five recognized socio-economic classes of small businesses (Small Business Act, 2012, § 637(d)). The second Small Business Act requirement call for assurances the offeror will submit mandatory periodic reports. Taken together, these requirements form the basis of determining whether a prime contractor is meeting its small-business subcontracting goals.

b. Incentives

The role of incentives in encouraging small-business subcontracting is specifically addressed in Section 8 of the Small Business Act. It states every federal agency is authorized by the Small Business Act “to provide such incentives as such federal agency may deem appropriate in order to encourage such subcontracting opportunities as may be commensurate with the efficient and economical performance of the contract (Small Business Act, 2012, § 637(d)(4)). The use of incentives is not, however, required and it is left to the discretion of the agency whether or not to use incentives.

c. Contracting Agency Responsibilities

The head of the contracting agency is given responsibility by the Small Business Act to collect and report data on whether contractors are meeting the goals set forth in the subcontracting plans. This data should be periodically reviewed to ensure contractors are acting with good faith in terms of realizing its small-business subcontracting plans. Any contractor deemed to not be acting in “good faith” with regards to the small-business subcontracting plan is committing “a material breach of such contract” (15 USC 637 § (d)(9)). These reports and the data contained therein are instrumental in aggregating data on the use of small business subcontractors in the DON.

2. FAR

The Federal Acquisition Regulation (FAR) remains the primary regulation for use by all government agencies in the acquisition of services and supplies. It is therefore the first place to start when attempting to understand the requirements for the inclusion of small businesses in federal subcontracting. A collaborative effort among several executive agencies, the FAR carries the force of law in all aspects of Federal acquisition.

a. Small Business Access

Firms conducting business with the federal government are required to take into account small-business concerns in the acquisition process. Subpart 19.7 of the FAR contains the statutory requirements for small-business concerns to be given the “maximum practicable opportunity to participate in the contract performance consistent with its efficient performance” (Federal Acquisition Regulation [FAR], 2012, § 19.702). The FAR also gives contracting officers the option of including incentives for small business use in subcontracting and use small-business subcontracting as one of the success factors to be considered in determining the award fee in certain contracts.

b. Subcontracting Plans and Reporting Requirements

Subpart 19.7 of the FAR further requires an acceptable subcontracting plan for any contract or modification above the Simplified Acquisition Threshold (\$650,000) and has subcontracting possibilities. This statutory requirement is increased to \$1.5 million for construction. A subcontracting plan is not required “from small-business concerns, for personal services contracts, for contracts or contract modifications that will be performed entirely outside of the United States and its outlying areas, or for modifications to contracts within the general scope of the contract” (FAR, 2012, § 19.702(b)). The subcontracting plan requires the contractor to submit periodic reports to ensure compliance with the subcontracting plan. The Individual Subcontract Report (ISR) and Summary Subcontract Report (SSR) are required to be submitted to the Electronic Subcontracting Reporting System (eSRS) semi-annually and within 30 days of contract completion (FAR, 2012, § 19.704).

3. Small Business Jobs Act

Public Law 111-240, more commonly known as the Small Business Jobs Act of 2010, was signed into law on September 27, 2010. This legislation is the first significant piece of legislation on small-business contracting to be enacted in over a decade (Kidalov & Snider, 2013). The Small Business Jobs Act contains a wide-ranging list of initiatives, including increased loan provisions, higher lending limits, tax cuts for small businesses, and implements several of the Task Forces' recommendations (Small Business Jobs Act, 2010, § 631).

The Small Business Jobs Act also boasts a few improvements to subcontracting policy. The Federal Acquisition Regulatory Council was directed to amend the FAR to establish policy on subcontracting compliance (Small Business Jobs Act, 2010, § 1321). New policy was also established to require contracting officer notification when a prime contractor pays less than the negotiated price to a subcontractor or when payments to a subcontractor is past due more than 90 days (Small Business Jobs Act, 2010, § 1334). While not as far reaching as the SBA Office of Advocacy has recommended (Clark, Moutray, & Saade, 2006), the Small Business Jobs Act is a positive step toward increasing small-business subcontracting.

B. PRESIDENTIAL TASK FORCE

1. Task Force Purpose

In April of 2010 President Barack Obama established the Interagency Task Force on Federal Contracting Opportunities for Small Businesses with the mandate to ensure small businesses have “fair access to Federal Government contracting” (Interagency Task Force on Federal Contracting Opportunities For Small Businesses, 2010). As noted in the memorandum creating this task force, the federal government has not consistently met its small-business goals. The Interagency Task Force on Federal Contracting Opportunities for Small Businesses was directed to provide within 120 days proposals and recommendations to increase opportunities for small businesses and the removal of barriers to participation by small businesses. This could include establishing new

policies, revising current law, and expanding outreach strategies (Interagency Task Force on Federal Contracting Opportunities For Small Businesses, 2010).

2. Task Force Final Report

The Interagency Task Force on Federal Contracting Opportunities for Small Businesses released its final report in September of the same year. The final report cited ongoing work by the SBA, including implementation of a new rule on contracting with women-owned small businesses, a review of regulations concerning the business development program for small businesses, new online training, and efforts to eliminate waste, fraud and abuse. The Interagency Task Force on Federal Contracting Opportunities for Small Businesses also put forth 13 recommendations in three key areas: “Stronger rules. A better equipped more informed and more accountable acquisition workforce. Improved outreach and better use of technology and data” (Interagency Task Force on Federal Contracting Opportunities For Small Businesses, 2010).

Recommendation four of the final report specifically concerns small-business subcontracting plans and calls for strengthening “the requirements for small-business subcontracting plans and enhance the electronic subcontracting reporting system” (Interagency Task Force on Federal Contracting Opportunities For Small Businesses, 2010). Specifically, the Interagency Task Force on Federal Contracting Opportunities for Small Businesses recommended a review of existing subcontracting plan policy and improving the functionality of eSRS. Though they could not direct any actions to be taken, as the Administrator of the SBA was an Interagency Task Force on Federal Contracting Opportunities for Small Businesses co-chair there can be little doubt these recommendations were taken seriously.

C. SMALL BUSINESS ADMINISTRATION

1. Office of Advocacy

The Office of Advocacy of the SBA acts as an independent voice for small businesses within the federal government. The Office of Advocacy is tasked with highlighting issues of concern to all levels of government, including the White House. In

the past the Office of Advocacy has noted that despite representing 99.7% of all firms, small businesses only account for 40% of federal subcontracting dollars (Clark, Moutray, & Saade, 2006). Seeing the lack of attention given to small-business subcontracting, in 2006 the Office of Advocacy published a report on the Government's role in aiding small-business subcontracting.

This report brought attention to the role small businesses have had in the overall economy and provided a brief history of federal small-business subcontracting policy and regulation, and its effectiveness. Lastly, four recommendations were made to improve the subcontracting program. The Office of Advocacy recommended improving small business data collection, updating the Small Business Act to recognize the changes in the economy, changing the understanding of "privity of contract" in federal procurement to allow subcontractors to seek redress directly with the government, and changing the exemption regarding work performed outside the United States (Clark, Moutray, & Saade, 2006).

While it has been 10 years since its publication, the report raises many current issues concerning small-business subcontracting. Some of the recommendations have been partially addressed by the creation and mandated use of eSRS and the passage of the Small Business Jobs Act. However, the issue of "privity of contract" in federal contracting and lack of oversight on work performed outside the United States remain relevant. When reviewing scholarly work on small-business subcontracting it is interesting to note these common themes, especially the lack of viable data.

2. SBA Procurement Scorecards

In terms of seeing how well a particular federal agency is utilizing small-business subcontracting, the SBA Procurement Scorecards offers a quick answer. Each fiscal year the SBA publishes a comprehensive Small Business Procurement Scorecard for each federal agency. These scorecards measure the agency's achievement in awarding contracts and subcontracts to small businesses and socio-economic businesses that have mandated contracting and subcontracting award goals. The SBA also scores each agency

on seven Success Factors, which are combined with the contracting and subcontracting achievement to give an overall grade (SBA, 2013).

These procurement scorecards are a well-known reliable measure of small business utilization and allow for comparisons across all federal agencies. The SBA website also displays prior fiscal years scorecards, allowing the evaluation of small business utilization over a period of time. The inclusion of small-business subcontracting achievement makes the procurement scorecards a good first reference point in determining whether the DON is fully utilizing small-business subcontracting.

3. DOD Procurement Scorecard

The DOD procurement scorecards since 2006 are readily available on the SBA website. In reviewing the three previous fiscal years, the DOD has consistently scored a very respectable grade of grade of “B.” In looking at the specific goals, most have not changed significantly. However, the Small-business subcontracting Achievement goal did jump from 31.7% in FY 2011 to 36.7% in FY 2012, where it has remained (SBA, 2013). The DOD scorecards unfortunately do not break out the three military departments individually. This shortcoming of the procurement scorecards necessitated a fuller understanding of the underlying data behind the scorecard.

