



May 2020

SMALL BUSINESS SUBCONTRACTING

Oversight of Contractor Compliance with Subcontracting Plans Needs Improvement

Why GAO Did This Study

Certain federal contracts must have a small business subcontracting plan if subcontracting opportunities exist. But recent Department of Defense Inspector General reports raised concerns about agency oversight of subcontracting requirements. GAO was asked to review oversight of subcontracting plans. Among its objectives, this report discusses (1) the extent to which selected agencies (DLA, GSA, NASA, and Navy) oversee small business subcontracting plans, and (2) how SBA encourages agency compliance with subcontracting plan requirements.

GAO reviewed data and documentation for a non-generalizable sample of 32 federal contracts (including 26 contracts with a subcontracting plan) at four agencies, selected to include contracts over \$1.5 million at both civilian and military agencies awarded in fiscal years 2016–2018. GAO also reviewed the Federal Acquisition Regulation, SBA and selected agency documentation, and interviewed agency officials.

What GAO Recommends

GAO is making 10 recommendations for ensuring procedures for PCR reviews are followed, contractor subcontracting reports are monitored and reviewed for accuracy, and SBA compliance reviews are clearly documented and maintained. DLA, GSA, NASA, and Navy concurred with our recommendations. SBA partially concurred with our recommendation. GAO maintains that its recommendation is warranted.

View [GAO-20-464](#). For more information, contact William B. Shear at (202) 512-8678 or shearw@gao.gov.

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What GAO Found

GAO found selected agencies did not consistently follow all required procedures for oversight of small business subcontracting plans, both before and after contracts were awarded. GAO reviewed 26 contracts with a subcontracting plan at four agencies—Defense Logistics Agency (DLA), General Services Administration (GSA), National Aeronautics and Space Administration (NASA), and the Department of the Navy (Navy).

- For about half of the 26 contracts, agencies could not demonstrate that procedures for Procurement Center Representative (PCR) reviews were followed. These representatives may review small business subcontracting plans and provide recommendations for improving small business participation. When an agency is awarding a contract that includes a subcontracting plan, contracting officers are required to notify these representatives of the opportunity to review the proposed contract. Without taking steps to ensure these opportunities are provided, agencies may not receive and benefit from suggestions for increasing small business participation.
- For 14 of the 26 contracts, contracting officers did not ensure contractors submitted required subcontracting reports. After a contract is awarded, contracting officers must review reports contractors submit that describe their progress towards meeting approved small business subcontracting goals. In some cases, contracting officers accepted reports with subcontracting goals different from those in the approved subcontracting plans, with no documentation explaining the difference. Without complete and accurate information about a contractor's subcontracting goals, an agency cannot adequately assess a contractor's performance in meeting its subcontracting plan responsibilities.

The Small Business Administration (SBA) encourages agency compliance with small business subcontracting plan requirements by providing training to contracting officers and contractors, and by conducting reviews. For instance, SBA Commercial Market Representatives conduct compliance reviews to evaluate a large prime contractor's compliance with subcontracting program procedures and goal achievement. However, SBA could not provide documentation or information on almost all compliance reviews conducted in fiscal years 2016–2018. SBA has developed new procedures for conducting compliance reviews, but as of mid-March 2020, had yet to fully implement them. SBA has conducted fiscal year 2019 compliance reviews that reflect a first phase of their new procedures. SBA has draft guidance on the new compliance review process, including some specific information regarding what Commercial Market Representatives are to record as part of the compliance review. SBA has begun to conduct compliance reviews in accordance with the guidance, but does not have clearly documented and maintained records for the first phase of these reviews. Without consistent, clear documentation and records that will be maintained going forward, SBA's ability to track contractor compliance and agency oversight efforts will be limited.

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Abbreviations

CMR	Commercial Market Representative
DCMA	Defense Contract Management Agency
DLA	Defense Logistics Agency
DOD	Department of Defense
eSRS	Electronic Subcontracting Reporting System
FAR	Federal Acquisition Regulation
FPDS-NG	Federal Procurement Data System-Next Generation
GSA	General Services Administration
ISR	individual subcontracting report
NASA	National Aeronautics and Space Administration
Navy	Department of the Navy
OIG	Office of Inspector General
PCR	Procurement Center Representative
SBA	Small Business Administration
SOP	standard operating procedure
SSR	summary subcontract report

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May 28, 2020

The Honorable Marco Rubio
Chairman
The Honorable Benjamin Cardin
Ranking Member
Committee on Small Business and Entrepreneurship
United States Senate

The Honorable Nydia Velázquez
Chairwoman
The Honorable Steve Chabot
Ranking Member
Committee on Small Business
House of Representatives

The Honorable James Risch
United States Senate

In fiscal year 2019, the federal government awarded more than 5,000 contracts requiring a small business subcontracting plan, and obligated more than \$300 billion to contracts with required small business subcontracting plans.¹ Small businesses are to be provided subcontracting opportunities under certain contracts provided by federal agencies. Specifically, contracts over \$700,000 (\$1.5 million for construction) awarded to prime contractors that are not small businesses must have a small business subcontracting plan, if there are subcontracting opportunities.

Contractors required to have a subcontracting plan must report on their subcontracting achievements and make a good-faith effort to comply with

¹The fiscal year 2019 obligated amount reflects obligations to contracts with required subcontracting plans, including active contracts that were awarded in prior years.

the plan.² When they are unable to meet the agreed-upon small business subcontracting goal, they must explain why they did not and the relevant agency contracting officer must determine if the contractor made a good-faith effort.

Recent reports by the Office of Inspector General (OIG) at the Department of Defense (DOD) raised concerns about oversight related to subcontracting opportunities and the extent to which agencies oversaw subcontracting plans.³ For example, the reports raised concerns about awarded contracts that did not have a subcontracting plan or a determination that subcontracting possibilities did not exist. For contracts with a subcontracting plan, the reports raised concerns about the lack of monitoring on the part of contracting officers of contractor compliance with the plan.

You requested that we evaluate oversight of subcontracting plans and related activities in at least two military and two civilian agencies and review how the Small Business Administration (SBA) encourages agencies to conduct such oversight. This report examines (1) the extent to which selected agencies conduct oversight related to small business subcontracting plans in the pre-award phase of the federal contracting process; (2) the extent to which selected agencies conduct oversight of such subcontracting plans in the post-award phase; and (3) steps SBA has taken to encourage agencies to conduct oversight related to small business subcontracting plans.

To address the objectives on selected agency oversight of small business subcontracting plans, we reviewed the Federal Acquisition Regulation

²Federal law requires prime contractors to make a good-faith effort to award a portion of their subcontracts to small businesses consistent with the approved subcontracting plan. Small business subcontracting plans, which are required by the Small Business Act, 15 U.S.C. § 637(d), establish goals for small business subcontracting and describe how the contractor plans to achieve those goals. The Small Business Administration establishes small business size standards on an industry-by-industry basis. Federal Acquisition Regulation § 19.102(a).

³Department of Defense, Office of Inspector General, *Small Business Subcontracting at Two Army Contracting Command Locations*, DODIG-2018-086 (Alexandria, Va.: Mar. 19, 2018); *Two Air Force Centers Adequately Considered Small Businesses When Awarding Prime Contracts, but Small Business Subcontracting Needs Improvement*, DODIG-2017-072 (Alexandria, Va.: Mar. 31, 2017).

(FAR) and agency-specific procedures.⁴ We also reviewed requirements for reports contractors submit on their subcontracting activities, and corresponding agency oversight requirements for the submitted reports. We reviewed documentation on agency training for contracting officers related to subcontracting plans and requirements. We judgmentally selected two military agencies—the Defense Logistics Agency (DLA) and the Department of the Navy (Navy)—and two civilian agencies—the General Services Administration (GSA) and the National Aeronautics and Space Administration (NASA)—to review based on our analysis of Federal Procurement Data System-Next Generation (FPDS-NG) data and other factors.⁵

More specifically, we selected the agencies based on (1) type (military or civilian), (2) dollar amounts of federal contracts awarded in fiscal years 2016–2018, and (3) range of performance related to subcontracting based on SBA’s annual procurement scorecard.⁶ We also reviewed documentation for a non-generalizable sample of 32 contracts—eight per agency—awarded in fiscal years 2016–2018 across the four agencies. We randomly selected these 32 contracts from a set of contracts that met several criteria, such as contract award amounts above \$1.5 million, a mix of subcontracting plans or reasons for not including plans, and contract status (completed or active).⁷

We first selected six contracts per agency (total of 24) that had a small business subcontracting plan at the time of award. We then selected another set of contracts—two per agency (total of eight)—that seemed to meet criteria for requiring small business subcontracting plans—such as exceeding the dollar threshold—but were coded in FPDS-NG as not

⁴FAR § 19.7 and FAR § 52.219-9. These requirements apply to small business subcontracting for all solicitations and contracts above \$700,000 (\$1.5 million for construction).

⁵FPDS-NG is the data system through which government agencies are responsible for collecting and reporting data on federal procurements.

⁶The scorecard measures federal agency achievement of small business and socioeconomic prime contracting and subcontracting goals. The prime and subcontracting component goals include goals for small businesses, small businesses owned by women, small disadvantaged businesses, service-disabled veteran-owned small businesses, and small businesses located in Historically Underutilized Business Zones.

⁷We randomly selected 32 contracts from a total of 2,165 contracts that met the criteria across the four agencies.

having a plan in place.⁸ For contracts we selected, we also obtained reports on contractor submissions on small business subcontracting activity, where applicable, and agency reviews of the submissions from the Electronic Subcontracting Reporting System (eSRS). We interviewed officials from each agency about their efforts related to oversight of small business subcontracting plans.

We assessed the reliability of FPDS-NG data by reviewing available documentation and prior GAO data reliability assessments and by electronically testing for missing data, outliers, and inconsistent coding. We found the data reliable for the purposes of selecting agencies and contracts to review. We assessed the reliability of eSRS by reviewing available documentation and verifying information with agencies. We found the information in eSRS reliable for assessing the extent to which agencies conduct oversight related to contractor submission reports in the system.

To address the third objective, we reviewed documentation on several types of SBA reviews, including compliance reviews, related to contractor compliance with and agencies' oversight of subcontracting plans. We also reviewed SBA's standard operating procedures and documentation on SBA training programs for the small business subcontracting program. We interviewed SBA officials regarding steps the agency takes to encourage agency oversight of subcontracting plans.

For all the objectives, we reviewed relevant federal laws and regulations and reviewed previous GAO reports and reports from the DOD OIG.⁹ We also interviewed officials from the DOD OIG to obtain an understanding of

⁸After we obtained agency documentation on the selected contracts, we determined 26 had a small business subcontracting plan and six did not. The two Navy contracts, which according to FPDS-NG did not have a subcontracting plan, actually had plans in place. We also determined that a GSA contract (which according to FPDS-NG did not have a subcontracting plan) initially did have a subcontracting plan. The contractor was classified as a large business before the contract award, but it was reclassified as a small business after the award. As a result, a subcontracting plan was no longer required. We considered this contract as one without a subcontracting plan for our review (because the plan was not required for the duration of the contract).

⁹See GAO, *Small Business Administration: Actions Needed to Improve Confidence in Small Business Procurement Scorecard*, GAO-18-672 (Washington, D.C.: Sept. 27, 2018); *Small Business: Action Needed to Determine Whether DOD's Comprehensive Subcontracting Plan Test Program Should Be Made Permanent*, GAO-16-27 (Washington, D.C.: Nov. 16, 2015); and *Federal Subcontracting: Linking Small Business Subcontractors to Prime Contracts Is Not Feasible Using Current Systems*, GAO-15-116 (Washington, D.C.: Dec. 11, 2014). Also see DODIG-2018-086 and DODIG-2017-072.

their work on DOD’s oversight of subcontracting plans at selected DOD components and command centers. See appendix I for more information on our scope and methodology.

