

CLIENT ALERT

FAR Updated to Conform with Prior SBA Changes to its Regulations

Sep.16.2021

On August 11, 2021, the Department of Defense, General Services Administration, and National Aeronautics and Space Administration issued two final rules updating the Federal Acquisition Regulation to implement provisions from past National Defense Authorization Acts that the Small Business Administration has already implemented in its own regulations.

In 2016, the SBA implemented the new statutorily-required limitations on subcontracting at 13 C.F.R. § 125.6. Effective September 10, 2021, FAR part 19 now reflects the new methodology for calculating compliance with the limitations on subcontracting. For contracts that are set-aside or awarded on a sole source basis due to size and/or status, the contractor may not subcontract more than a certain percentage of the work to subcontractors that are not similarly situated. The [final rule](#) revises FAR 52.219-14 as well as adds a new clause, FAR 52.219-33, regarding the nonmanufacturer rule.

In 2019, the SBA updated 13 C.F.R. § 125.3 to provide further direction to contracting officers on what it means for a contractor to make a good faith effort to comply with a small business subcontracting plan and to require that goals in commercial subcontracting plans include indirect costs. Effective September 10, 2021, the [final rule](#) updates FAR part 19 to conform to these changes.

To read in-depth analyses about the limitations on subcontracting final rule click [here](#) and good faith efforts in subcontracting click [here](#).

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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