D. GOVERNMENT ACCOUNTABILITY OFFICE

1. Small-Business Subcontracting Plans

The Government Accountability Office (GAO) is often called upon to research and offer recommendations on small business issues. While small-business subcontracting is not discussed as much as small business prime contracting, shortcomings have been discussed previously. In 1988 the GAO reviewed 627 DOD contracting actions that met the dollar threshold for requiring as subcontracting plan. In the course of its review they found 84 of these contracting actions did not contain a subcontracting plan. (Stevens, 1988) Contracting offices cited a lack of oversight for the missing subcontracting plans.

Small-business subcontracting plans were again studied by GAO in 2007, this time in the aftermath of Hurricane Katrina. GAO cited the several agencies providing relief efforts, including the DOD, for incomplete subcontracting plans. Due to the lack of available data on subcontracting requirements the GAO concluded it could not “tell the extent to which the agencies are complying with the regulations” (Government Accountability Office [GAO], 2007, p. 11). Small-business subcontracting plans are vital to assess how well an agency or contracting command are utilizing small businesses in subcontracting.

2. Subcontracting Data

The scarcity and reliability of small-business subcontracting data has been noted several times by the GAO. As far back as 1995 the GAO found agencies “do not routinely verify the subcontracting data reported by contractors” (GAO, 1995, p. 4). The creation of eSRS in 2005 should have streamlined the process of gathering subcontracting data, but problems have persisted. The GAO noted in 2007 eSRS did not contain the required data from contracts awarded in support of Hurricane Katrina relief and reconstruction (GAO, 2007). And again in 2014 GAO stated no one system was designed to link subcontracting to prime contracts (GAO, 2014). As this research has found out, the study of small-business subcontracting can be greatly hindered by the lack of reliable data.

3. Advocates and Resources

Small businesses have several resources working on its behalf to ensure a fair opportunity to receive federal subcontracts. Each federal agency has an Office of Small and Disadvantaged Business Utilization (OSDBU) (known in the DOD as the Office of Small Business Programs (OSBP)), which is required by the Small Business Act to report only to the agency head or its deputy. Also, SBA area offices have Procurement Center Representatives (PCR) and Commercial Market Representatives (CMR) who assist small businesses in obtaining subcontracts. The GAO has noted the importance of these roles in supporting small-business subcontracting and their value in assisting small businesses (GAO, 2007).

PCRs, who may also be present at major contracting commands, are responsible for reviewing proposed small-business subcontracting plans and recommending small-business goals. CMRs ensure compliance through reviews of prime contracts and provide training on the Subcontracting Assistance Program. Despite their importance, the GAO has found PCRs and CMRs are not fully utilized (GAO, 2011). The GAO also noted PCRs recommendations on subcontracting plans are not always respected within agencies and the CMR position is often part-time due to staff reductions. In order to fulfill the small-business subcontracting potential of the DON these advocates should be fully engaged in the subcontracting process.

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III. SMALL-BUSINESS SUBCONTRACTING DATA COLLECTION AND COLLATION

A. DON SMALL-BUSINESS SUBCONTRACTING DATA

1. Data Requirements

To realize a complete picture of DON small-business subcontracting it was necessary to consult many sources. These sources ranged from freely available reports to protected government databases. Once the data was gathered, a depository of this data was required to see whether the DON was truly utilizing small-business subcontracting and which contracting agencies were successful. This newly created Small business Subcontracting Database (SSUD) would form the basis of answering the research objectives of this paper.

FY 2012 was chosen to study DON use of small businesses in subcontracting. This year was selected to reflect the many changes for small businesses in federal acquisition. These include the Task Force final report and the passage of the Small Business Jobs Act in September of 2010. Also, Better Buying Power (BBP) was initiated in November of 2010 by the Under Secretary of Defense for Acquisition, Technology and Logistics. BBP promoted the use of weighting factors in small business past performance and fee determination (OUSD(AT&L), 2010). Many of these changes did not fully come into effect until FY 2011, making FY 2012 a key year for small-business subcontracting.

2. DOD FY 2012 Small Business Procurement Scorecard

The DOD Small Business Procurement Scorecard, prepared by the SBA, is a commonly cited source of small business utilization. This scorecard gives a good overall picture of overall small business use in the DOD, including subcontracting. As seen in Figure 1, the DOD has done well in overall small-business subcontracting, but has fallen short in three out four socio-economic goals. Since these figures are for the DOD and not the DON, the scorecard is of limited use as a tool to understanding how well the DON is utilizing small-business subcontracting.

Department of Defense
FY2012 Small Business Procurement Scorecard

B 91.66%

FPDS-NG Prime Contracting Data as of Mar. 15, 2013
eSRS Subcontracting Data as of Apr. 15, 2013

Prime Contracting Achievement:			72.66%
	2011 Achievement	2012 Goal	2012 Achievement
Small Business	19.80%	22.50%	20.41% (\$56.1 B)
Women Owned Small Business	3.43%	5.00%	3.38% (\$9.3 B)
Small Disadvantaged Business	6.90%	5.00%	7.30% (\$20.1 B)
Service Disabled Veteran Owned Small Business	2.02%	3.00%	2.33% (\$6.4 B)
HUBZone	2.58%	3.00%	2.18% (\$6.0 B)

Subcontracting Achievement:			9.00%
	2011 Achievement	2012 Goal	2012 Achievement
Small Business	35.20%	36.70%	35.50%
Women Owned Small Business	5.80%	5.00%	5.70%
Small Disadvantaged Business	4.90%	5.00%	4.80%
Service Disabled Veteran Owned Small Business	2.20%	3.00%	1.90%
HUBZone	2.00%	3.00%	1.40%

Figure 1. FY 2012 DOD Small-Business Procurement Scorecard. Source: SBA (2013).

3. FPDS

All contracts with estimated value above \$3,000 and any modifications, regardless of dollar value, are reported in FPDS. The FPDS website has a fair amount of standard reports and the ability to create custom ad hoc reports. This feature proved useful as there was no standard report for DON small business utilization. Therefore, an ad hoc report was created to show FY2012 DON small business utilization in prime contracting. While not overly pertinent to this research, it was interesting to note the DON individually fell short of the DOD goal for small business prime contracting achievement in four out of five categories.

Another ad hoc report was generated to show all DON FY2012 contracts and modifications that required a small-business subcontracting plan. FPDS includes several sub-categories for small-business subcontracting plans, including whether the contracting action utilized incentives. This ad hoc report then became the basis of the SSUD.

However, this report only showed the contracting actions and whether incentives were included; the individual achievement of these contracts resided with another source.

4. eSRS

Whereas FPDS was not designed to report on an individual contract's subcontracting opportunities, eSRS was created for this reason. eSRS is the sole government resource for reporting on subcontracting plans and contains all ISRs and SSRs submitted by contractors. Similar to FPDS, a number of standard reports are available along with the ability to generate ad hoc reports. One such report provided the percentage of DON subcontracts utilizing small businesses and the four socio-economic categories listed on the DOD Small Business Procurement Scorecard. The reports shows the DON has done well in small-business subcontracting and surpassed the DOD goals in every category.

While this answers the broader question of how the DON is doing as a whole, it does not tell us whether individual contracting agencies are achieving its subcontracting goals. For this data it was necessary to look at the ISRs and SSRs of each contracting action requiring a subcontracting plan and record the goals and achievement in each category. This data was then added to the FPDS data already in the SSUD to give a full account of DON small-business subcontracting.

B. RESEARCH PRODUCTS

1. DON Scorecard

A new scorecard would be created, devoted solely to the DON, in order to achieve the same effect as the one published by the SBA. Fortunately, the data used to create the scorecard is available in FPDS and eSRS. The SBA also publishes a Grade Calculation Methodology allowing the recreation of the calculations of the original scorecard. This new DON Small Business Procurement Scorecard allows a direct comparison with DOD achievement and since SBA procurement scorecards are well known a DON scorecard should be easily understood and convey the overall achievements, or lack of, for the DON.

2. DON Small-Business Subcontracting Utilization Database

a. Building the Database

The FPDS ad hoc report on all DON contracts from FY 2012 that required a subcontracting plan produced a list of 796 individual contracts meeting these criteria. Contained in this report were 27 columns of detailed information on each contract, including Procurement Instrument Identifier (PIID), contracting office, funding office, vendor name, and various other details. After vetting each contract by PIID, some were found to be duplicate and the final number of DON contracts in FY 2012 requiring subcontracting plans was determined to be 769.

Contractors are required to submit either an ISR or SSR semi-annually or upon contract completion using eSRS. As part of their postaward responsibilities, contracting officers are then required to acknowledge receipt or reject the ISR or SSR in eSRS (FAR, 2012). In theory eSRS should have contained the subcontracting goals and achievements of each of the 769 contracts that required subcontracting plans. This data on individual contracts from eSRS would then have to be added one by one to account for all small-business subcontracting achievement.