We conducted this performance audit from January 2019 to May 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Contractors’ Subcontracting Pre- and Post-Award Responsibilities

Federal law and regulations require that contractors receiving a contract with a value greater than the simplified acquisition threshold must ensure that small businesses have the “maximum practical opportunity” to receive subcontracting work.¹⁰ In addition, a prospective contractor generally must submit a subcontracting plan for each solicitation or contract modification with a value of more than \$700,000—or \$1.5 million for construction contracts—whenever subcontracting opportunities exist. Contractors with federal contracts typically use one of three types of subcontracting plans:

- Individual subcontracting plan, which applies to a specific contract, covers the entire contract period including option periods, and contains subcontracting goals;
- Commercial subcontracting plan, which covers the company’s fiscal year and the entire production of commercial items sold by either the entire company or a portion of it (such as a division, plant, or product line) and contains subcontracting goals; and
- Comprehensive subcontracting plan, which is similar to a commercial subcontracting plan and applies only to DOD contracts. Each company reports on subcontracting goals and achievements for a specific fiscal year on a plant, division, or corporate-wide basis. A

¹⁰15 U.S.C. § 637(d) and FAR § 19.702. The simple acquisition threshold amount is generally \$150,000. 48 CFR § 2.101(b). An increase in that amount to \$250,000 has been proposed in accordance with the Defense Authorization Act for Fiscal Year 2018, Pub. L. 115-91. See 84 Fed. Reg. 52420 (Oct. 2, 2019).

comprehensive plan may cover a large number of individual contracts.¹¹

Federal contractors use these plans to document subcontracting goals as a specific dollar amount planned for small business awards and as a percentage of total subcontracting dollars available to small businesses and socioeconomic categories of small businesses.¹² Contractors also may establish, for specific facilities, a master subcontracting plan that contains all the required elements of an individual plan, except the subcontracting goals. Because a master plan does not include specific subcontracting goals, an individual subcontracting plan or an addendum typically provides the goals for specific contracts associated with the master subcontracting plan.

After a contract is awarded, the contractor must periodically submit to the government a subcontracting report that describes progress towards meeting these goals. Individual subcontracting plans require reporting on a single contract and commercial and comprehensive subcontracting plans allow for consolidated reporting of multiple contracts on a division- or company-wide basis.

Contractors must report their subcontracting achievements through eSRS, a web-based government-wide system that both contractors and agency contracting officers can access. The FAR requires contractors to submit individual subcontracting reports (ISR) and summary subcontract

¹¹In 1989, Congress authorized the Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans, which permits participating contractors to submit a single subcontracting plan covering all their contracts rather than a separate plan for each contract. The program is intended to reduce administrative burden on contractors and enhance subcontracting opportunities for small businesses. The program was extended nine times beyond its initial performance period of 3 years. The most recent extension is scheduled to end December 31, 2027.

¹²The Small Business Act defines various socioeconomic categories of small businesses including women-owned, veteran-owned, service-disabled veteran-owned, small disadvantaged, and those located in Historically Underutilized Business Zones, to which opportunities are to be provided to participate in federal contracts as subcontractors.¹⁵ U.S.C. 637(d).

reports (SSR) (see table 1).¹³ These reports show contractors' progress toward meeting their small business subcontracting goals.

Table 1: Contractor Reporting Requirements for Federal Contracts with Small Business Subcontracting Plans, by Type of Subcontracting Plan

Individual Subcontracting Plan	Commercial Subcontracting Plan	Department of Defense Comprehensive Subcontracting Plan
<ul style="list-style-type: none">Individual Subcontracting Report (ISR), semiannuallySummary Subcontract Report (SSR), annually	<ul style="list-style-type: none">ISR is not requiredSSR (annually)	<ul style="list-style-type: none">ISR is not requiredSSR (semiannually)

Source: Federal Acquisition Regulation and Department of Defense Subcontracting Program Business Rules and Processes. | GAO-20-464

Contracting Officers’ Subcontracting Program Pre- and Post-Award Responsibilities

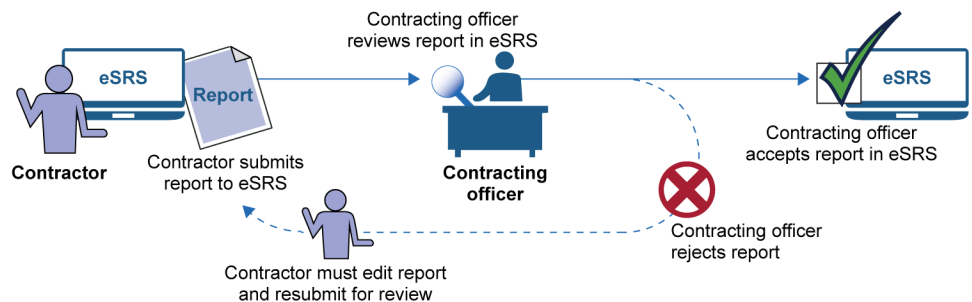
Several regulations, processes, and procedures dictate contracting officers’ responsibilities for oversight of subcontracting plans during the pre-award and post-award phases of the acquisitions process. Before making an award, the FAR requires that contracting officers review the subcontracting plan to help ensure that the required information, goals, and assurances—such as a contractor committing to submit periodic reports to the government to determine the extent of compliance with the subcontracting plan—are included. Additionally, the FAR requires contracting officers to provide the SBA Procurement Center Representative (PCR)—SBA staff whose responsibility includes supporting agency contracting opportunities for small businesses—with an opportunity to review the proposed contract, including the subcontracting plan and supporting documentation.

After a contract or contract modification containing a subcontracting plan is awarded or an existing subcontracting plan is amended, the FAR requires that contracting officers monitor the prime contractor’s compliance with its subcontracting plan. In carrying out their post-award oversight responsibilities, the FAR requires contracting officers to (1) ensure contractors file their subcontracting reports in eSRS within 30

¹³An ISR provides subcontracting information for each contractor for a specific contract awarded by a specific federal agency that required an individual subcontracting plan. An SSR provides an annual summary of subcontracts awarded by prime contractors for a specific federal agency that (1) required an “individual” subcontracting plan for the previous fiscal year or (2) approved a commercial subcontracting plan. An SSR also provides a semi-annual summary of subcontracts awarded by prime contractors that participate in DOD’s Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans.

days of the close of each reporting period (a report is also required for each contract within 30 days of contract completion); (2) review ISRs, and where applicable SSRs, in eSRS within 60 days of the reporting end date; and (3) acknowledge receipt of, accept, or reject the reports in eSRS (see fig.1).¹⁴

Figure 1: Process for Reporting and Monitoring Compliance with Small Business Subcontracting Plans



Source: GAO analysis of Electronic Subcontracting Report System (eSRS) process documentation. | GAO-20-464

The FAR requires agencies to perform annual evaluations of and report on a contractor's performance when work under the contract has been completed. Small business subcontracting is one evaluation area for which agencies rate a contractor's performance. Agencies use the Contractor Performance Assessment Reporting System to collect and manage the library of Contractor Performance Assessment Reports. Agency contracting officers are to consider information on a contractor's past performance from these reports when making future contract award decisions, including a contractor's actions for previously awarded contracts that had a small business subcontracting plan.

The FAR also requires contractors to comply in good faith with the agreed-upon subcontracting plan goals and requirements. When a contractor fails to meet the small business goals in the subcontracting plan, the contractor must provide a rationale for not being able to meet the goals. In determining whether a contractor failed to make a good-faith effort, a contracting officer must look at the totality of the contractor's actions, consistent with the information and assurances provided in its

¹⁴Acknowledging receipt of a report does not imply acceptance or approval of the report. According to eSRS documentation, the agency that awarded the contract will "accept" it once the agency has reviewed the report and found it to be free of errors, issues, or concerns and not in need of any clarification or correction.

subcontracting plan, and consider the rationale the contractor provided. The contractor's failure to meet its subcontracting goals does not, in and of itself, constitute failure to make a good-faith effort. Failure to submit required subcontracting reports as required by the FAR also may factor into contracting officers' determinations. If a contracting officer determined that a contractor failed to make a good-faith effort, the FAR requires the contracting officer to assess liquidated damages (monetary assessments for breaching the contract) against the contractor.¹⁵

SBA's Role in Subcontracting

SBA's Office of Government Contracting administers SBA's subcontracting assistance program. In this office, headquarters and field staff have responsibilities to assist small businesses in meeting requirements to receive government contracts as subcontractors. SBA staff have related responsibilities in both the pre- and post-award acquisition phases. For example, SBA's PCRs and Commercial Market Representatives (CMR) play a role in helping to ensure that small businesses gain access to subcontracting opportunities. In particular, a PCR's key responsibilities include reviewing proposed agency contracts and making recommendations to agency contracting officers. PCRs also review proposed subcontracting plans and provide advice and recommendations on them to contracting officers. Key responsibilities of CMRs include counseling small businesses on obtaining subcontracts and conducting reviews, including compliance reviews, of large prime contractors with subcontracting plans. SBA's standard operating procedure (SOP) for the subcontracting assistance program provides guidance for how CMRs conduct reviews.

Although SBA conducts monitoring activities, the awarding federal agency remains responsible for overseeing and enforcing compliance with a subcontracting plan throughout the life of the contract. In the case of DOD, in addition to the components within the agency that award and monitor contracts, the Defense Contract Management Agency (DCMA) also provides contract administration services for certain DOD contracts. SBA and DCMA may conduct compliance reviews jointly to evaluate prime contractor subcontracting programs supporting specific DOD contracts administered by DCMA. SBA is also authorized to enter into agreements with other federal agencies to conduct compliance reviews and further the objectives of the subcontracting program. We discuss SBA oversight in more detail later in the report.

¹⁵FAR § 19.705-7.

Agency Small Business Subcontracting Goals

Annually, SBA negotiates with agencies to establish individual small business subcontracting goals based on recent subcontracting achievement levels by each agency. Agencies awarding contracts with small business subcontracting plans aim to provide opportunities to promote the use of small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, Historically Underutilized Business Zone small businesses, small disadvantaged small businesses, and women-owned small businesses. These efforts can help agencies achieve their individual small business subcontracting goals.

Selected Agencies Could Not Demonstrate They Consistently Implemented All Required Pre-Award Procedures for Subcontracting Plans

The four agencies we reviewed—DLA, GSA, Navy, and NASA—demonstrated that contracting officers reviewed and approved subcontracting plans in most of the contracts in our sample. However, they could not demonstrate they followed procedures for making a determination of subcontracting possibilities for all of the contracts we reviewed without a subcontracting plan. Agencies also could not demonstrate they followed procedures related to PCR reviews in about half of the contracts reviewed.

Selected Agencies Generally Demonstrated That Contracting Officers Reviewed and Approved Subcontracting Plans

Review and Approval of Subcontracting Plans Mostly Documented

The four agencies provided documentation to show that contracting officers reviewed and approved subcontracting plans in most of the 26 contracts that had subcontracting plans.¹⁶ FAR §§ 19.705-4 and 19.705-5 contain contracting officer responsibilities related to reviewing a proposed subcontracting plan and determining its acceptability. For 25 of the 26 contracts we reviewed with a subcontracting plan, the agencies provided documentation showing the contracting officer reviewed the subcontracting plan. In some instances, we also found specific agency

¹⁶FAR Subpart 19.7 contains the requirements for a small business subcontracting plan. See §§ 19.702 and 19.704.

guidance for, and checklists or memorandums documenting the reviews of, subcontracting plans. For example:

- GSA has guidance for its contracting officers when reviewing subcontracting plans. Specifically, GSA's Acquisition Manual includes a checklist for reviewing subcontracting plans and ensuring the plans meet FAR requirements.¹⁷ Contracting officers used the checklist in their reviews for five of the six GSA contracts we reviewed with a subcontracting plan. The checklist also documents whether the total planned subcontracting dollars and percentages, the method for developing these goals, and information about supplies or services that will be subcontracted are acceptable to the contracting officer.
- DOD's guidance on subcontracting program business rules and processes contains a specific DOD checklist for subcontracting plan reviews.¹⁸ Contracting officers used the DOD checklist for three of 14 DLA and Navy contracts with a subcontracting plan that we reviewed.¹⁹ In addition to documenting the extent to which a subcontracting plan meets FAR and Defense Federal Acquisition Regulation Supplement requirements, the checklist also reflects certain requirements related to master and commercial subcontracting plans. The checklist is optional for contracting officers to use when reviewing subcontracting plans.
- NASA also has guidance that includes steps contracting officers should take when conducting subcontracting plan reviews. For two of the six NASA contracts with a subcontracting plan that we reviewed, we found a checklist that the contracting officer used or a memorandum the contracting officer prepared that detailed the subcontracting plan review, including proposed subcontracting goals.

For almost all the contracts we reviewed that did not have a specific checklist or memorandum to document the contracting officer's review, we found other evidence, such as a contracting officer's signature on the subcontracting plan, acknowledging review of the plan. Additionally, for

¹⁷GSA's Acquisition Manual contains the GSA's acquisition regulations as well as GSA's internal rules on how to acquire goods and services.