As this research used FY 2012 data, it was expected each contract would have several ISRs or SSRs. The latest available report was used when entering the data into the database. Several contracts investigated had subcontractor submitted ISRs in eSRS. While informative, these were ignored in the creating of the SSUD as they only reported on a part of the overall subcontracting opportunities existent in a contract. If a report was rejected it was also ignored as not to contaminate the overall data set.

b. Database Use

Once complete, the database would contain an immense amount of data. This data will need proper interpretation in order to be of academic value. Since the database rests in Microsoft Excel, the tools inherent this program were put to use. Contracting actions that contain no data could be quickly discarded while pertinent information was highlighted. Fields for final reports, incentives included, zero goal reports, and success or

failure in all categories were created for ease of analysis. The achievements of individual DON contracting commands were also recorded on a separate page.

With the SSUD properly established and sorted by individual contracting agency, simple reports and charts could be generated created to show small-business subcontracting use by the DON. This single source of information was then used to answer the central questions of whether the DON fully utilizing small-business subcontracting, which commands are best utilizing small-business subcontracting, and how best to encourage the use of small-business subcontracting.

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IV. INCREASING SMALL-BUSINESS PARTICIPATION

A. SUBCONTRACTING PLANS

Despite the FAR requirement and the vested interest in having timely and accurate data, the submission of ISRs and SSRs into eSRS has been uneven across the DON. Of the 769 contracting actions requiring subcontracting plans, 402 have approved reports in eSRS. This equates to 52.3% of contracting actions meeting the report submission requirement. This lack of reporting makes the contracting officer's role of monitoring contractor performance against the subcontracting plan extremely difficult since verified data on goal achievement may not exist.

The theory of CSR has been around for some time and its relevance to the ethical behavior of corporations has been debated thoroughly (Snider, Halpern, Rendon, Kidalov, 2013). If a contracting agency were to believe in the effectiveness of CSR, it would most likely not require a subcontracting plan to be submitted but instead rely on the contractor to use small businesses in accordance with its corporate philosophy. While it is impossible to know the contracting officers exact mindset, for the purposes of this analysis I presumed that when a subcontracting has not been submitted to eSRS the contracting officer is relying on CSR to achieve the stated small business subcontracting goals. The lack of reports show the contracting agency is relying on the contractor's CSR to use small business subcontractors.

According to the SSUD, there are several agencies that appear to use the idea of CSR in managing the utilization of small businesses subcontracting opportunities. Of the 50 contracting agencies responsible for contracting actions requiring a subcontracting plan, 24 of these were responsible for more than 10 such contracting actions. Of these 24 contracting agencies, 6 did not have subcontracting reports reported in eSRS more than 60% of the time. The most notable of these contracting agencies are NAVSUP WSS and Naval Surface Warfare Center Dahlgren which both had more than 80% of its contracting actions lacking reports in eSRS.

Perhaps the most direct way of encouraging small-business subcontracting is to mandate its use. This is not required under current law, but contracting officers often use stated small business utilization goals in the subcontracting plan. These goals are created by the contracting officer, sometimes in consultation with the SBA's PCRs and CMRs, and should reflect what is achievable given the nature of the contract and the availability of small business subcontractors (SBA, 2012, § 8(d)(4)). The contractor, by accepting the contracting action, consents to the goals and must make a good faith effort to achieve them.

Contractors that are not making the required effort to achieve its small-business subcontracting goals may be subject to enforcement action by the contracting officer (FAR, 2012, § 19.705). Also, past failure to adequately achieve small-business subcontracting goals can be used in award determination of future contracting actions (FAR, 2012, § 19.705). GAO opinion has certified the ability of contracting officers to take into account past small-business subcontracting performance (GAO Decision, 2012), giving more weight to the goals contained in the small-business subcontracting plan.

As discussed earlier, the use of small-business subcontracting plans containing defined goals is not universal throughout the DON and achievement can be uneven. But the data available in the SSUD certainly shows achievement in definite areas. Of the 379 contracting actions that do not have a small-business concerns goal of zero, 206 are currently meeting its small-business concerns goal versus 173 that are not. This equates to 54.3% success rate for contracting actions with defined goals.

B. ZERO GOAL PLANS

The use of goals of zero in small-business subcontracting plans is more prevalent than one would assume in DON contracts. Of the 402 contracting actions with available data, 23 had subcontracting plans with a goal of zero for small-business participation. Since contracting officers are authorized to determine if the goals presented by the contractor are attainable and commensurate with the economic performance of the contract, the decision to use these types of subcontracting plans rests with the individual contracting agencies (FAR, 2012, § 19.7).

The phrase “Best Value to the Government” is well known and often used to describe how contracting officers ought to approach their duties. In this context, it is legitimate to question whether the obligation to require small-business subcontracting is inhibiting the ability of the government to achieve best value. However, the stated policy of the U.S. government in statute and regulation makes clear the desire to ensure small businesses receive a fair proportion of contracts and subcontracts.

Contracting officers may use zero goal plans because they are required to submit a subcontracting plan in accordance with the FAR. However, for this analysis the assumption is made they set the goals to zero in order to personally manage the best value to the government. Rather than the contractor working to a specific goal, small-business concerns will be represented in accordance with a best value determination. In this way, small businesses may get more subcontracts than what the goals would have otherwise been assigned, or less depending on the determination made by the contracting officer.

Eleven of the 50 contracting agencies responsible for administrating subcontracting plans accepted subcontracting plans with a goal of zero for small-business participation. Of these 11 contracting agencies, two were responsible for more than half of the zero goal subcontracting plans—ONR and the Naval Air Warfare Center. ONR also had the largest number of subcontracting plans required, so the six zero-goal subcontracting plans do not represent a significant percentage of its overall subcontracting plans. However, the Naval Warfare Center, also with six zero goal subcontracting plans, only had 15 ISRs or SSRs submitted in eSRS, making its zero goal subcontracting plans a significant amount of its overall total.

For comparison, Space and Naval Warfare Systems had only one zero-goal subcontracting plan out of 34 subcontracting reports in eSRS. Similarly, SPAWAR Systems Atlantic had 33 subcontracting plans in eSRS and none of them contained zero goal subcontracting plans. These examples illustrate how the large number of zero goal subcontracting plans for ONR and Naval Warfare Center seemed out of the ordinary, especially when no other contracting agencies had more than two zero-goal subcontracting plans in eSRS.

The SSUD shows 23 ISRs or SSRs submitted to eSRS containing small-business subcontracting goals of zero. Of these 23 contracting actions, eight are currently showing small-business subcontracting achievement. The level of achievement in small-business concerns range from a high of 89% to a low of 1%. Achievement in socio-economic categories is sparse, as only one contracting action has achievement across all five defined socio-economic categories.

When looking at individual contracting offices, all of the ONR and administered zero goal small business subcontracting plans have failed to achieve any small-business participation. Three of these contracting actions have been completed, so small businesses were not a participant at all in three of the five contracting actions ONR used zero-goal subcontracting plans.

The Naval Air Warfare Center fared only slightly better, with one of six contracting actions using zero goal plans utilizing small-business subcontracting. Small business concerns are currently receiving 73% of subcontracts and three of five socio-economic categories are showing subcontracting achievement on this one successful contract. However, this is more than offset by the lack on any small business subcontracts on the remaining five contracting actions with zero goal subcontracting plans.

The Space and Naval Warfare Systems only had two contracting actions with zero goal subcontracting plans, but were able to get small business subcontracts on both contracting actions. It saw achievement in two socio-economic categories on both contracting actions. This would seem to support the notion that contracting officers can influence contractors in the awarding of subcontracts without mandated goals. However, the level of achievement in these contracting actions are quite low, 6% and 4%, which makes it difficult to call these examples successful.

As contracting actions are often multi-year, looking at final reports of zero goal small-business subcontracting plans is useful in ascertaining whether zero goal plans work over time. There are five such final reports in eSRS, all of which failed to award any subcontracts to small businesses. This follows the overall trend of low small-business

subcontracting achievement from contracting actions employing zero goal subcontracting plans.

C. INCENTIVES

To investigate the use of incentives in DON small-business subcontracting it was annotated in the SSUD whether a contracting action contained small-business subcontracting incentives. FPDS reported 43 contracts that contained incentives for small-business subcontracting. Of these 43, only 24 had reports submitted in eSRS. Further, six of these small-business subcontracting plans contained a goal of zero for all small-business goals.

There are 50 contracting agencies responsible for the 769 contracting actions requiring a small-business subcontracting plan. Of these, only 14 used incentives to increase small-business subcontracting. The remaining 36 contracting agencies, or 72% of the total, did not use incentives in any contracting actions. Four large contracting agencies were responsible for 50 or more contracting actions requiring a subcontracting plan—ONR, Space and Naval Warfare Systems, SPAWAR Systems Center Atlantic, and NAVSUP FLC Norfolk. Using the data available in eSRS to study these large contracting agencies, only ONR and NAVSUP FLC Norfolk used incentives with three and one contracting action, respectively. These numbers are even less impressive when considering two of ONR's contracting actions using incentives contained zero goals.

While most contracting agencies did not use incentives to encourage small-business subcontracting, two contracting commands did stand out for its use of incentives—NAVFAC Southwest and Naval Air Warfare Center. NAVFAC Southwest used incentives in 5 out of 16 contracting actions requiring a small-business subcontracting plan. Of these, 1 contracting action is currently meeting all its small-business subcontracting goals, including socio-economic goals. When only small-business subcontracting concerns goal is considered, two out of the 5 incentivized contracting actions are currently successful.

The Naval Air Warfare Center used incentives in 5 out of 15 contracts with data available in eSRS, the largest percentage of incentives use by any contracting agency

responsible for 10 or more contracting actions requiring a small-business subcontracting plan. However, it was found by looking at the individual ISRs and SSRs in eSRS that four of these contracting actions contained goals of zero for small-business subcontracting. The only remaining contracting action is not currently meeting its small-business subcontracting goals set forth in small-business subcontracting plan.

The small sample size of contracting actions including small-business subcontracting incentives makes detailed analysis difficult. It is also difficult to understand how a contracting action can include incentives for small-business participation, but have goals of zero. The lack of an ability to see the actual contracts impedes more detailed analysis into the usefulness of small-business subcontracting incentives.

D. INCENTIVES, SUBCONTRACTING PLANS, AND ZERO GOALS

In theory, the use of incentives and small-business subcontracting plans should go hand in hand. However, as stated above, the use of incentives to encourage prime contractors to subcontract to small businesses is lacking. While it is impossible to see how those contracting actions without reports submitted to eSRS have fared in utilizing small-business subcontracting, data is available for the 43 contracts that included incentives.

Looking at the data available in the SSUD for contracting actions using incentives, the largest category was contracts with no data available. Figure 2 illustrates small-business subcontracting achievement when incentives are used, including socio-economic categories. Including the socio-economic categories is of benefit since all but two contracting actions included goals in all five categories, excluding zero goal contracting actions and those with no data available.



Figure 2. FY 2012 DON Contracts – Small-Business Subcontracting Achievement – All Categories – Contracts Using Incentives

From the known preference of the SBA to weigh overall small-business subcontracting overall it may be useful to look at how many of the contracting actions with small-business subcontracting incentives are achieving its overall small-business concerns subcontracting goal. This simplifying of the data does not result in a significant change to the DON’s overall achievement. While those contracting actions that have achieved or are achieving its small-business subcontracting goal increases, it is still dwarfed by the not achieving category, as seen in Figure 3.

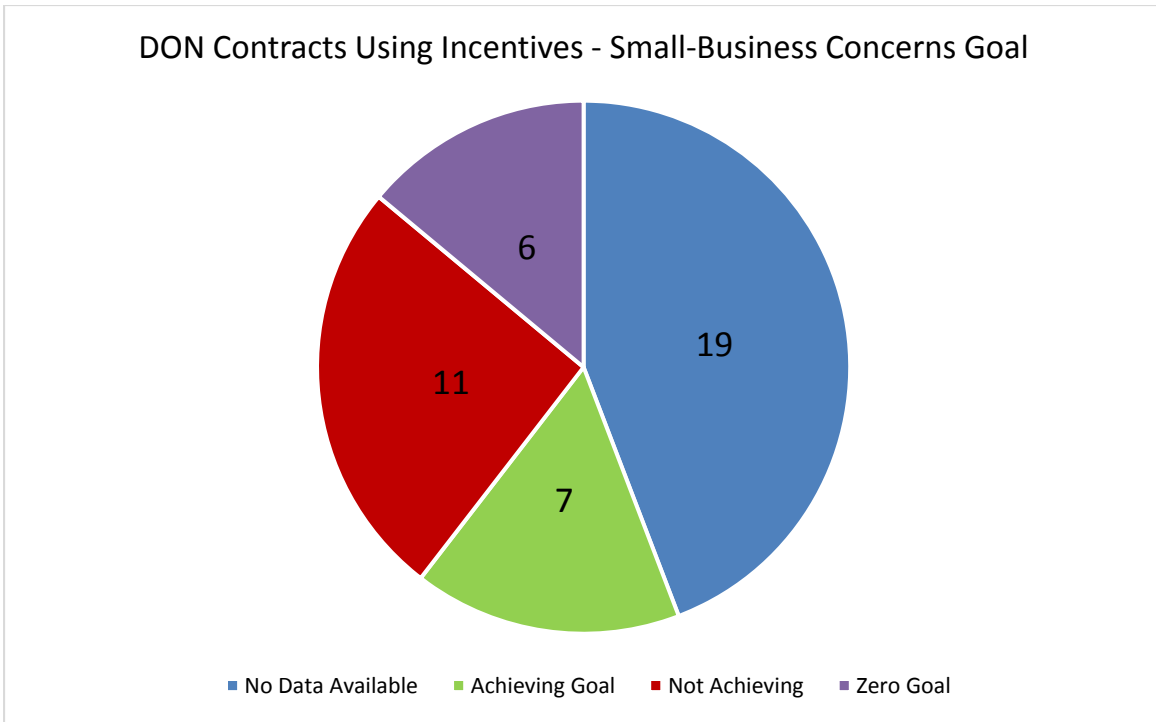


Figure 3. FY 2012 DON Contracts – Small-Business Subcontracting Achievement – Small Business Concerns – Contracts Using Incentives

Looking specifically at contracting actions containing incentives but with zero goal subcontracting plans, there are six such instances of this combination. Of these six contracting actions, only one has reported any small-business subcontracting achievement. This contract by the Naval Air Warfare Center has achieved a very respectful 73.3% subcontracting achievement for small-business concerns and also showed some success in three out of the five socio-economic categories.

Of the other five zero-goal contracting actions containing incentives, two have already submitted its final reports into eSRS, meaning they will not award any small-business subcontracting dollars. Though it is difficult to draw many conclusions from just six contracting actions, this low level of achievement despite the use of incentives corresponds to the overall trend of the lack of effectiveness of incentives in DON small-business subcontracting.

E. FINAL REPORTS

Despite this data set consisting entirely of FY 2012 contracting actions, of the 402 contracting actions requiring a small-business subcontracting plan with available data only 48 have submitted final reports to eSRS. Of these final reports, five contained an overall small-business subcontracting goal of zero and therefore cannot be considered to have achieved its goal. Of the remaining 43 contracting actions, 29 have achieved its overall small-business subcontracting concerns goal. This represents success rate of 60.4%, which is comparable to DON wide achievement of 54.2%. While a small sample size, it bodes well for the DON that completed contracts have achieved its small-business subcontracting goal at a higher rate than contracting actions that have not yet been complete. This may have been expected as subcontracting opportunities can arise later in multi-year contracts.

When analyzing individual contracting agencies, only two have more than five final reports accepted in eSRS—ONR with seven and Southeast Regional Maintenance Center that has 10 final reports. Disregarding the three final reports submitted with a goal of zero for small-business subcontracting participation, ONR has been successful on three out the remaining four contracting actions. This 75% success rate is not dissimilar to its overall success rate of 65.2%.

Southeast Regional Maintenance Center has achieved the overall small-business subcontracting goal on six completed contracting actions. This 60% success rate for final reports is exactly the same as its overall small-business subcontracting achievement of 60%. The final reports submitted to eSRS from the remaining contracting agencies represent such a small quantity of the overall data set that they do not have enough statistical weight to draw any meaningful conclusions.

F. GOAL ACHIEVEMENT – ALL CATEGORIES

The SSUD contains all the small-business subcontracting goals and achievements of the 769 DON contracts, if available. The small-business subcontracting achievement, including individual socio-economic categories, is recorded. Of the 769 contracting actions, 367 did not have an associated ISR or SSR in eSRS. Of the remaining 402

contracting actions, 22 contained a goal of zero across all categories. Only 54 contracting actions are currently or have successfully achieved all its small-business subcontracting goal, including socio-economic categories. Figure 4 illustrates the lack of DON achievement.