¹⁸DOD's checklist for reviewing subcontracting plans is also referenced in Defense Federal Acquisition Regulation Supplement § 219.705-4.

¹⁹According to Defense Federal Acquisition Regulation Supplement § 219.705-4(d)(ii) and DOD's subcontracting program business rules and processes guidance, contracting officers may use the checklist when reviewing subcontracting plans in accordance with FAR § 19.705-4.

one Navy contract with a contract award value of more than \$13 million and with an individual subcontracting plan, we found evidence that, after reviewing the subcontracting plan, the contracting officer requested that the contractor make corrections to it. For one DLA contract we reviewed, based on the limited documentation provided, we were unable to determine the extent to which the subcontracting plan was reviewed. DLA officials stated at the time of our review that they were unable to determine if the subcontracting plan was reviewed.

We also obtained documentation that demonstrated the subcontracting plan was approved for most of the contracts—21 of 26—we reviewed with a subcontracting plan. For example, we obtained documentation with the contracting officer's signature on the subcontracting plan (approving the plan), the contracting officer's signature approving the contract (which included the subcontracting plan), or a signed memorandum that documented approval of the plan.

However, we identified five contracts across DLA, Navy, and GSA that had limited documentation (three contracts) for approval of the subcontracting plan, or for which we could not determine whether the subcontracting plan was approved (two contracts).

- For one DLA contract with an award amount of \$15 million and with an individual subcontracting plan, we were unable to determine if the subcontracting plan was approved. Documentation we reviewed, including DLA emails, did not indicate whether the subcontracting plan was approved. In our review of the subcontracting plan, the section of the plan documenting its approval was not completed. Additionally, according to DLA officials, the contract file does not contain any record of the contracting officer's signature on the subcontracting plan.
- For two Navy contracts with award amounts of about \$17 million and about \$32 million and both with individual subcontracting plans, we found limited documentation demonstrating approval of the subcontracting plan for the first contract and, based on the lack of documentation, were unable to determine if the second contract was approved. For the first contract, we found a checklist with signatures demonstrating review of the subcontracting plan by the contracting officer and other officials. However, the subcontracting plan was not signed by the contracting officer as the approval/signature field in the subcontracting plan was empty. For the other contract, Navy officials could not provide any documentation showing approval of the subcontracting plan. The subcontracting plan was not signed by a

Navy contracting officer or other Navy staff, and according to Navy officials, they were unable to find a signed subcontracting plan in the pre-award contract file.

- For two GSA contracts with individual subcontracting plans, we also found limited documentation approving the subcontracting plan. Similar to one of the Navy contracts discussed above, we found checklists with signatures demonstrating reviews of the subcontracting plan by the contracting officer and other officials. However, in both of these instances, the contracting officer did not sign the approval section of the subcontracting plan.

Additionally, for one DLA contract we reviewed with an individual subcontracting plan and contract award amount of about \$18 million, while we found documentation indicating that the contract had been approved, DLA could not provide documentation for a DOD requirement related to a socioeconomic subcontracting goal. Specifically, the subcontracting plan for this contract listed the small disadvantaged business goal at less than 1 percent. According to Defense Federal Acquisition Regulations Supplement § 219.705-4, a small disadvantaged business goal of less than 5 percent must be approved one level above the contracting officer. In our review of this contract, DLA could not provide documentation specifically showing a higher-level approval for the goal of less than 1 percent. DLA provided an interoffice record and a signed price negotiation memorandum approval document, but these documents did not reference the small disadvantaged business subcontracting goal of less than 1 percent. As a result, we were unable to determine that this subcontracting goal was approved at the appropriate level.

Subcontracting Possibilities Determination Not Properly Documented

In addition to the 26 contracts with subcontracting plans, we also reviewed another six contracts that initially appeared to require a subcontracting plan (based on data in FPDS-NG) but did not have one.²⁰

²⁰We randomly selected two contracts per agency—eight contracts total—that, based on FPDS-NG data, exceeded the dollar threshold for requiring a subcontracting plan and for which the procuring agency either determined the contract had no subcontracting possibilities or determined a subcontracting plan was not required. Through our review of these contracts, we determined that the two contracts we selected for the Navy that were listed as not requiring a subcontracting plan did have subcontracting plans, and we included these in our review of contracts with a subcontracting plan. According to FAR §19.705-2(c), contracts meeting requirements for a small business subcontracting plan that do not have a plan due to no subcontracting possibilities must have a determination signed by an agency official one level above the contracting officer that explains why subcontracting possibilities did not exist for the contract.

For three of the six contracts, the contracting officer or relevant official did not document why a subcontracting plan had no subcontracting possibilities, or prepared the required documentation years after the contract award. For contracts over \$700,000, the FAR generally requires contracting officers to award the contract with a subcontracting plan or to make a determination that no subcontracting possibilities exist. If the contracting officer determines that there are no subcontracting possibilities, the determination should include a detailed rationale, be approved at one level above the contracting officer, and be in the contract file.²¹ GSA accounted for one of the three contracts and NASA for the remaining two.

- A subcontracting plan was not included in a GSA construction contract with an award amount of about \$7 million (which met requirements for a small business subcontracting plan based on the award amount and type of contract). GSA did not have any documentation and could not tell us why the contract did not require a subcontracting plan or had no subcontracting possibilities, or why a subcontracting plan was not included in the contract. Specifically, GSA provided a response explaining the agency did not have documentation to support why the contracting officer (who is no longer with the specific contracting center that awarded the contract) determined there were no subcontracting possibilities.
- For two NASA contracts, NASA officials provided documentation signed by one level above the contracting officer, but the documentation was prepared years after the contract award. For the first contract, with an award value of almost \$8 million and awarded in March 2016, the determination providing the rationale for no subcontracting possibilities was created and signed in March 2019, about 3 years after the contract was awarded instead of when the award was made.

For the second NASA contract, awarded in September 2017 with a contract award amount of about \$2 million, NASA officials explained that in 2017, the initial procurement was estimated at a dollar amount below the threshold for a subcontracting plan and therefore no subcontracting plan was required in the solicitation. The contract value was later changed to add two option periods, which put the estimate over the subcontracting plan threshold. NASA officials said the contracting officer's documentation to determine the need for a subcontracting plan was inadvertently omitted from the file. As a result

²¹FAR § 19.705-2(c).

of our document request, the reviewing contracting officer noted that the file did not properly address the issue of the increased estimate relative to subcontracting plan requirements. NASA then conducted a review to determine if the award met the requirements for a subcontracting plan or if it would have been waived in 2017. Based on the recent review, NASA officials determined that a requirement for a subcontracting plan would have been waived in 2017 based on, among other factors, the specific product purchased through the contract and the structure of the contract, and they prepared a memorandum (in July 2019) documenting this review and conclusion.

A 2018 DOD OIG report on small business subcontracting at two Army contracting command locations found similar issues. Specifically, the report found that of 50 contracts the DOD OIG reviewed, the two contracting command locations awarded six contracts, valued at \$330.7 million, without a subcontracting plan or a contracting officer's determination that no subcontracting possibilities existed.

The three other contracts we reviewed—two at DLA and one at GSA—had appropriate documentation directly explaining or a rationale supporting why no subcontracting plan was in place. For example, for one contract, DLA officials provided a memorandum signed at one level above the contracting officer that documented the specific nature of the contract for a particular type of metal, the work required, and ability of the contractor to perform the work in-house. For the second contract, DLA officials provided information that the contract was awarded through the AbilityOne Program—which does not require a subcontracting plan. The GSA contract was an automotive contract in which the vendor initially represented itself as a large business and had submitted a subcontracting plan. However, after the contract award, GSA documented a modification to the contract that reclassified the vendor as a small business, based on size standards for the North American Industry Classification System codes for the specific acquisition. Therefore, the subcontracting plan was no longer required.

Agencies Could Not Demonstrate They Followed Procedures Related to PCR Reviews in Half of the Contracts We Reviewed

For half of the contracts we reviewed with a small business subcontracting plan (individual or commercial), the agencies could not demonstrate that procedures related to PCR reviews were followed for one or more contracts.²² According to FAR § 19.705-5(a)(3), when an agency is making a contract award that includes a subcontracting plan, contracting officers should notify the appropriate PCR of the opportunity to review the proposed contract, including the associated subcontracting plan and supporting documentation.

More specifically, for 12 of 24 contracts we reviewed with an individual or commercial subcontracting plan, the agencies could not provide documentation or we were unable to determine from the documentation provided whether the contracting officer gave the SBA PCR a review opportunity and whether the PCR may have conducted a review. Of these 12 contracts, DLA and Navy accounted for 10, while GSA and NASA accounted for one each.

- Five of the six DLA contracts we reviewed did not have any documentation or lacked sufficient documentation to determine if the contracting officer or other official provided the PCR with an opportunity to review the contract, and whether a PCR review occurred. More specifically, DLA was unable to provide any documentation related to the PCR review process for three contracts with a subcontracting plan and told us they could not locate such documentation in the contract file. For one of these three contracts, DLA referred us to DCMA for additional documentation, but the documentation DCMA provided did not confirm whether the PCR had an opportunity to review the contract. For the remaining two of five contracts, DLA provided documentation, including a review by DCMA's Small Business Office for one of the contracts, but this

²²We reviewed an additional two Navy contracts that included comprehensive subcontracting plans but are not included in the discussion above. Comprehensive subcontracting plans fall under DOD's Test Program for Negotiation of Comprehensive Subcontracting Plans, which permits participating contractors to submit a single subcontracting plan covering all their contracts rather than a separate plan for each contract. According to a Navy Office of Small Business Programs official, DCMA conducts management and oversight of comprehensive subcontracting plan annual negotiations, including proposed subcontracting goals. Based on this and comprehensive subcontracting plan requirements in DFARS § 219.702-70, the official explained that contracting officers are not required to provide PCRs with an opportunity to review proposed contracts with a comprehensive subcontracting plan. SBA officials told us that PCRs currently do not review proposed contracts with comprehensive subcontracting plans.

documentation did not demonstrate the contract was provided to an SBA PCR for review.

- Five of six Navy contracts we reviewed that had individual subcontracting plans also lacked this documentation. Specifically, Navy was unable to provide documentation specific to the PCR review process for three contracts. For two other contracts, Navy provided documentation of various internal reviews. For example, Navy provided a checklist for one contract showing that the contract was reviewed and signed by the contracting officer and a small business specialist. However, the section of the checklist where the PCR would sign indicating review of the contract and subcontracting plan was left blank. For the other contract, Navy provided documentation that an Assistant Deputy Director for the procuring contracting command center had reviewed and signed the subcontracting plan, but the PCR signature field was blank. In both cases, no other documentation indicated whether the contract was sent to the PCR for review. Therefore, we were unable to determine if a PCR reviewed the plan or was provided the opportunity to review the plan.
- GSA and NASA each had one contract (of the six we reviewed for each) for which they could not provide any documentation related to the PCR review process. Both of these contracts had an individual subcontracting plan.

For the remaining 12 contracts across the four agencies, the agencies provided documentation demonstrating that the PCR was given the opportunity to and had reviewed the contract and associated subcontracting plan. For these contracts, we obtained documentation such as a memorandum, checklist, or email showing the PCR had reviewed and provided concurrence with the subcontracting plan, or commented on the proposed goals in the plan. According to officials from three of the four agencies we reviewed, contracting officers have a large workload with responsibility for a large number of processes and reviews, which may result in a specific process or task—such as coordinating the PCR review—being missed. Additionally, according to NASA officials, the PCR review process may occur but not be documented for some NASA contracts.

Most of the Contracts We Reviewed Had Limited Post-Award Oversight of Compliance with Subcontracting Plans

The selected agencies provide some training to contracting officers on monitoring subcontracting plans. But, for most of the 26 contracts we reviewed with a subcontracting plan, contracting officers did not ensure contractors met their subcontracting reporting requirements. Contracting officers also accepted subcontracting report submissions with erroneous subcontracting goal information for several contracts. For more than half of the 26 contracts, contractors reported that they met or were meeting their small business subcontracting goal.