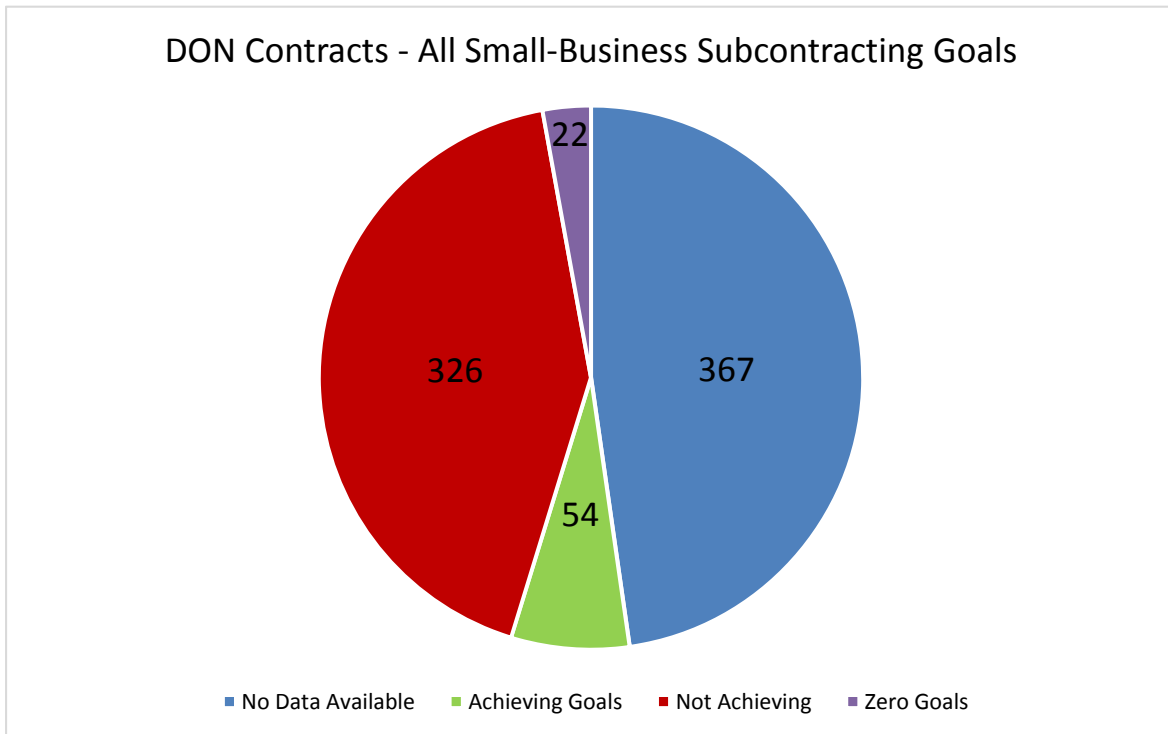


Figure 4. FY 2012 DON Contracts – Small-Business Subcontracting Achievement – All Categories

While the lack of achievement in Figure 4 looks disheartening, the five different socio-economic categories make achievement very difficult. Indeed, the SBA puts more emphasis on overall small-business participation than individual categories (SBA, 2013). As stated earlier, the SBA weighs Small Business participation in subcontracting at 60% of the overall subcontracting grade while the four graded individual socio-economic categories are weighted at 10% each (SBA, 2013). Therefore, it is more useful to examine small-business subcontracting participation overall, rather than focusing on achievement against the individual socio-economic categories.

G. GOAL ACHIEVEMENT – SMALL-BUSINESS CONCERNS ONLY

When the socio-economic categories are eliminated, a more accurate picture of small-business subcontracting emerges. As seen in Figure 5, 367 contracting actions do not have subcontracting plans submitted in eSRS. 23 contracts had an ISR or SSR that contained goals of zero for small-business subcontracting. The discrepancy with the number of zero goal reports from previous data set arises from one contracting action containing a goal of zero for small-business subcontracting concerns overall, but with a stated goal for small business HUBZone achievement. Figure 5 shows the breakdown of these contracting actions.

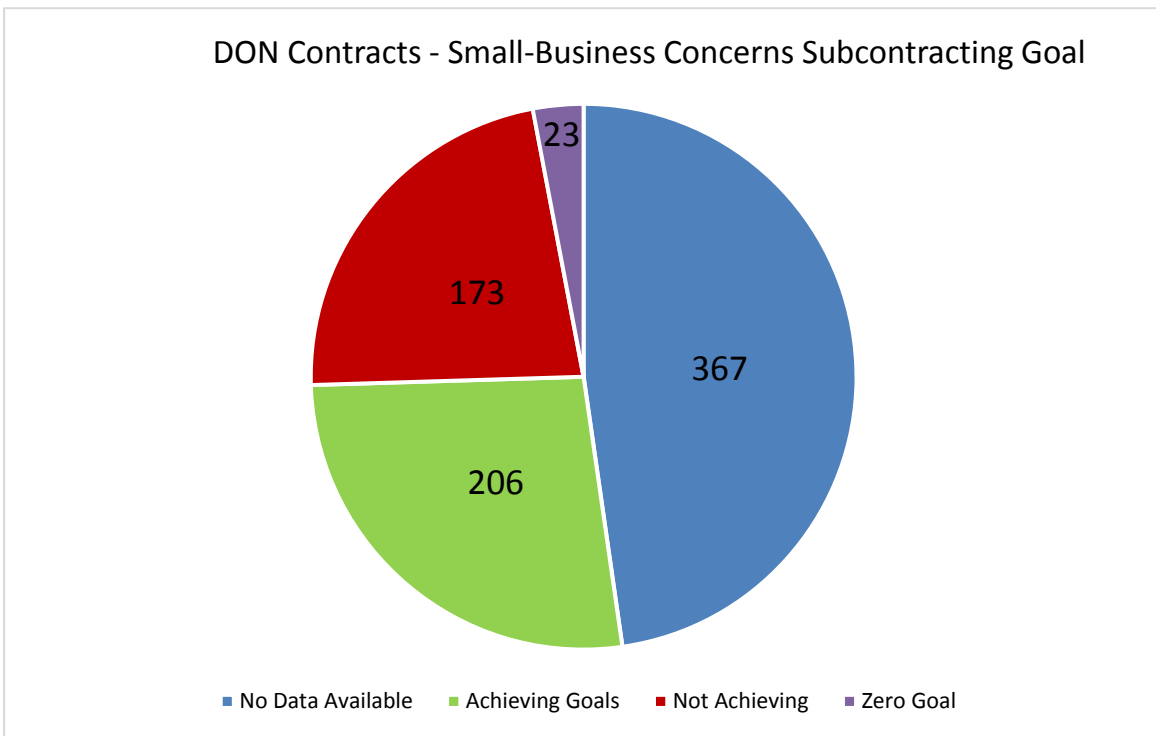


Figure 5. FY 2012 DON Contracts – Small-Business Subcontracting Achievement – Small Business Concerns

When looked at from a solely small-business concerns achievement perspective, DON small-business subcontracting is in a better position. The DON has 206 contracting actions that are currently achieving or have achieved its small-business concerns subcontracting participation goal versus 173 that are not. The large amount of contracting

actions without available data is a concern as these may represent unutilized small-business subcontracting opportunities.

V. DON USE OF SMALL-BUSINESS SUBCONTRACTING

A. OVERALL DON SMALL-BUSINESS SUBCONTRACTING USE

1. DOD Small Business Procurement Scorecard

The DOD has achieved 35.50% small-business subcontracting achievement according to the FY2012 Small Business Procurement Scorecard (SBA, 2013). As seen in the scorecard in Figure 1, the DOD does reasonably utilize small businesses in prime and subcontracting. The DOD's prime and subcontracting achievement, combined with the Success Factors score (not shown) resulted in a grade of "B" for the utilization of small businesses.

2. The DON Small Business Scorecard

Using the SBA Small-Business Procurement Scorecard Grade Calculation Methodology as a guide, the newly created DON Small Business Procurement Scorecard is seen in Figure 6. Using ad hoc and standard reports from FPDS and eSRS, the data necessary to populate the scorecard was entered into a specially designed Microsoft Excel worksheet. Simple calculations were then made based on the published methodology to recreate the DOD scorecard, but with DON only data.

Department of the Navy FY2012 Small Business Procurement Scorecard		
Prime Contracting Achievement:		55.48%
	2012 Goal	2012 Achievement
Small Business	22.50%	15.41%
Women Owned Small Business	5.00%	2.67%
Small Disadvantaged Business	5.00%	6.09%
Service Disabled Veteran Owned Small Business	3.00%	1.60%
HUBZone	3.00%	1.62%
Subcontracting Achievement:		11.29%
	2012 Goal	2012 Achievement
Small Business	36.70%	40.39%
Women Owned Small Business	5.00%	8.77%
Small Disadvantaged Business	5.00%	6.83%
Service Disabled Veteran Owned Small Business	3.00%	4.70%
HUBZone	3.00%	3.27%

Figure 6. FY 2012 DON Small Business Procurement Scorecard

As seen in Figure 6, in FY 2012 the DON has been able to exceed its subcontracting goals in every category, scoring significantly higher than the DOD as a whole. This shows a commitment to small-business subcontracting that the DOD as a whole lacks. However, it is interesting to note in prime contracting the DON lags the overall DOD as it was only able to achieve one of five small-business goals.

B. SMALL-BUSINESS SUBCONTRACTING USE

While the recreated scorecard is useful to determine how well the DON is using small businesses in subcontracting overall, the SSUD can help determine which individual commands are using small-business subcontracting. Most contracting in the DON is done locally and therefore the decisions made by Contracting Officers and/or their staff can be significant for small-business concerns.

1. Report Submissions

As stated earlier, it is a FAR requirement for the contractor to submit the ISR or SSR into eSRS when required. Further, the contracting officer is responsible for acknowledging receipt of or rejecting the ISR or SSR in eSRS (FAR, § 19.704(a), 2012).

Per the FAR, the contract administrative office will assist the contracting officer by providing information on whether the contractor is “meeting the plan’s goals for subcontracting” or “is failing to comply in good faith with the subcontracting plan” (FAR § 19.706, 2012). These accountability actions firmly rely on timely submissions to eSRS.

2. Individual Contracting Agencies within the DON

a. DON Achievers and Underachievers

While previously the DON as a whole has been discussed, the achievement of individual commands may provide insight into increasing small businesses subcontracting and effectiveness of incentives. FPDS was able to sort small-business subcontracting achievement by contracting office, allowing a better picture of how well individual contracting agencies are using small-business subcontracting. When the funding office differed from the contracting office, the contracting office was used in the data compilation since it was responsible for approving and monitoring the small-business subcontracting plan in accordance with the FAR.

The amount of contracting actions requiring a small-business subcontracting plan from each contracting agency were of course varied due to the range of sizes and mission sets at each command. At the high end, ONR initiated 75 contracting actions that required a small-business subcontracting plan. At the low end eight contracting agencies were responsible for only one small-business subcontracting plan. To ensure a credible amount of data, only contracting agencies identified by FPDS as responsible for 10 or more small-business subcontracting plans reports will be discussed in detail.

As with the previous data sets, the problem of reports not being submitted in eSRS remains an issue. According to FPDS data NSWC Dalgren, for example, had only four contracting actions with reports submitted to eSRS when 28 were required. NAVFAC Southwest, however, was able to ensure all 16 of its required small-business subcontracting reports were submitted to eSRS. Once again contracting actions without available data were ignored in the analysis.

b. Successful Commands

The defining success can be difficult for such diverse and wide-ranging commands. It is unreasonable to expect an individual command to succeed in reaching its small-business subcontracting goal in every contracting action, but a reasonable level of success should be attainable for most commands. After eliminating commands that were responsible for less than 10 contracts requiring a subcontracting plan, 24 remained. Twelve of these attained 60% or higher overall small-business subcontracting concerns achievement and were deemed to be successful. These commands and its achievements are depicted in Figure 7.

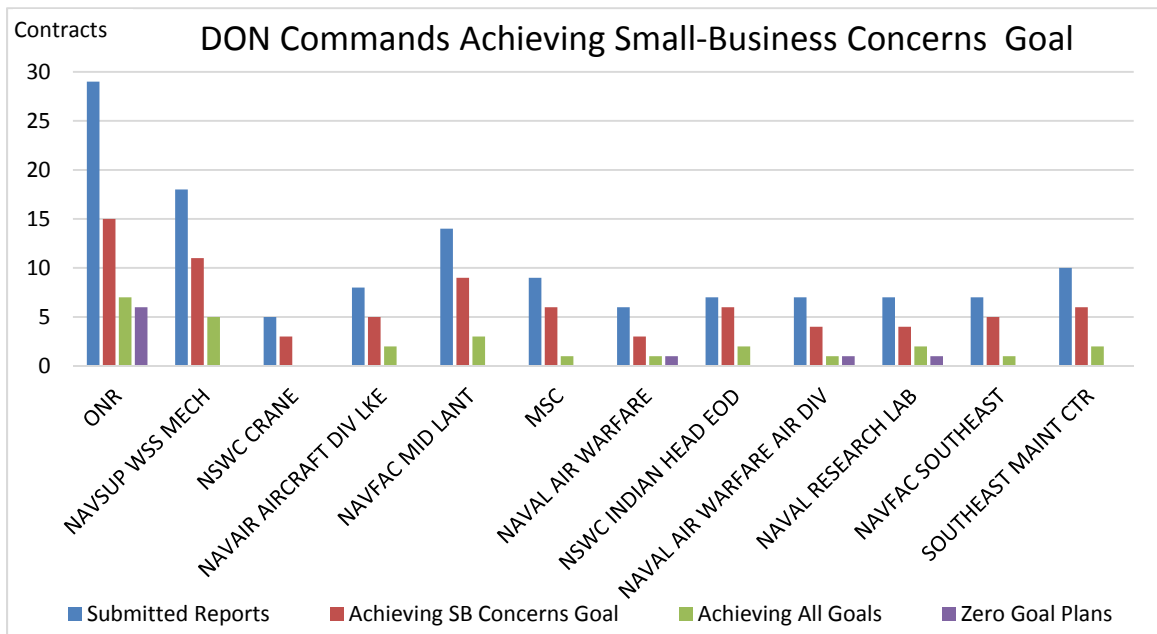


Figure 7. DON Contracting Commands Attaining above 60% Overall Small-Business Concerns Subcontracting Goal – FY 2012

ONR leads in total number of contracting actions that are achieving its small-business concerns subcontracting goal with 15 out of 23, or 65.2%. NAVFAC Command Mid Atlantic also did well with nine out of 14 (61.3%) contracts achieving its goal. But in terms of success rate, NSWC Indian Head EOD Tech Division leads with six out of seven (85.7%) contracting actions achieving its small-business subcontracting goal. Naval Facilities Southeast is also attaining a commendable rate of small-business concerns

subcontracting achievement with five out of seven (71.4%) contracting actions currently able to realize its goal.

c. Unsuccessful Commands

The remaining 12 commands who achieved less than 60% small-business subcontracting concerns participation were deemed to be unsuccessful. Some of these commands were close, such as NAVSUP Fleet Logistics Center Norfolk who achieved 58.6% small-business participation. Others were not, such as NAVSUP WSS who set the low point for small-business subcontracting participation at 20%. Figure 8 shows the actual achievement of these 12 commands.

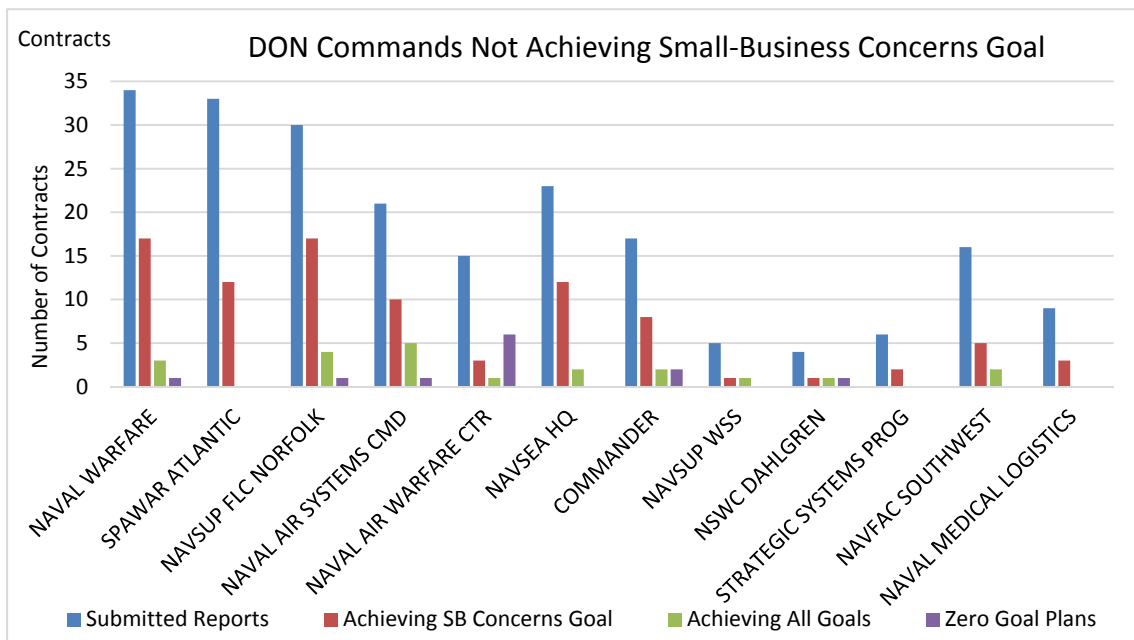


Figure 8. DON Contracting Commands Achieving below 60% Small-Business Concerns Subcontracting Goal – FY 2012 Data

While many commands are lacking in small-business subcontracting achievement, the SPAWAR Systems Center Atlantic stands out as the DON’s overall biggest underachiever. SPAWAR Systems Center Atlantic had 33 contracts that required small-business subcontracting plans and had reports submitted to eSRS. When these contracting actions are analyzed across all small-business subcontracting goals, including

socio-economic, not one contracting action is or has achieved all its goals. This is not out of ordinary for the DON as 24 out the 50 contracting agencies that are responsible for contracting actions that require small-business subcontracting plans have failed to produce a single contracting action achieving all of its small-business goals.

If only small-business concerns achievement is examined, the results are better as only 8 out of 50 contracting agencies failed to produce a single contract achieving its overall subcontracting achievement goal. SPAWAR Systems Center Atlantic did manage to achieve its small-business concerns subcontracting goal in 12 out of 33 contracting actions, or 36.4%. Though, this is well below the DON average of 54.2%.

d. All Subcontracting Plan Types

A few contracting commands are large enough to offer a direct comparison between mandates and other forms of encouragement. ONR, for example, had one non-zero goal contracting actions with available data use incentives. This contracting action is not achieving its small business goal. ONR also used six zero-goal subcontracting plans, none of which have any small-business subcontracting participation. However, its overall small-business subcontracting achievement when taking into account subcontracting plans with goals currently stands at 65.2%. This is significantly better than the other forms of encouragement.