Agencies Provide Some Training to Contracting Officers on Subcontracting Plans

Officials from all four agencies told us that they provide periodic training to contracting officers related to monitoring subcontracting plans, as illustrated in the following examples:

- **NASA:** According to a NASA official, NASA conducted training at the Kennedy Space Center in October 2018 and October 2019 that focused on whether contracting officers should accept or reject an ISR, and how to assign a Compliance Performance Assessment Report rating. The agency also conducted training at the Goddard Space Flight Center in October 2018.
- **GSA:** GSA's Office of Small Business Utilization provided a refresher on eSRS reporting, including how to review the report in eSRS, for contracting officers in May 2018. They also provided training to contracting officers in October 2019 on reviewing ISRs and SSRs, including understanding how to review an ISR and ensuring timely submissions of SSRs.
- **DLA:** According to DLA staff with the DLA Contracting Services Office, when a contract requires a subcontracting plan, the office's eSRS coordinator recommends that contracting personnel responsible for administering subcontracting plans take the Defense Acquisition University online course about eSRS.²³
- **Navy:** According to a Navy official, DOD has conducted extensive training to address eSRS known issues and data collection and guidance on the proper review of ISRs. Additionally, Navy contracting officers can enroll in a 5-day course on subcontracting offered by the Defense Acquisition University.

²³The Defense Acquisition University is a university for the Defense Acquisition Workforce. It provides courses and continuous learning modules to acquisition professionals.

According to Defense Acquisition University staff, in addition to the 5-day classroom course, the university also offers other training online related to subcontracting.

Contracting Officers Did Not Ensure Contractors Met Their Reporting Requirements for Many Contracts We Reviewed

For more than half of the 26 contracts we reviewed with a subcontracting plan, agency contracting officers did not ensure contractors met their reporting requirements. Specifically, 14 of 26 contracts with subcontracting plans did not have all required ISR or SSR submissions. Three of the four agencies—DLA, NASA, and Navy—accounted for the 14 contracts without all the required submissions. For the remaining 12 contracts we reviewed, the agencies provided documentation showing that contractors submitted all required ISR or SSR submissions for these contracts.

FAR § 19.705-6(f) requires contracting officers to monitor the prime contractor's compliance with subcontracting plans to ensure that subcontracting reports (ISRs and, where applicable, SSRs) are submitted in eSRS in the required time frames. The contracting officer is also to review the reports in the required time frames, acknowledge receipt of, and accept or reject the reports.

Limited Monitoring of Contractor Report Submissions

Our review of 26 contracts with subcontracting plans found limited monitoring of contractor report submissions. Specifically, we found the following for each agency (see table 2):

- **DLA.** Five of the six DLA contracts we reviewed did not have all of the required ISR or SSR contractor submissions. For example, for a \$6.6 million contract, with a commercial subcontracting plan that was awarded in fiscal year 2016, we could not locate any SSRs in eSRS. Based on limited documentation DLA provided, the contractor submitted only one SSR for the duration of the contract and did so by email to the contracting officer in November 2018. This document was not an official SSR and it did not include required information such as the vendor's number, information on who submitted the report from the contractor, a self-certification statement attesting to the accuracy of the report, or acceptance or sign off by a DLA official. Four other DLA contracts with individual subcontracting plans had multiple missing submissions. For two of these contracts, the agency could not explain why the reports were missing, and for the other two contracts, the contractors were not aware of the SSR reporting requirement, according to a DLA official.
- **NASA.** Similar to DLA, five of the six NASA contracts we reviewed did not have all of the required ISR or SSR submissions. For example, for

a \$4.6 million contract with an individual subcontracting plan awarded in fiscal year 2016, the contractor submitted ISRs for 2016 and 2017 and the SSR for 2016. However, according to information we reviewed in eSRS and a NASA official, the contractor did not submit any ISRs for 2018 and 2019, and did not submit any SSRs for 2017 or 2018. The official stated that there was contracting officer turnover during this contract, and the contracting officer monitoring the contract at the time of our review could not find any documented explanation for the reports not being submitted. The same agency official explained that for another contract, the contractor experienced issues submitting documents in the electronic system initially and that there were personnel changes around the time the missing report was due. Additionally, for another contract awarded in 2017 for \$3.8 million, the contractor did not submit any SSRs. We discuss the two remaining NASA contracts in our discussion of contracts with subcontracting report submissions that were submitted well past their due dates.

- **Navy.** Four of the eight Navy contracts we reviewed did not have all the required report submissions. For example, for one contract awarded for \$16.6 million, the contractor submitted the first two required ISRs and an SSR for fiscal year 2016, the year in which the contract was awarded. However, we did not locate any other required submissions in eSRS for subcontracting activity in fiscal year 2017, the year in which the contract ended. A Navy official told us it is not unusual for information related to monitoring and compliance of subcontracting plans to be missing from the contract files. Three remaining contracts with individual subcontracting plans also had missing SSRs. However, the agency did not explain why these submissions were missing.
- **GSA.** The six GSA contracts all had the required report submissions.

Table 2: Selected Agency Contracts Awarded in Fiscal Years 2016–2018 with Missing Subcontracting Report Submissions, by Agency

Agency	Total number of contracts reviewed with a small business subcontracting plan	Number of these contracts that were missing individual or summary subcontracting reports
Defense Logistics Agency	6	5
National Aeronautics and Space Administration	6	5
Department of the Navy	8	4
General Services Administration	6	0
Total	26	14

Source: GAO analysis of Electronic Subcontracting Reporting System data and agency documentation. | GAO-20-464

Note: We randomly selected six contracts per agency (total of 24) that had a small business subcontracting plan at the time of award and another set of contracts—two per agency (total of eight)—that seemed to meet criteria for requiring small business subcontracting plans. After obtaining documentation, we determined 26 contracts had a small business subcontracting plan and six did not.

Additionally, contractors submitted ISRs or SSRs well past their required due dates for at least four contracts. For example, for one Navy contract and one DLA contract, we found that the contractors submitted an ISR more than 125 days late, and almost 50 days late, respectively. For two NASA contracts, contractors submitted reports after they were due. For one of these NASA contracts, we found that the March 2016 and September 2016 ISRs were submitted well past their due dates—more than 400 days and more than 150 days, respectively. For the second NASA contract, the contractor did not submit any of the required reports during the life of the contract and only submitted one final ISR when the contract ended. This contract was awarded in fiscal year 2016 and ended in August 2018. According to a NASA official, failure to submit the required subcontract report was an error by the contractor and insufficient contracting officer oversight. Additionally, the contractor did not submit any SSRs for this contract as required by the FAR.

In another four instances, contractors began submitting the required reports (ISRs and SSRs) after we inquired about the specific contracts with the respective agencies. For example, the contractor for one NASA contract, which also had some missing subcontracting reports, submitted its 2017 SSR more than 600 days after it was due, and after we inquired with NASA about the SSR. We also found that while contractors for two DLA contracts submitted the required ISRs, they did not submit the required SSRs. In one of these two instances, an agency official told us that the contracting officer was unaware of the need for the contractor to

submit both an ISR and SSR, and did not inform the contractor of this requirement. For this contract, which was awarded in fiscal year 2017, the contractor submitted its first SSR in October 2019, after we inquired with DLA officials about the lack of SSR submissions. For the second of these two contracts, which also was awarded in fiscal year 2017, the contractor informed the agency that they had not submitted SSR reports in the past because they were unaware of this requirement, and did not submit an SSR until October 2019. Finally, for one other DLA contract, the only ISR we found in eSRS was submitted by the contractor in October 2019, after we inquired about the ISR and more than 2 years after the contract was awarded. This contractor submitted reports outside of eSRS for two of the four prior reporting periods. These reports did not have acceptance or sign off by the accepting DLA official. In addition, while a DCMA staff member told us that the contractor did not submit its September 2017 and March 2018 ISR reports, the staff member did not provide an explanation why these reports were not submitted.

Reviews Selected Agencies
Conducted Also Found Limited
Monitoring of Contractor
Report Submissions

Additionally, officials from all four agencies told us they conduct some type of periodic review related to oversight of subcontracting plans, which can include determining compliance with the subcontracting plan and related reporting requirements. In some of these reviews, the agencies had similar findings to ours. For example,

- **NASA:** According to an agency official, NASA's Office of Small Business Programs conducts procurement management reviews of subcontracting plans every 2–3 years. The official told us that these reviews serve to monitor whether (1) prime contractors submitted the required ISRs and (2) contracting officers assessed the subcontracting plans and reviewed the ISRs, among other things. The results of a review conducted in May 2017 identified missing ISRs and reports that were accepted with incomplete information.
- **Navy:** According to a Navy official, the Navy Office of Small Business Programs conducts Procurement Performance Management Assessment Program reviews. The official stated that these reviews are conducted every 3 years at each of Navy's command centers that conduct buying activities. If a command center receives an unsatisfactory or marginal rating, then the Deputy Assistant Secretary of the Navy for Acquisition and Procurement will perform follow-up reviews every 6–12 months until the issues are addressed. As part of the review process, Navy reviews subcontracting plans and data in eSRS to determine how subcontracting plans are monitored and evaluated. A review conducted in June 2018 concluded that

monitoring of prime contractor's subcontract reporting and compliance was inadequate.

- **GSA:** According to agency officials, GSA's Office of Small Business Utilization, in conjunction with GSA's Procurement Management Review team, conducts Small Business Compliance Reviews. Annually, the agency selects 4–6 regions from which to select a sample of contracts to review for both pre-award and post-award compliance. According to agency officials, these reviews are designed to help determine if subcontracting goals were met, among other subcontracting-related requirements. A review GSA conducted in March 2019 for one contract noted that the subcontracting plan could not be located in the contract file and that there was a lack of post-award subcontracting plan oversight, including contractor reports on subcontracting activities.
- **DLA:** According to a DLA official, various DLA offices, including the DOD Office of Small Business Programs, monitor eSRS regularly to ensure contracting officers are reviewing and processing contractor submissions through the system. The official stated that these reviews happen at various times throughout the year. For example, the Small Business Director at DLA Distribution—an organization within DLA—checks eSRS on a biweekly basis and DLA Aviation—another organization within DLA—conducts semi-annual reviews of eSRS.

The DOD OIG had similar findings regarding oversight of contractor compliance with subcontracting plan requirements, including contractor reporting requirements. For example, in 2018 the DOD OIG reported that contracting officers at two Army contracting commands did not monitor prime contractors' compliance with subcontracting plans.²⁴ The DOD OIG made three recommendations to address the findings, which have been implemented according to the DOD OIG.

As previously mentioned, contracting officers are responsible for a large number of processes and reviews, which may result in a specific process or task being missed. According to officials from Navy and NASA, other factors also contributed to the existence of limited documentation for

²⁴DODIG-2018-086.

certain post-award requirements for the contracts we reviewed.²⁵ For example, the agency officials stated that contracting officers focus more on the award process than on contract administration and fail to properly consider the requirement that subcontracting plans become a material part of the contract on award, resulting in a lack of due diligence after the award. Officials from NASA and Navy also cited eSRS not providing notifications to contracting officers and contractors when reports are not submitted, among other things, as a contributing factor in missing ISR reports. Additionally, according to NASA officials, eSRS does not generate a list of prime contractors who are delinquent in submitting their SSRs.

Contracting Officers Accepted Several Subcontracting Report Submissions with Erroneous Information

For the 26 contracts we reviewed with a subcontracting plan, contracting officers accepted several report submissions containing incorrect information about subcontracting goals.²⁶ According to FAR § 19.705-6(j), after a contract containing a subcontracting plan is awarded, the contracting officer must reject a contractor's subcontracting report submission if it is not properly completed—for example, if it has errors, omissions, or incomplete data.

In fulfilling their responsibilities related to FAR § 19.705-6(j), contracting officers can identify omissions that a contractor may need to address. For example, in reviews of ISRs for a \$31.8 million Navy contract awarded in fiscal year 2017, the contracting officer noted concerns about the contractor not meeting its socioeconomic goals and asked the contractor to provide an explanation for why the goal was not being met. The contracting officer rejected the September 2018 ISR and later rejected the September 2019 ISR twice because the contractor either did not provide an explanation for not meeting certain socioeconomic goals or failed to describe good-faith efforts to do so. The contractor submitted a revised ISR in December 2019, which included a description of its good-faith efforts to meet the socioeconomic goals. Upon review, the contracting officer accepted the submission stating that it seemed clear from the

²⁵DLA officials explained that because of the volume of contracts the agency oversees, among other factors, some contracts will lack proper documentation, and that, once identified, these contracts are addressed on a case-by-case basis as outliers. According to DLA officials, there is no systemic deficiency that explains why some DLA contracts lacked proper documentation.

²⁶For one of the 26 contracts, we could not determine the level of contracting officer review because of the limited documentation the agency provided.

information provided that the contractor put forth a good-faith effort to meet the goals.