ONR is not alone in this regard. There are four contracting commands in the SSUD who are responsible for at least one contracting action in each of the discussed categories—incentives, zero goal plan, and defined goals. In all four contracting commands mandates have achieved the most success in terms of small-business subcontracting achievement, as seen in Figure 9.

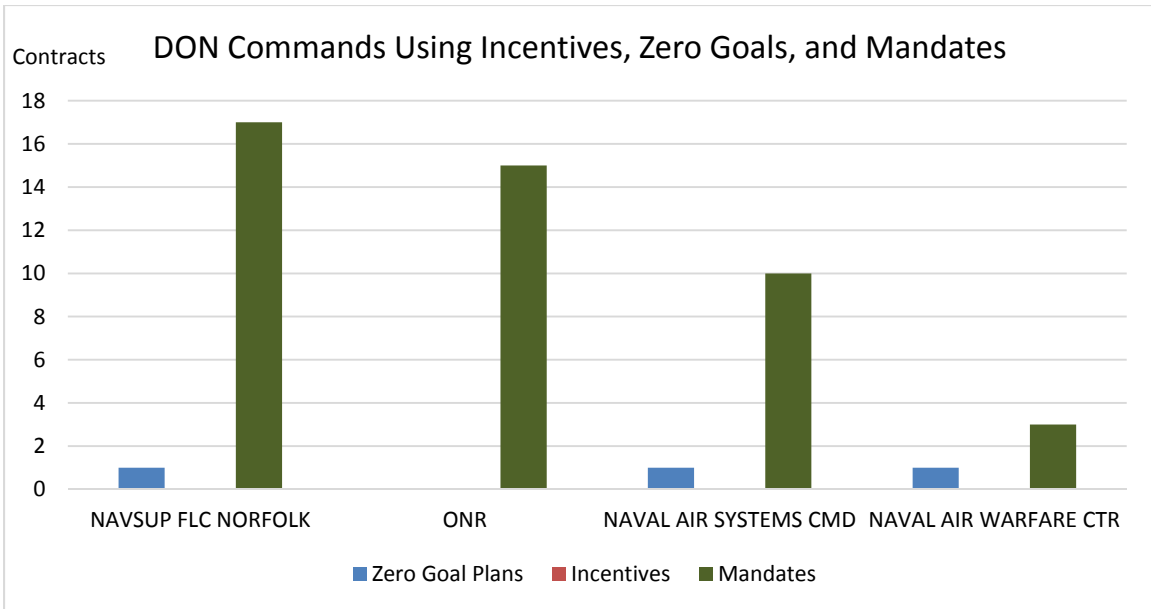


Figure 9. DON Contracting Commands Using Incentives, Zero Goal Plans, and Mandated Small-Business Goals – FY 2012 Data

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VI. CONCLUSIONS AND RECOMMENDATIONS

A. INCREASING SMALL-BUSINESS SUBCONTRACTING

1. Not Shown to Increase Small-Business Subcontracting

a. Incentives

It is certain from this research the DON has not embraced the use of incentives in encouraging small-business subcontracting. According to FPDS only 43 of 769 contracting actions contained subcontracting incentives, or 5.6%. Further investigation revealed six of these contracting actions contained goals of zero for small businesses subcontracting. Overall, only 14 of 50 contracting commands who administered contracting actions requiring subcontracting plans used incentives. These figures clearly show the use of incentives to encourage small-business subcontracting is not a priority for the DON.

Though the data set for the use of incentives to encourage small-business subcontracting is small, no discernable effect on increasing the use of small businesses can be found. Excluding zero goals and those with no data, of the 19 remaining contracting actions that included incentives, 7 achieved its small-business concerns subcontracting participation goal for a success rate of 38%. This success rate is lower than the overall DON small-business concerns of 54%.

Without seeing the actual incentives it is impossible to verify if the incentives were robust enough to strongly encourage contractors to seek out small-business subcontracting opportunities. It is also unknown how a subcontracting plan can contain both a goal of zero for small-business subcontracting and incentives for the use small business contracting. Studying the actual contracts is the only way to understand the answer to these questions. Unfortunately, the actual contracts were not available during this research.

b. Zero Goals

A best value determination, presuming the contracting officer is using zero goal small business subcontracting plans to achieve best value, has proven to be of little to no value for small business subcontractors. Though a small sample size at 23 contracting actions was available, the poor performance at encouraging small-business subcontracting cannot be overlooked. With only eight out of 23 contracts showing any achievement, an average of 8.9% per contract, zero goal best value determinations are not providing much to small business subcontractors.

Only two of the 23 contracting actions show any significant small-business concerns achievement, with none of the remaining contracts above 22% achievement. Socio-economic goals did not fare any better with zero goal plans as only one category of one contract was found to be achieving above 15% small-business subcontracting, or one out of 115. For zero goal plans to have any chance of success the contracting officer and command must be engaged. In the vast majority of these contracting actions this has not happened.

c. Incentives and Zero Goals

Some enterprising contracting officers have decided to combine the use of incentives and the best value determination of zero goal plans to encourage small-business subcontracting. However, the results of this combination are even worse than those described above as only one out of six contracts with this combination has any small-business subcontracting of any kind. This result shows how little influence these two methods have in promoting small-business subcontracting, even when combined.

2. Shown to Increase Small-Business Subcontracting

a. Mandates

When looking at the discussed methods for increasing small-business participation only the use of mandates, in the form of small business subcontracting goals, appear to have had some form of success. Excluding zero goals and contracting actions with no data, 206 contracts have achieved or are achieving its small-business

concerns goal versus 173 that are not. While the rate of success may not seem overly high, it is important to compare the DON's small business achievement against the SBA's goals set for the DOD. These goals are negotiated between the agency and SBA to reflect realistic objectives.

The DOD's FY2012 Small-business subcontracting goal was set at 36.7%, which means the DON's 54% rate of achievement in small-business concerns subcontracting went a long way towards attaining this target. The socio-economic goals set forth by the SBA are much lower, 5% or less. The DON was able to show achievement there as well with several contracting actions showing significant achievement. Overall, the DON had 54 contracting actions currently achieving or achieve all its small-business subcontracting goals versus 326 that did not, again excluding zero goals and contracts without data.

It is clear when comparing mandates to the other discussed methods of encouraging small-business participation that its use is having a positive effect. As discussed, the use of the other methods is limited and is clearly not having the desired effect. It appears the most reliable and well-known method of encouragement is still the most effective.

b. Strong Contracting Officer/Command Involvement

While the SSUD makes sweeping generalizations easy, there were notable outliers when looking at the data. For example, in an otherwise dismal collection of data on zero goal reports, two contracting action from the Naval Air Warfare Center and Marine Corps Systems Command stood out for small-business concerns subcontracting achievement of more than 50 percentage points higher than any other contract. These commands or the contracting officer themselves have somehow showed achievement with zero goal reports when many others have failed.

Similarly, the Southeast Regional Maintenance Center shows what a motivated command and contracting officers are capable of. The command is among the very few to have all its small-business subcontracting plans, 10 total, properly submitted to eSRS. Its one contract, including incentives, achieved their small-business concerns goal, and when

looking at all contracting actions, they have a very respectable 60% small-business concerns subcontracting achievement.

The SSUD contains other examples of commands showing achievement when others seem to be lacking. Some of this could be luck or chance, but a more sensible explanation is that the involvement of the command can have a positive effect on small-business subcontracting. It could be the contracting officer working alone, or the command climate is more accepting of small-business concerns, or the PCR has a well-respected and active role in the organization. Whatever the reason, these commands demonstrate that small-business contracting is possible in any situation with the proper guidance and tools.

B. DON SMALL-BUSINESS SUBCONTRACTING ACHIEVEMENT

1. Overall Success in Small-Businesses Subcontracting

The DON Small Business Procurement Scorecard, as seen in Figure 6, clearly shows the high rate of small-business usage in subcontracting. In FY 2012 the DON exceeded the SBA established goals for the DOD in overall small-business subcontracting, including all individual socio-economic categories. This stands in contrast to the DOD, which failed to meet its overall small-business subcontracting goal and also failed to meet three out of four socio-economic small-business subcontracting goals.

The DON was only able to achieve one out of five small-business prime contracting goals, most notably missing the overall small-business prime contracting goal by almost a third. The contrast between the high achievement in small-business subcontracting and the very low level of success in prime contracting is noteworthy as it relates to the DON's emphasis on small businesses. While not a focus of this research, if the use of small-business subcontracting plans and other factors have done well in increasing small-business participation in subcontracting, perhaps a similar effort could be made in prime contracting.