However, for the 21 contracts we reviewed in total that required contractor ISR submissions (which provide information on approved subcontracting goals and achievements towards them), we found that for nine contracts, the contracting officers accepted one or more submissions with errors or unexplained conflicting information related to subcontracting plan goals (see table 3).²⁷ Specifically, all nine contracts lacked explanations of the discrepancies in the ISR or other documentation we reviewed.²⁸ We discuss the nine contracts in more detail below:

- **NASA:** Contracting officers accepted multiple ISRs with errors or unexplained conflicting information for three NASA contracts. In one of the three contracts, awarded in fiscal year 2017 for \$3.8 million, the contractor combined small business subcontracting goals (listed as whole dollars and percent of total subcontracting dollars) from two different subcontracting plans associated with the contract into one ISR. However, the dollar amount reported in the ISR as the subcontracting goal—about \$177,000—reflected the small business goal from only one of the subcontracting plans, rather than the two subcontracting plans, which would have been a total of about \$309,000. As a result, the actual percentage of subcontracting to small businesses of total subcontracting and of the total amount of the contract value was incorrect. In the second contract, awarded in 2016 for \$4.6 million with a planned small business subcontracting total of about \$2 million, the contractor listed an overall small business subcontracting goal different from the approved subcontracting goal in three ISRs, and there was no documentation explaining the difference. For the third contract, awarded in fiscal year 2016 for \$45.2 million with a planned small business subcontracting goal of 10 percent of total subcontracting dollars, the contractor listed this goal incorrectly in two ISRs. According to a NASA official, at the time of our review, the contracting officer was working with the contractor to correct the error.

²⁷Of the 26 contracts we reviewed, five either had a comprehensive or commercial subcontracting plan, which do not require contractor ISR submissions. Contractors are only required to submit SSRs for these contracts. These reports do not contain information on approved subcontracting goals.

²⁸Subcontracting goals may change after contract award, for example, due to the size classification of small business subcontractors changing. Agencies did not indicate the subcontracting plan goal changed after contract award for any of these nine contracts.

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- **DLA:** For one contract awarded in 2017 for \$34.1 million with a planned subcontracting total of about \$11 million, a DLA contracting officer accepted a September 2019 ISR that listed the small business goal at 90 percent of the total subcontracting dollars for the contract instead of the 87.4 percent (base) or 87.6 percent (option years) in the contract addendum. The actual cumulative subcontracting percentage reported in the ISR was 88.1 percent, which met the goal in the addendum, but not the 90 percent goal in the accepted September 2019 ISR. We could not identify any information in the ISR explaining the conflicting information. Additionally, when calculating the amount of cumulative dollars awarded to small business concerns, the contractor appeared to have excluded about \$54,000 in subcontracting, which was included in a separate line item in the ISR for women-owned small business concerns. As a result, we were unable to determine whether this contractor had been meeting its small business goal. For a second contract also awarded in 2017 for \$74.9 million with a planned subcontracting total of about \$23 million, the contractor reported the approved small business goal of 96 percent of total subcontracting dollars in the March 2018 and September 2018 reports. However, in March 2019 and September 2019 ISR submissions for this contract, the contractor reported a small business goal of 98.5 percent and 74.8 percent, respectively. We found no documentation explaining why the contractor reported goals in the 2019 ISRs that were different from the approved 96 percent goal.
 - **Navy:** For one Navy contract, which was awarded for \$13.5 million in fiscal year 2018 with a planned subcontracting total of \$2.7 million, the contracting officer notified the contractor in the September 2018 and March 2019 ISRs that the small disadvantaged business goal of 0 percent of total subcontracting dollars in these submissions did not match the 25 percent goal in the approved subcontracting plan. The contractor corrected the error and the contracting officer accepted the revised reports. In the September 2019 submission, the contractor once again reported that particular goal as 0 percent, but the contracting officer did not note the recurring error in this submission. For another contract, awarded for \$16.6 million in fiscal year 2016 with a planned subcontracting total of about \$5.9 million, the March 2016 ISR listed a small business goal of 693 percent (the goal in the approved subcontracting plan was 69.3 percent) of total subcontracting dollars. The contracting officer did not address the incorrect percentage. Moreover, in the September 2016 submission, the goal was reduced to 61.8 percent, which was less than the goal in

the approved subcontracting plan. There was no explanation for the discrepancies in either submission.

- **GSA:** For one GSA Public Building Service contract, which was awarded in fiscal year 2018 for \$7.5 million, we found discrepancies between the goals listed in multiple accepted ISRs and the approved subcontracting plan. This contract involved janitorial services performed at two locations. Each location had a different approved small business goal—96 percent and 87 percent of total subcontracting dollars. However, the contractor reported only one small business goal in the three ISRs submitted for September 2018, March 2019, and September 2019, and this reported goal varied from 89 to 97 percent in the three ISRs. According to a GSA official, the contractor submitted one ISR in each reporting period to convey the combined progress toward meeting its subcontracting goals for both locations, but the small business goal the contractor reported in each ISR did not accurately reflect the combined goals for both locations. The GSA official told us the combined goal the contractor should have reported for this contract was about 91 percent. According to the GSA official, these submissions contained data entry errors by the contractor, perhaps due to the contractor not knowing how to properly report its subcontracting data. For one GSA Federal Acquisition Service contract awarded in fiscal year 2017 for \$3.6 million, we found a discrepancy between the small business goal reported in multiple ISR submissions—5 percent of total subcontracting dollars—and the 25 percent goal of total subcontracting dollars in the approved subcontracting plan, and we notified the agency of the discrepancy. However, none of these submissions included an explanation for the discrepancy and the agency's reviewing official accepted the submissions without addressing the conflicting information.

Table 3: Selected Agency Contracts Awarded in Fiscal Years 2016–2018 with Incorrect or Conflicting Subcontracting Goal Information in Required Post-Award Subcontracting Reports, by Agency

Agency	Total number of contracts reviewed requiring submission of individual subcontracting reports	Number of these contracts with incorrect or conflicting goal information in individual subcontracting report submissions
National Aeronautics and Space Administration	6	3
Defense Logistics Agency	4	2
Department of the Navy	6	2
General Services Administration	5	2
Total	21	9

Source: GAO analysis of Electronic Subcontracting Reporting System data and agency documentation. | GAO-20-464

Note: Of the 26 contracts we reviewed, five either had a comprehensive or commercial subcontracting plan, which do not require contractor ISR submissions.

We also found one instance involving unclear oversight responsibilities among the 26 contracts we reviewed. We were unable to determine which agency actively monitored one DLA contract, which was awarded in fiscal year 2017 for \$23.3 million. According to DLA staff, DCMA is responsible for monitoring, evaluating, and documenting performance of the contractor for the associated small business subcontracting plan. However, DCMA officials provided responses that DLA is the entity that should be conducting oversight of the subcontracting plan. If oversight responsibility of contracts involving two agencies is not apparent, it is unlikely that the contractor's compliance with their subcontracting plans is being properly monitored.

According to agency officials, several factors contributed to contracting officers accepting subcontracting reports with erroneous information. For example, as previously stated, agency officials told us that contracting officers' large workload and focus on the award process (rather than on contract administration) can contribute to not always considering subcontracting plans as material parts of contracts and, thus, not conducting related due diligence after the contract award. GSA officials also noted that contracting officers may not have read or understood FAR requirements for oversight of contracts.

Contractors Reported They Met or Were Meeting Their Small Business Subcontracting Goal

For 16 of the 26 contracts we reviewed with a subcontracting plan, contractors reported that they met their small business subcontracting goal or were meeting the goal in situations where the contract had not yet ended. For the remaining 10 contracts, three ended without the contractor meeting the small business goal, five were not meeting the small business goal but the contract had not yet ended, and two had limited documentation available and we were unable to determine whether the goal was met.

For the three contracts that ended without the contractor meeting the small business goal, two contracts had documentation that included a rationale for why the goal was not met. For one NASA contract, the contracting officer documented in a memorandum that a decision was made that there was no longer any subcontracting possibilities. The other instance involved a GSA Federal Acquisition Service contract, in which the assessing official documented in the final Compliance Performance Assessment Report that the low goal achievement was due to the nature of the automotive manufacturing industry. We could not identify a rationale for one Navy contract for why the small business subcontracting goal was not met and the agency could not provide documentation explaining why the goal was not met.

The FAR requires contracting officers to assess liquidated damages against a contractor if a contracting officer determined the contractor failed to make a good-faith effort to comply with the subcontracting plan.²⁹ However, a contractor's failure to meet its subcontracting plan goals does not, in and of itself, constitute a failure to make a good-faith effort. Of the three contracts we reviewed that did not meet their small business subcontracting goal, we found no instances in which a contracting officer pursued liquidated damages or other actions against a contractor. As previously mentioned, two of these three contracts had a documented rationale for not meeting the small business subcontracting goal. Agency officials told us that contracting officers rely on Compliance Performance Assessment Reports or other performance assessment measures to rate a contractor's performance relative to their subcontracting goals. Officials from three of the four agencies also told us a contractor's past performance could affect their future ability to obtain government contracts, which can incentivize contractors to take steps to meet their subcontracting goals.

²⁹FAR § 19.705-7.

SBA Conducts Training and Reviews for Its Subcontracting Program, but Has Very Limited Documentation of Recent Reviews

SBA provides training to federal agencies' contracting officers and contractors to assist in complying with small business subcontracting plan requirements. As part of its Small Business Subcontracting Program, SBA conducts certain reviews to assess overall effectiveness of small business subcontracting, including compliance reviews that are designed to assess contractor compliance with small business subcontracting plans. However, SBA could only provide limited documentation on compliance reviews it conducted from fiscal years 2016 through 2018, and limited information on compliance reviews conducted in fiscal year 2019.

SBA Provides Training to Agencies and Conducts Certain Reviews of Its Small Business Subcontracting Program

SBA provides training for contracting officers yearly to assist them in their reviews of subcontracting plans, including training related to pre-and post-award subcontracting activities for contracting officers. Beginning in 2017, SBA made available annual training for contracting officers to assist them in reviewing subcontracting plans. SBA also provides training to contractors, which provides them with information on meeting subcontracting plan requirements. If a prime contractor receives a less than satisfactory rating on a compliance review, the prime contractor must attend a mandatory training to address the issues found in the initial rating.

According to SBA officials, the agency also has been developing new electronic-based training to coincide with new compliance review processes. According to the officials, the training is intended to educate prime business contractors with a subcontracting plan and federal agencies awarding contracts with a subcontracting plan on how to comply with post-award subcontract program requirements.³⁰ SBA plans to make this training available in July 2020 in an electronic format that will provide information and require the participant to answer a series of questions to ensure they comprehend and retain the information.

In addition to providing training, SBA's CMRs conduct reviews related to SBA's Small Business Subcontracting Program. In particular, SBA's Standard Operating Procedure (SOP) 60 03 6, which was effective from December 4, 2006 through July 17, 2018, identified CMR responsibilities and included guidance for conducting reviews related to the Small

³⁰SBA officials stated that the training is also intended to educate subcontractors with subcontracting plans on these program requirements.

Business Subcontracting Program. According to this SOP, CMRs were to conduct different types of reviews:

- In Performance Reviews (also referred to as desk reviews), CMRs were to review ISRs and SSRs that contractors submitted to determine which large business contractors in their portfolios they should visit, and what type of compliance review would be most effective.³¹
- In Small Business Program Compliance Reviews (compliance reviews), CMRs were to evaluate a contractor's compliance with subcontracting program procedures and goals in a contractor's small business subcontracting plan.³² CMRs also were to conduct follow-up compliance reviews on areas found deficient during a compliance review or previous follow-up review.³³
- SOP 60 03 6 also described some orientation or outreach activities as reviews. In Subcontracting Orientation and Assistance Reviews, CMRs were to visit a large business contractor's facility or telephone the contractor to introduce them to the Small Business Subcontracting

³¹Depending on the outcome of the review, performance reviews may or may not have resulted in the CMR sending a letter to the contractor. For example, if SBA had not received a copy of all the required reports for the review or the reports were believed or known to contain errors, the CMR would typically have sent a letter to the contractor describing such issues and related concerns.

³²Compliance reviews are performed on prime contractors that are not small businesses assigned to a CMR's portfolio. According to SBA's SOP 60 03 6, there were several types of small business compliance reviews. For example, CMRs conducted: (1) on-site reviews (which also could be conducted jointly with DCMA or another agency); (2) tandem team reviews (a review conducted, in part, by more than one SBA CMR if several divisions participate in reporting compliance with the subcontracting plan); (3) off-site reviews (conducted by email, telephone, or other telecommunications if it was not practical or feasible to conduct an on-site review); and (4) self-assessments (performed by prime contractors that are well-established, and received high ratings during their last compliance review). SBA and DCMA reviews are often the only formal evaluation of a contractor's compliance with its subcontracting plans. Compliance reviews can provide information on how large contractors administer their small business subcontracting plan, and results from these reviews are also typically included in the Contractor Performance Assessment Reports.

³³The purpose of a follow-up compliance review is to ensure a contractor has taken the necessary steps to address previously identified deficiencies and currently complies with subcontracting program rules and procedures. If the follow-up compliance review determines that deficiencies have been corrected, the rating will be changed to "satisfactory." The follow-up compliance review is provided to the head of contracting at the agency that awarded the contract and to its Office of Small Disadvantaged Business Utilization.

Program and provide an overview of the roles and responsibilities of a prime contractor.³⁴ According to SBA, the agency conducted 417 of these reviews from fiscal years 2016–2018.

According to SBA, the agency’s CMRs conducted hundreds of various reviews in fiscal years 2016 through 2018, and a total of 118 compliance reviews specifically during that period (see table 4).

Table 4: SBA-Provided Information on Desk and Compliance Reviews Conducted by Commercial Market Representatives, Fiscal Years 2016–2018

Fiscal year	Desk reviews, no letter provided to contractor	Desk reviews, letter provided to contractor	Compliance reviews, rating provided	Total
2016	444	326	45	815
2017	264	251	25	540
2018	78	48	48	174
Total	786	625	118	

Source: Small Business Administration (SBA). | GAO-20-464

Note: The relatively reduced number of reviews in fiscal year 2018 was the result of fewer commercial market representatives (CMR), according to SBA. Additionally, performance (desk) reviews may or may not have resulted in the CMR providing a letter to the contractor.

SBA staff said SBA also conducts surveillance reviews to evaluate the overall effectiveness of an agency procurement center’s small business program by reviewing contract files and procedures. According to SBA documentation, these reviews allow SBA to recommend changes to improve small business participation at procurement centers. A surveillance review also examines the procurement center’s subcontracting program. SBA staff examine subcontracting files to determine if procurement center staff routinely perform subcontracting plan reviews, route the subcontracting plans to the PCR for review during the contract award process, incorporate approved subcontracting plans into contracts, and ensure that prime contractors submit the subcontracting plan ISRs into eSRS. For example, in a 2019 surveillance review (for which we obtained a copy) SBA found the center that

³⁴A Subcontracting Orientation and Assistance Review serves various purposes, including training or informing the contractor on small business issues and discussing issues with ISR and SSR reports that were detected during a performance review. This review is mandatory for firms that receive a rating below “satisfactory” on a compliance review. In July 2018, SBA finalized a new SOP (60 03 7) that describes a Subcontracting Orientation and Assistance Review as training that provides guidance on how to comply with the Subcontracting Program’s post-award regulation, processes, and procedures.

conducted the procurements did not have a subcontracting plan in the file for two contracts and the subcontracting plan was not sent to the appropriate SBA Area Director for four contracts.

In July 2018, SBA issued a new SOP entitled Subcontracting Assistance Program Post Award, which revised SBA's compliance review process. According to SBA officials and a high-level outline SBA provided, SBA intends to have the following three phases for the new review processes that will implement the new SOP:³⁵

1. Subcontract Reporting Compliance – In this phase, CMRs are to review and rate a prime contractor's compliance with subcontracting reporting requirements (that is, the contractor's ISR and SSR reporting requirements). According to SBA officials, SBA also intends to inform contract awarding and administering agencies of their findings.
2. Subcontracting Plan Goal Attainment Compliance – In this phase, CMRs are to review whether a prime contractor has met or is on track to meet the goals listed in the subcontracting plan.
3. Subcontract Regulation Compliance – In this phase, CMRs are to review the prime contractor's actions in adhering to all the elements in the subcontracting plan and meeting subcontracting plan goals, among other related actions.

According to SBA officials, the new compliance review process is intended to standardize compliance reviews based on the new SOP. SBA developed a broad outline of the three-phase compliance review process, and to implement this process, developed a CMR portfolio tracking document, in the form of a spreadsheet, and a draft compliance review guidance document, both of which SBA is currently using for the first phase of the process. However, SBA officials told us they could not provide detailed procedures for implementing the second and third phases and they continue to refine the compliance review spreadsheet in conjunction with the compliance review guidance. As of mid-March 2020, they stated that they intend to complete phase 2 guidance by July 30, 2020, and phase 3 guidance by October 30, 2020.

³⁵According to SBA documentation, a rating, training, and the opportunity for corrective action, if appropriate, is provided at each phase.

SBA Has Very Limited Documentation of Fiscal Year 2016–2018 Compliance Reviews and Documentation for 2019 Is Not Clear

SBA could not provide us with requested information and almost no documentation on the compliance reviews its CMRs conducted in fiscal years 2016–2018. SBA could not provide basic information such as the list of contractors reviewed, the specific type of compliance reviews (such as reviews conducted individually or conducted jointly with another agency), which agencies may have assisted in the reviews (in the case of any joint reviews), and contractor ratings resulting from the reviews.

SBA could only provide one CMR compliance review and two follow-up compliance reviews for this time frame, and all three were conducted in fiscal year 2017. The one CMR compliance review SBA provided included general observations from the review, specific findings, follow-up actions required, best practices for the contractor, and the rating provided to the contractor. The follow-up compliance reviews from fiscal year 2017 identified steps that contractors took to address deficiencies found in the initial compliance review and steps to enhance their subcontracting program.

According to SBA officials, the agency's CMRs conducted 680 compliance reviews in fiscal year 2019 and SBA was able to provide some documentation related to these reviews. To conduct these reviews, SBA officials explained that they selected about 4,000 prime contracts from FPDS-NG with individual subcontracting plans that ended in fiscal year 2019 or later. From these approximately 4,000 contracts, SBA officials told us that CMRs randomly selected 680 for review during fiscal year 2019.³⁶ The CMRs assessed the selected sample of contracts against the first phase of the new compliance review process—the extent to which contractors complied with their reporting requirements. In our review of the documentation SBA provided, we could not clearly identify how many reviews they conducted. For example, the summary information from the reviews was not documented or maintained in a single document, but was in multiple spreadsheets with some inconsistencies, making it difficult to determine how reviews were counted. Additionally, one spreadsheet contained a summary tab for many contracts, but a count of the unique contracts did not add up to 680.

³⁶An SBA official told us that the agency plans to develop new processes and procedures for reviewing different types of contracts with subcontracting plans (for example, task orders, indefinite delivery indefinite quantity contracts, and commercial plans). SBA officials explained that they plan to review more than 680 of the 4,000 contracts for fiscal year 2020.

Other spreadsheets did not have a summary tab, and contained information on the reviewed contracts in tabs organized by contractor.

According to its latest SOP, SBA conducts compliance reviews to determine whether prime contractors that are not small businesses complied with their post-award subcontracting responsibilities outlined in the subcontracting plan to ensure small business subcontracts are being properly awarded and reported.³⁷ However, based on our review of the limited documentation provided, SBA lacks specific guidance in its SOP on how CMRs should maintain information for compliance reviews they conduct. SBA has draft guidance on the new compliance review process, including some specific information regarding what CMRs are to record as part of the compliance review. However, SBA does not have clearly documented and maintained records on the first phase of these compliance reviews.

Conclusions

Requirements for small business subcontracting plans in certain contracts enhance opportunities for small businesses to participate in federal contracting. However, weaknesses in selected agencies' oversight of subcontracting plans—such as not following all procedures and not reviewing contractor submissions for errors or omissions—can reduce those opportunities and limit agencies' knowledge about the extent to which contractors fulfill obligations to small businesses. The frequency with which issues arose in our sample suggests agencies can do more to improve oversight. For contracts we reviewed which used checklists or memorandums to document the PCR review process, we found that those contracts generally demonstrated compliance with the requirement for the opportunity for a PCR review. Taking steps to ensure that contracting officers provide PCRs the opportunity to review contracts with subcontracting plans would help agencies identify subcontracting opportunities and benefit from suggestions for increasing small business participation. In turn, such efforts could help agencies achieve their small business subcontracting goals.

Similarly, improved monitoring of submitted contractor reports on subcontracting activities would identify errors in the submissions and increase agencies' ability to assess contractor performance. Without complete and accurate information on a contractor's subcontracting goals, agencies cannot adequately assess a contractor's performance in meeting its subcontracting plan responsibilities. Given the many

³⁷SBA SOP 60 03 7.

responsibilities of contracting officers, steps to ensure that contractor report submissions on meeting subcontracting goals are accurate would assist agencies' oversight efforts.

SBA also has opportunities to significantly enhance oversight related to its subcontracting program. It lacks documentation for almost all compliance reviews conducted in three of the four fiscal years from 2016 through 2019, has not fully implemented revisions to the compliance review process, and has not yet developed procedures for ensuring clear and consistent records of all compliance reviews are documented and maintained. By having clear and consistent documentation for compliance reviews and maintaining those records, SBA would better position itself to track contractor compliance for contracts it reviews and would be able to use this information to inform subsequent reviews. Additionally, contracting agencies would be able to leverage the information from SBA for their own reviews of contractor performance and subcontracting plans.

Recommendations for Agency Action

We are making a total of 10 recommendations to five agencies (three to DLA, one to GSA, two to NASA, three to Navy, and one to SBA):

The Director of DLA should include a step for the opportunity for PCR review of the proposed contract and subcontracting plan in agency procedures and memorandums, and develop a mechanism for documenting whether the opportunity for PCR review was provided. (Recommendation 1)

The Secretary of the Navy should include a step for the opportunity for PCR review of the proposed contract and subcontracting plan in agency procedures and memorandums, and develop a mechanism for documenting whether the opportunity for PCR review was provided. (Recommendation 2)

The Director of DLA should take steps to fulfill the requirement that contracting officers ensure that subcontracting reports are submitted by contractors in a timely manner. For example, the agency could require contracting officers to verify that prior reports were submitted when reviewing current submissions. (Recommendation 3)

The NASA Administrator should take steps to fulfill the requirement that contracting officers ensure that subcontracting reports are submitted by contractors in a timely manner. For example, the agency could require contracting officers to verify that prior reports were submitted when reviewing current submissions. (Recommendation 4)

The Secretary of the Navy should take steps to fulfill the requirement that contracting officers ensure that subcontracting reports are submitted by contractors in a timely manner. For example, the agency could require contracting officers to verify that prior reports were submitted when reviewing current submissions. (Recommendation 5)

The Director of DLA should take steps to ensure contracting officers compare subcontracting goals in contractor report submissions to goals in the approved subcontracting plan and address any discrepancies. (Recommendation 6)

The Administrator of the GSA should take steps to ensure contracting officers compare subcontracting goals in contractor report submissions to goals in the approved subcontracting plan and address any discrepancies. (Recommendation 7)

The NASA Administrator should take steps to ensure contracting officers compare subcontracting goals in contractor report submissions to goals in the approved subcontracting plan and address any discrepancies. (Recommendation 8)

The Secretary of the Navy should take steps to ensure contracting officers compare subcontracting goals in contractor report submissions to goals in the approved subcontracting plan and address any discrepancies. (Recommendation 9)

The SBA Administrator should ensure Commercial Market Representatives clearly and consistently document compliance reviews and maintain these records. (Recommendation 10)

Agency Comments and Our Evaluation

We provided a draft of this report to DOD, GSA, NASA, and SBA for review and comment. DOD provided a written response, reproduced in appendix II, in which it concurred with our recommendations. DOD described steps that DLA and Navy intend to take to address the recommendations, including actions to remind contracting officers or to provide additional guidance related to giving the PCR an opportunity to review the proposed contract and subcontracting plan. DOD also described actions that DLA and Navy intend to take to remind contracting officers of the requirement to ensure that subcontracting reports are submitted in a timely manner and to remind contracting officers to compare subcontracting goals in contractor report submissions to goals in the approved subcontracting plan and address any discrepancies.

GSA provided a written response, reproduced in appendix III, in which it concurred with our recommendation.

NASA provided a written response, reproduced in appendix IV, in which it concurred with our recommendations. NASA described steps it intends to take, such as requiring procurement offices to monitor contracting officer reviews of contractor report submissions and comparisons of subcontracting goals for consistency with the subcontracting plan. NASA also provided technical comments on the draft report that we incorporated where appropriate.