2. Subcontract Plan Achievement Lags

However, the DON Small Business Procurement Scorecard is only part of picture, since it is solely based on dollars spent. Another way to look at DON subcontracting is through subcontract plan achievement. The analysis of individual contracts and its subcontracting plans show there is room for improvement. If the small-business subcontracting plan submitted by the contractor is reasonable, then more plans ought to be achieving its goals. Looking specifically at the overall small business achievement within subcontracting plans, as seen in Figure 5, success is uneven at best.

When all socio-economic goals are considered, as in Figure 4, the situation looks quite bleak for the DON and small-business subcontracting. A very low number of contracting actions have been able to achieve all its subcontracting goals. When zero goal subcontracting plans are discounted, only 14.2% of DON FY 2012 subcontracting plans are achieving or have achieved its goals. This shows the hazard of scoring small-business subcontracting achievement based solely on dollars allocated.

3. Small Businesses Not Fully Utilized

While the DON has achieved reasonable success in small-business subcontracting, it is certain by looking at the individual contracting actions more can be done. Far too many contractors are not achieving its small-business subcontracting goals, or showing any achievement at all. Surprisingly 73 of the 404 contracts with data available have not achieved any small-business participation. Only very few of these contracts were found to have legitimate reasons for not achieving any small-business subcontracting, such as contract cancellation. The rest have not shown from its ISRs or SSRs why they are unable to have a single small business subcontract.

Since these contracts were awarded in FY 2012 and the data pulled in late 2014, there has been sufficient time to contractors to find and award subcontracts to small businesses. These shortcomings should be noted by the DON and more emphasis placed on contracting officers to monitor and correct contractor deficiencies. These responsibilities are already enshrined in the FAR, but until the lack of achievement

against the subcontracting plan is viewed negatively, small businesses will not be fully utilized in DON subcontracting.

C. WHO IS USING SMALL BUSINESSES IN SUBCONTRACTING?

1. Successful Commands

Although there are several ways to measure a command's success in its use of small-business subcontracting, the simplest method is to determine what percentage contracting actions were able to achieve its small-business subcontracting participation goals. This allows for meaningful direct comparisons as most contracting actions contained an overall small business goal while socio-economic goals were not always included and varied greatly by contracting agency and region. Based solely on award percentage, only ONR, NAVFAC Mid-Atlantic, and NAVSUP WSS Mechanicsburg have the necessary data to claim a significant amount of achievement in small-business subcontracting.

ONR is the largest user of small-business subcontracting plans in the DON, so it stands to reason that it has significant experience and has applied it. Of the commands that have more than 10 accepted ISRs or SSRs in eSRS, ONR has the highest success rate at 65.2%. ONR is followed by NAVFAC Mid-Atlantic and NAVSUP WSS Mechanicsburg with 64.3% and 61.1%, respectively. No other command meeting the criteria above achieved more than 60% small-business subcontracting.

While the above percentages may not seem enormous, the volume of these 70 combined contracts represents significant opportunities for small business in subcontracting. This point is further reinforced when two commands meeting the 10 accepted ISRs or SSRs criteria attained small-business subcontracting achievements of below 40%. Despite the difficulty in finding qualified small business subcontractors the three diverse contracting commands of ONR, NAVFAC Mid-Atlantic and NAVSUP WSS Mechanicsburg have seemed to have figured out a way to encourage and succeed in small-business subcontracting.

2. Smaller Commands Success

While not large enough to be included with the commands above, some smaller contracting agencies were able to achieve good levels of success. Southwest Regional Maintenance Center had all six of its contracting actions achieve 100% of its overall small-business subcontracting goals. NSWC Indian Head EOD Tech Division was not far behind with six of seven contracting actions achieving its overall small-business subcontracting goals, for a success rate of 85.7%. These smaller contracting commands show that contracting command size is not necessarily a factor for success in small-business subcontracting.

D. OTHER FINDINGS

1. Lack of Submission of Required Reports

The extremely large number of missing ISRs or SSRs in FPDS was an unexpected finding during the research of small-business subcontracting. In every category and subcategory derived from the SSUD “No Data Available” was the largest component. This lack of data has the potential to be hiding positive or negative information concerning small-business subcontracting within the DON. If the information was positive, however, it is natural to assume contracting officers would be more inclined to ensure reports were submitted to eSRS.

2. Zero Goals

The use of zero goals for overall small-business subcontracting and socio-economic categories was more prevalent than expected. If the small-business subcontracting goal is zero, the prime contractor cannot fail to achieve against that goal. This has the effect of making it seem as if a contract is achieving when in reality the contractor may not be making an effort to use small businesses in subcontracts. Especially perplexing was the use of zero goals in contracting actions containing incentives, as this completely defeats the purpose of incentives.

The FAR exempts many contracting actions from the requirement of a small-business subcontracting plan, such as “personal services contracts; contracts performed

entirely out of the United States, or modifications to contracts within the general scope of the contract” (FAR, 2012, § 19.702(b)). It is therefore hard to comprehend how a contracting action should not be expected to achieve any small-business subcontracting. Despite a goal of zero, a few of these contracts did report small-business subcontracting achievement. This shows that a perceived lack of opportunity should not be an excuse to relieve a contractor of responsibility of seeking small-business subcontracting.

E. RECOMMENDATIONS

1. Eliminate Zero Goal Subcontracting Plans

Zero overall small business goal plans should not be accepted by contracting officers under any circumstances. The FAR already allows several exceptions from the requirement to submit a small-business subcontracting plan. If one of these exceptions do not apply then small businesses should be given a fair opportunity to compete for subcontracts. If the goal is zero, then the prime contractor has no incentive to make a good faith effort to find capable small business subcontractors.

Policy should be implemented, through a FAR revision or agency directive, to direct contracting officers to not accept zero goal subcontracting plans, if possible. There may be a legitimate reason for a zero small business goal in a specific socio-economic category, for example if there is not a HUBZone in the vicinity of where the work is to be performed, but these need to be the exception rather than the rule. An overall subcontracting goal of zero should never be acceptable as there are small businesses present throughout the United States who are involved in almost all industries.

2. Address Missing ISRs and SSRs

The issue of ISRs and SSRs not being submitted to FPDS is noted throughout this research. With only just over half of the contracting actions submitting the required reports to FPDS, this needs to be addressed immediately to guarantee accurate data collection. Since this responsibility rests with the administrative contracting officer, emphasis should be placed on them from the Agency level to ensure compliance with the FAR. Only when every contract requiring a small-business subcontracting plan submits

the required ISR or SSR can the data contained in the SSUD be complete and more useful for analysis.

The use of available technology could help remedy this situation. When a contracting action is entered into FPDS showing the need for a small-business subcontracting plan a corresponding entry can be automatically created in eSRS under the PIID. When an ISR or SSR is not submitted under this PIID for set period of time (for example, 90 days), then a message could be sent to the responsible contracting officer informing them of noncompliance. If there is a valid reason for no reports submitted to eSRS, for example work on the contract has not yet begun, then the message can be ignored. If there is not a valid reason the contracting officer can attempt to persuade the contractor to comply with regulation and/or document its reasons for not utilizing small business subcontractors.

3. Enhance the Role of PCRs

The role of PCRs need to be enhanced in the subcontracting process. PCRs are responsible for reviewing subcontracting plans and making goal recommendations, however, this advice can be and is routinely ignored by the contracting officer without consequence or recourse (GAO, 2007). PCRs are the recognized experts in small-business subcontracting and their counsel should not be disregarded.

A policy should be implemented to document and elevate disputes between contracting officers and PCRs. The Head of Contracting Agency could then make the final determination in regards to small-business subcontracting goals. While this has the potential to make the role of the PCR more confrontational with contracting officers, it would empower PCRs knowing their recommendations will carry significant weight when setting small-business subcontracting goals.

4. Enact Proposed FAR Rule

In response to the Small Business Jobs Act the DOD, General Services Administration, and NASA have proposed a revision to the FAR concerning small-business subcontracting. A revision of the FAR as it pertains to small-business

subcontracting is long overdue and the proposed rule addresses many of the concerns raised during the course of this research. Notably, the proposed rule addresses the role of the contracting officer in subcontracting plan compliance.

In this proposed rule the contracting officer would now be explicitly responsible for monitoring “the prime contractor’s compliance with its subcontracting plan” and ensuring “subcontracting reports are submitted into the eSRS” (FAR Case 2014–003, 2015). Also contained in the proposed FAR rule are new postaward responsibilities that include regularly reviewing reports in eSRS and providing feedback on rejected reports. These responsibilities need to be clearly assigned to one individual in order to ensure the integrity of eSRS as a repository of subcontracting data.

The proposed rule also contains noteworthy changes to the subcontracting plan requirements; including requiring a contractor to resubmit rejected ISRs and clearly defining the right of subcontractors to have discussions with the contracting officer. These are all good steps in the right direction and should, if enacted, have a positive effect on small-business subcontracting. While some may feel more action can be taken, the federal government is not known for bold and swift actions. This proposed rule would move the Government toward more acceptance of small businesses and its important role in the economy.

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