SBA provided a written response, reproduced in appendix V, in which the agency partially concurred with our recommendation. SBA also asked us to consider rewording a few statements that it considered to have appeared for the first time in the draft report. In the draft report we sent to SBA, we provided additional information about how we could not clearly identify how many reviews the CMRs conducted. SBA stated in its written response that it has comprehensive documents and records for fiscal year 2019 compliance reviews and while its CMRs maintain a separate workbook of spreadsheets for reviews they conduct, the agency maintains a summary document that combines the compliance reviews performed collectively by its CMRs. During our audit and as part of its written response to our draft report, SBA did not provide a summary document that showed all reviews conducted by its CMRs for fiscal year 2019.

SBA also acknowledged in its written response that it could not provide requested documentation for compliance reviews conducted during fiscal years 2016 through 2018. SBA stated it has developed detailed procedures for maintaining consistent records for compliance reviews and that while CMRs are using these procedures currently, the agency intends to finalize the procedures on May 29, 2020 to ensure that SBA continues to fully document its compliance reviews. Based on the documentation we reviewed and analyzed during our audit, we maintain that SBA does not have clearly documented and maintained records of compliance reviews and should clearly and consistently document its compliance reviews and maintain these records. We will review any additional documentation of records of compliance reviews when SBA provides it in response to this recommendation.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to appropriate

congressional committees and members, the Secretary of DOD, the Administrator of GSA, the Administrator of NASA, the Administrator of SBA, and other interested parties. This report will also be available at no charge on our website at <http://www.gao.gov>.

If you or your staff have any questions concerning this report, please contact me at (202) 512-8678 or shearw@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix VI.

A handwritten signature in black ink that reads "William B. Shear". The signature is written in a cursive, flowing style.

William B. Shear
Director, Financial Markets and Community Investment

Appendix I: Objectives, Scope, and Methodology

Our objectives in this report were to examine (1) the extent to which select agencies conduct oversight related to small business subcontracting plans in the pre-award phase of the federal contracting process; (2) the extent to which select agencies conduct oversight of such subcontracting plans in the post-award phase; and (3) steps the Small Business Administration (SBA) has taken to encourage agencies to conduct oversight activities related to small business subcontracting plans.

To address the first two objectives, we reviewed the Federal Acquisition Regulation (FAR) and agency-specific procedures.¹ We also reviewed requirements for contractor submissions on subcontracting activity related to subcontracting plans, and corresponding agency oversight requirements for the submissions. We reviewed documentation on agency training for contracting officers related to subcontracting plans and requirements. We judgmentally selected two military agencies—the Defense Logistics Agency (DLA) and the Department of the Navy (Navy)—and two civilian agencies—the General Services Administration (GSA) and the National Aeronautics and Space Administration (NASA)—to review based on our analysis of Federal Procurement Data System-Next Generation (FPDS-NG) data and other factors.² More specifically, we selected the agencies because they (1) included a mix of military and civilian agencies, (2) had relatively high dollar amounts of federal contracts awarded in fiscal years 2016–2018, and (3) included a range of performance related to subcontracting based on SBA’s annual procurement scorecard.³

We also reviewed documentation for a nongeneralizable sample of 32 contracts—eight per agency—awarded in fiscal years 2016–2018 across the four agencies. We randomly selected these 32 contracts from a set of

¹FAR Subpart 19.7 and FAR § 52.219-9. These requirements apply to small business subcontracting for all solicitations and contracts above \$700,000 (\$1.5 million for construction).

²FPDS-NG is the data system through which government agencies are responsible for collecting and reporting data on federal procurements.

³SBA’s annual procurement scorecard measures how well federal agencies reach their small business and socioeconomic prime contracting and subcontracting goals. The prime and subcontracting component goals include goals for small businesses, small businesses owned by women, small disadvantaged businesses, service-disabled veteran-owned small businesses, and small businesses located in Historically Underutilized Business Zones.

contracts that met several criteria. Specifically, the criteria were contracts with dollar amounts above \$1.5 million, that had a mix of subcontracting plans (individual, commercial, and comprehensive) or reasons for not including subcontracting plans in a contract (such as no subcontracting possibilities for the contract or the contract not requiring a subcontracting plan), and a mix of their current status at the time of our selection (completed or active).⁴ We selected contracts as follows:

- We first randomly selected six contracts per agency (total of 24) that had a small business subcontracting plan at the time of award. To do this, we used a random number generator for the universe of contracts meeting the above criteria and selected contracts in the order of the random number generator, but skipped a contract if it was too similar to already-selected contracts (for example, same type of subcontracting plan or similar dollar amount).
- We then selected another set of contracts—two per agency (total of eight)—that seemed to meet criteria for requiring small business subcontracting plans, such as exceeding the dollar threshold, but were coded in FPDS-NG as not having a plan in place.⁵

We also obtained reports on contractor submissions on small business subcontracting activity, where applicable, and agency reviews of the submissions from the Electronic Subcontracting Reporting System (eSRS). Specifically, we searched eSRS for any contractor-submitted individual subcontracting reports (ISR) or summary subcontract reports (SSR), where applicable, for each contract with a subcontracting plan and reviewed the reports along with agency contracting officer comments, approvals, or rejections related to the reports. If we were unable to locate any ISRs or SSRs in eSRS, we asked the procuring agency to provide copies of the reports. We also requested agency documentation for any actions contracting officers took, if applicable, for each contract where the

⁴We randomly selected 32 contracts from a total of 2,165 contracts that met the criteria across the four agencies.

⁵After we obtained agency documentation on the selected contracts, we determined 26 had a small business subcontracting plan and six did not. The two Navy contracts which according to FPDS-NG did not have a subcontracting plan, actually had a plan in place. We also determined that a GSA contract (which according to FPDS-NG did not have a subcontracting plan) initially did have a subcontracting plan. The contractor was classified as a large business before the contract was awarded, but it was reclassified as a small business after the award. As a result, a subcontracting plan was no longer required. We considered this contract as one without a subcontracting plan for our review (because the plan was not required for the duration of the contract).

contractor had not met the small business subcontracting goal. We also interviewed officials from each agency about their efforts related to oversight of small business subcontracting plans and these contractor submissions.

We assessed the reliability of FPDS-NG data by reviewing available documentation and prior GAO data reliability assessments and by electronically testing for missing data, outliers, and inconsistent coding. We found the data to be reliable for the purposes of selecting agencies and contracts to review. We assessed the reliability of eSRS by reviewing available documentation and verifying information with agencies. We found the information in eSRS to be reliable for purposes of assessing the extent to which agencies conduct oversight related to contractor submission reports in the system.

To address the third objective, we reviewed documentation on several types of SBA reviews, including compliance reviews, related to contractor compliance with and agencies' oversight of subcontracting plans. Specifically, we reviewed documentation on reviews SBA conducted related to its subcontracting program during fiscal years 2016–2019. We also reviewed SBA's standard operating procedures for the subcontracting program, documentation on processes implementing the new procedures, and documentation on SBA training programs for the small business subcontracting program. We interviewed SBA officials regarding steps the agency takes to encourage agency oversight of subcontracting plans.

For all the objectives, we reviewed relevant federal laws and regulations and reviewed previous GAO reports and reports from the Department of Defense Office of Inspector General (DOD OIG).⁶ We also interviewed officials from the DOD OIG to obtain an understanding of their work on

⁶For example, see GAO, *Small Business Administration: Actions Needed to Improve Confidence in Small Business Procurement Scorecard*, GAO-18-672 (Washington, D.C.: Sept. 27, 2018); *Small Business: Action Needed to Determine Whether DOD's Comprehensive Subcontracting Plan Test Program Should Be Made Permanent*, GAO-16-27 (Washington, D.C.: Nov. 16, 2015); and *Federal Subcontracting: Linking Small Business Subcontractors to Prime Contracts Is Not Feasible Using Current Systems*, GAO-15-116 (Washington, D.C.: Dec. 11, 2014). Also see Department of Defense, Office of Inspector General, *Small Business Subcontracting at Two Army Contracting Command Locations*, DODIG-2018-086 (Alexandria, Va.: Mar. 19, 2018); *Two Air Force Centers Adequately Considered Small Businesses When Awarding Prime Contracts, but Small Business Subcontracting Needs Improvement*, DODIG-2017-072 (Alexandria, Va.: Mar. 31, 2017), and *Small Business Contracting at Marine Corps Systems Command Needs Improvement*, DODIG-2016-019 (Alexandria, Va.: Nov. 10, 2015).

DOD's oversight of subcontracting plans at selected DOD components and command centers.

We conducted this performance audit from January 2019 to May 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Comments from the Department of Defense



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

APR 27 2020

Mr. William Shear
Director, Financial Markets and Community Investment
U.S. Government Accountability Office
441 G Street, NW
Washington DC 20548

Dear Mr. Shear,

This is the Department of Defense (DoD) response to the GAO Draft Report, GAO-20-464, "SMALL BUSINESS CONTRACTING: Oversight of Contractor Compliance with Subcontracting Plans Needs Improvement," dated April 7, 2020 (GAO Code 103302).

Attached is DoD's response to the subject report. My point of contact for subject report is Dr. Ruby Crenshaw-Lawrence at ruby.j.crenshaw-lawrence.civ@mail.mil or 571-372-6332.

Sincerely,

A handwritten signature in cursive script that reads "Amy J. Murray".

Amy Murray
Director, Office of Small Business
Programs

**GAO DRAFT REPORT DATED APRIL 7, 2020
GAO-20-464 (GAO CODE 103302)**

**“SMALL BUSINESS SUBCONTRACTING: OVERSIGHT OF CONTRACTOR
COMPLIANCE WITH SUBCONTRACTING PLANS NEEDS IMPROVEMENT”**

**DEPARTMENT OF DEFENSE COMMENTS
TO THE GAO RECOMMENDATION**

RECOMMENDATION 1: The GAO recommends that the Director of DLA should include a step for the opportunity for PCR review of the proposed contract and subcontracting plan in agency procedures and memorandums, and develop a mechanism for documenting whether the opportunity for PCR review was provided.

DoD RESPONSE: Concur. Institutionalizing the opportunity for PCR review of the proposed contract and subcontracting plan promotes the Department’s commitment to provide maximum opportunity for small business participation. DLA will issue a procurement letter (PROCLTR) revising Subpart 19.7 – The Small Business Subcontracting Program – of the Defense Logistics Acquisition Directive (DLAD) to provide contracting officers and procuring organizations additional guidance on what steps are required when conducting reviews of subcontracting plans prior to approval. The PROCLTR will be issued by July 31, 2020.

RECOMMENDATION 2: The GAO recommends that the Secretary of the Navy should include a step for the opportunity for PCR review of the proposed contract and subcontracting plan in agency procedures and memorandums, and develop a mechanism for documenting whether the opportunity for PCR review was provided.

DoD RESPONSE: Concur. Institutionalizing the opportunity for PCR review of the proposed contract and subcontracting plan promotes the Department’s commitment to provide maximum opportunity for small business participation. The Deputy Assistant Secretary of the Navy (Procurement) (DASN(P)) will issue a memo reminding contracting officers of the requirement to give the PCR an opportunity to review the proposed contract and subcontracting plan in accordance with FAR 19.705-5(a)(3) and 19.705-4(d)(7). Additionally, since the requirement to document this review is not unique to the Department of the Navy, DASN(P) will recommend a change to the Federal Acquisition Regulation (FAR) to require documentation of the PCR review in the contract file.

RECOMMENDATION 3: The GAO recommends that the Director of DLA should take steps to ensure contracting officers fulfill the requirement that subcontracting reports are submitted in a timely manner. For example, the agency could require contracting officers to verify that prior reports were submitted when reviewing current submissions.

DoD RESPONSE: Concur. While it is a contractor responsibility to timely submit subcontracting reports in a timely manner, contracting officers have a responsibility to ensure compliance with subcontracting goals, including timely reporting. With the issuance of the procurement letter (PROCLTR) revising Subpart 19.7 – The Small Business Subcontracting Program – of the Defense Logistics Acquisition Directive (DLAD) described in response to recommendation 1, contracting officers will be reminded of the requirement to ensure that subcontracting reports are submitted in a timely manner, as well as other aspects of the small business subcontracting program addressed in the revised guidance. The workforce training will begin after the revised guidance is released. DLA will schedule training for our contracting personnel to be completed by December 31, 2020.

RECOMMENDATION 5: The GAO recommends that the Secretary of the Navy should take steps to ensure contracting officers fulfill the requirement that subcontracting reports are submitted in a timely manner. For example, the agency could require contracting officers to verify that prior reports were submitted when reviewing current submissions.

DoD RESPONSE: Concur. While it is a contractor responsibility to timely submit subcontracting reports in a timely manner, contracting officers have a responsibility to ensure compliance with subcontracting goals, including timely reporting. The Deputy Assistant Secretary of the Navy (Procurement) (DASN(P)) will issue a memo to contracting officers to remind them of their responsibilities to review a prime contractor's compliance with its subcontracting plan and ensure timely submission of reports.

RECOMMENDATION 6: The GAO recommends that the Director of DLA should take steps to ensure contracting officers compare subcontracting goals in contractor report submissions to goals in the approved subcontracting plan and address any discrepancies.

DoD RESPONSE: Concur. DLA will ensure contracting officers compare subcontracting reports to the goals in subcontracting plans. The workforce training described in the response to recommendation 3 will address the requirement for contracting officers to compare subcontracting reports to goals in the approved subcontracting plans and address discrepancies with the contractor. The workforce training will begin after the revised guidance is released. DLA will schedule training for our contracting personnel to be completed by December 31, 2020. The DoD notes that DoD guidelines for subcontracting reporting in the Electronic Subcontracting Reporting System (eSRS) state that Summary Subcontracting Reports (SSRs) should be sent to DoD and not individual Contracting Officers. The DoD SSR Coordinator at Office of Small Business Programs (OSBP) and Defense Pricing and Contracting (DPC) are responsible for review and acceptance of SSRs.

RECOMMENDATION 9: The GAO recommends that the Secretary of the Navy should take steps to ensure contracting officers compare subcontracting goals in contractor report submissions to goals in the approved subcontracting plan and address any discrepancies.

DoD RESPONSE: Concur. The Deputy Assistant Secretary of the Navy (Procurement) (DASN(P)) will issue a letter reminding contracting officers to compare subcontracting goals in

**Appendix II: Comments from the Department
of Defense**

3

contractor report submissions to goals in the approved subcontracting plan and address any discrepancies in accordance with FAR 19-705-6(g) and (j). The DoD notes that DoD guidelines for subcontracting reporting in the Electronic Subcontracting Reporting System (eSRS) state that Summary Subcontracting Reports (SSRs) should be sent to DoD and not individual Contracting Officers. The DoD SSR Coordinator at Office of Small Business Programs (OSBP) and Defense Pricing and Contracting (DPC) are responsible for review and acceptance of SSRs.

Appendix III: Comments from the General Services Administration



The Administrator

May 5, 2020

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
Washington, DC 20548

Dear Mr. Dodaro:

The U.S. General Services Administration (GSA) appreciates the opportunity to review and comment on the Government Accountability Office's (GAO) draft report *Small Business Subcontracting: Oversight of Contractor Compliance with Subcontracting Plans Needs Improvement* (GAO-20-464).

GSA has reviewed this report and agrees with GAO's recommendation that the Administrator of General Services should take steps to ensure contracting officers compare subcontracting goals in contractor report submissions to goals in the approved subcontracting plan and address any discrepancies.

If you have any questions, please contact me at (202) 929-7277 or Jeffrey A. Post, Associate Administrator, Office of Congressional and Intergovernmental Affairs, at (202) 501-0563.

Sincerely,

A handwritten signature in blue ink that reads "Emily W. Murphy".

Emily W. Murphy
Administrator

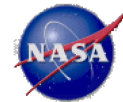
cc: William B. Shear Director, Financial Markets and Community Investment, GAO

1800 F Street, NW
Washington, DC 20405-0002
www.gsa.gov

Appendix IV: Comments from the National Aeronautics and Space Administration

National Aeronautics and
Space Administration

Headquarters
Washington, DC 20546-0001



April 27, 2020

Office of Small Business Programs

Mr. William Shear
Director
Financial Markets and Community Investment
United States Government Accountability Office
Washington, DC 20548

Dear Mr. Shear:

The National Aeronautics and Space Administration (NASA) appreciates the opportunity to review and comment on the Government Accountability Office (GAO) draft report entitled, "Small Business Subcontracting: Oversight of Contractor Compliance with Subcontracting Plans Needs Improvement" (GAO-20-464), dated April 7, 2020.

In the draft report, GAO makes ten recommendations to the four agencies reviewed under this engagement. Two recommendations are directed to NASA which are designed to ensure that contracting officers comply with the Federal Acquisition Regulation (FAR) requirements to monitor prime contractor subcontracting report submittals.

Specifically, GAO recommends the following:

Recommendation 1 (Report Recommendation 4): The NASA Administrator should ensure contracting officers fulfill the requirement that subcontracting reports are submitted in a timely manner. For example, the Agency could require contracting officers to verify that prior reports were submitted when reviewing current submissions.

Management's Response: NASA concurs. The NASA Assistant Administrator for Procurement will communicate and emphasize to the procurement workforce the responsibilities under FAR 19.705-6 (f) (1), specifically to ensure that subcontracting reports are submitted into the Electronic Subcontracting Reporting System (eSRS) database within 30 days after the report ending date.

The Office of Procurement will coordinate with the Office of Small Business Programs (OSBP) to modify Attachment 15 of the Procurement Management Review (PMR) Process and Procedures and Self-Assessment Guidance (Self-Assessment Plan), to require Center procurement offices to monitor and assess compliance with FAR 19.705-

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6(f)(1) and (3). Self-assessments are required to be conducted annually by each buying location.

Estimated Completion Date: April 30, 2021

Recommendation 2 (Report Recommendation 8): The NASA Administrator should ensure contracting officers compare subcontracting goals in contractor report submissions to goals in the approved subcontracting plan and address any discrepancies.

Management's Response: NASA concurs. The Office of Procurement will coordinate with OSBP to modify Attachment 15 of the Procurement Management Review (PMR) Process and Procedures and Self-Assessment Guidance (Self-Assessment Plan) to require Center procurement offices to monitor, as a part of the annual self-assessment: 1) the Contracting Officer (CO) reviews of contractor report submittals; 2) CO comparisons of the goals for consistency with the subcontracting plan; and 3) that any discrepancies found are addressed.

Estimated Completion Date: April 30, 2021

We have reviewed the draft report for information that should not be publicly released. As a result of this review, we have not identified any information that should not be publicly released.

Once again, thank you for the opportunity to comment on the subject draft report. If you have any questions or require additional information, please contact Richard Mann on (202) 358-2438.

Sincerely,

GLENN
DELGADO
Glenn A. Delgado
Associate Administrator
Office of Small Business Programs

Digitally signed by
GLENN DELGADO
Date: 2020.04.27
16:09:05 -04'00'

WILLIAM
ROETS
for Monica Y. Manning
Assistant Administrator
Office of Procurement

Digitally signed by
WILLIAM ROETS
Date: 2020.04.27 07:17:24 -04'00'

Appendix V: Comments from the Small Business Administration



April 27, 2020

Mr. William B. Shear, Director
Financial Markets and Community Investment
U.S. Government Accountability Office
Washington, D.C. 20548

Dear Mr. Shear:

Thank you for providing the U.S. Small Business Administration (SBA) with a copy of the U.S. Government Accountability Office (GAO) draft report 20-464 titled "*Oversight of Contractor Compliance with Subcontracting Plans Needs*." GAO provided one recommendation to SBA. SBA partially concurs with the GAO recommendation. SBA acknowledges that it could not provide requested documentation for compliance reviews conducted during the period FY2016-FY2018 as the requested data was saved by employees (some no longer work for SBA) on their local computers and, despite efforts to retrieve data by Government Contracting Area Offices, the requested data could not be located. However, SBA maintains full documentation for compliance reviews performed in FY2019 and later.

GAO recommends that "SBA's Administrator should ensure Commercial Market Representatives (CMRs) clearly and consistently document compliance reviews and maintain these records." SBA wishes to clarify that SBA fully documented the compliance reviews it performed in FY2019 and later. Furthermore, SBA has drafted a Compliance Guide that includes step-by-step instructions on how to perform the compliance review, how to maintain a Compliance Review Portfolio Workbook, and where to store documents. SBA intends to finalize that Compliance Guide on May 29, 2020, which will ensure that SBA continues to fully document its compliance reviews and maintain its records.

SBA respectfully requests that, for full accuracy, GAO consider rewording certain statements. These statements all appeared for the first time in the draft report.

(1) *SBA has begun to conduct compliance reviews in accordance with the guidance, but does not have clearly documented and maintained records for the first phase of these reviews.*
(Highlights)

SBA thanks GAO for recognizing that SBA is conducting its reviews according to the draft Compliance Guide. SBA intends to finalize the guide on May 29, 2020. However, SBA maintains that SBA has documented every one of its compliance reviews for FY2019 and

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beyond. SBA stores all its compliance review records on an intranet site and will continue to do so after SBA finalizes the guide.

- (2) *In our review of the documentation SBA provided, we could not clearly identify how many reviews they conducted. For example, the summary information from the reviews were not documented or maintained in a single document but was in individual spreadsheets with some inconsistencies making it difficult to determine how reviews were counted.*

SBA provided GAO with spreadsheet workbooks to demonstrate the process SBA uses to perform its reviews, not to verify the number of reviews. Each CMR maintains a separate workbook of spreadsheets, called the Compliance Review Portfolio Workbook. SBA separately maintains a unified document that summarizes the number of compliance reviews performed collectively by SBA's CMRs.

- (3) *Additionally, one spreadsheet contained a summary tab for many contracts, but a count of the unique contracts did not add up to 680.*

SBA provided a sample workbook of one CMR to demonstrate the process that an individual CMR uses to document reviews. The sample workbook is not comprehensive and does not contain all 680 reviews for all CMRs. The workbook has a summary tab—called the Master List—but that tab only covers the particular CMR. Thus, it would not be accurate to assume that there would be one spreadsheet that contains all 680 reviews. Also, the 680 figure separately counts each SBA review of an individual subcontracting report (ISR) and a summary subcontracting report (SSR), so counting unique contracts does not result in the number of reviews because each contract might have more than one review.

- (4) *However, based on our review of the limited documentation provided, SBA lacks specific guidance in its SOP on how CMRs should maintain information for compliance reviews they conduct. SBA has draft guidance on the new compliance review process, including some specific information regarding what CMRs are to record as part of the compliance review. However, SBA does not have clearly documented and maintained records on the first phase of these compliance reviews.*

SBA agrees that its Standard Operating Procedure (SOP) provides general guidance.¹ The purpose of the SOP is to set the process for conducting reviews, not for maintaining information on those reviews. Separately, SBA provides its CMRs with specific guidance in the Subcontracting Program Compliance Guide, available on SBA's intranet. SBA supplied GAO with a draft version of the compliance guide. As GAO recognizes in the report, the Compliance Guide has step-by-step instructions on how to perform the compliance review, how to maintain the Compliance Review Portfolio Workbook, and where to store documents. SBA notes that SBA stores information for every prime contractor's compliance review in a designated Federal Government contract file. Contrary to GAO's statement, SBA has comprehensive documents and records for its FY2019 compliance reviews.

¹ SOP 60 03 7, Subcontracting Assistance Program Post Award, "Chapter 3: Accessing Compliance with the Subcontracting Program."

(5) It lacks documentation for almost all compliance reviews conducted in 3 of the 4 fiscal years from 2016 through 2019, has not fully implemented revisions to the compliance review process and has not yet developed procedures for ensuring clear and consistent records of all compliance reviews are documented and maintained. (Conclusions)

SBA acknowledges that it could not provide requested documentation for compliance reviews conducted during the period FY2016-FY2018; this requested data was saved by employees on their local computers and, despite efforts to retrieve data by Government Contracting Area Offices, the requested data could not be located. However, SBA maintains full documentation for compliance reviews performed in FY2019. This is because SBA has, in fact, developed detailed procedures for maintaining consistent records for compliance reviews. These procedures already are in place, and CMRs are using them now. SBA will finalize the procedures on May 29, 2020 to ensure that SBA continues to fully document its compliance reviews.

Thank you for giving SBA the opportunity to comment on the draft report and for taking SBA's comments into consideration.

Sincerely,

David Wm. Loines

David Wm. Loines
Director
Office of Government Contracting

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Appendix VI: GAO Contact and Staff Acknowledgments

GAO Contact:

William B. Shear, (202) 512-8678, or shearw@gao.gov

Staff Acknowledgments:

In addition to the contact named above, Andrew Pauline (Assistant Director), Tarek Mahmassani (Analyst in Charge), Suellen Foth, Jonathan Harmatz, Julia Kennon, Jill Lacey, Yola Lewis, John McGrail, Marc Molino, and Barbara Roesmann made key contributions to this report.

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