



August 4, 2020

Defense Acquisition Regulations System  
Attn: Ms. Carrie Moore  
OUSD(A&S)DPC/DARS  
Room 3B941  
3060 Defense Pentagon  
Washington, DC 20301–3060

Submitted via Regulations.gov

Subject: DFARS Case 2018–D063

Dear Ms. Moore:

The Project On Government Oversight (POGO) opposes the Defense Department’s proposed rule, “Defense Federal Acquisition Regulation Supplement: Data Collection and Inventory for Services Contracts” (DFARS Case 2018–D063).<sup>1</sup> POGO is a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and when the government fails to serve the public or silences those who report wrongdoing. We champion reforms to achieve a more effective, ethical, and accountable federal government that safeguards constitutional principles.

The Department of Defense is proposing to amend the Defense Federal Acquisition Regulation Supplement to implement 10 U.S.C. 2330a, as amended by section 812 of the National Defense Authorization Act for fiscal year 2017.<sup>2</sup> This proposed rule will require contractors to report data in the System for Award Management on an annual basis when they are awarded a Department of Defense contract or task order that is valued in excess of \$3 million and is for logistics management services, equipment-related services, knowledge-based services, or electronics and communications services. Covered contractors had previously been required to report data if they received contracts in excess of \$250,000 a year. Moreover, covered contractors will only be required to report: (1) the total dollar amount invoiced for, and (2) the total number of direct labor hours—which includes both the contractor’s hours and its subcontractors’ hours—expended on services performed under the contract or task order during the preceding fiscal year.

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<sup>1</sup> 85 Fed. Reg. 34,569 (proposed June 5, 2020). <https://www.govinfo.gov/content/pkg/FR-2020-06-05/pdf/2020-11754.pdf>

<sup>2</sup> Pub. Law 114-328, Sect. 812.

For years, POGO has urged the Defense Department to strengthen service contractor inventory reporting.<sup>3</sup> Instead, this proposed rule further limits the collection of information that would help the government keep track of how much it spends on services each year.

The proposed rule will decrease the utility of service contract inventories, which have been limited to “staff augmentation contracts and contracts closely associated with inherently governmental functions on behalf of the Department of Defense.”<sup>4</sup> Considering that “staff augmentation” only means “personnel who are physically present in a Government work space on a full-time or permanent part-time basis,”<sup>5</sup> we are concerned that the inventories will provide little to no useful information because many contractor personnel work at contractor-run facilities. Additionally, the proposed rule will prevent the department from adopting the Enterprise-wide Contractor Manpower Reporting Application (ECMRA) even though it would greatly improve budgeting and manpower decisions and mission and readiness capabilities.<sup>6</sup>

Including research and development spending, service contract spending by the department exceeded \$190 billion in fiscal year 2019.<sup>7</sup> Without reliable and accurate service contract data, how can anyone hold the department accountable for complying with requirements for submitting accurate budget requests? Additionally, how are taxpayers to know whether their money is expended in a cost-effective fashion? How can anyone expect the Defense Department to abide by the federal law requiring it to “establish policies and procedures for determining the most appropriate and cost-efficient mix of military, civilian, and contractor personnel to perform the mission of the Department of Defense”?<sup>8</sup>

POGO is not alone in criticizing the Defense Department’s lack of movement in improving its service contracting inventories. In November 2014, the Government Accountability Office (GAO) found that the Defense Department was struggling to meet service contract inventory mandates because of a “lack of accurate and reliable data” and because “military departments have not developed plans or enforcement mechanisms to use the inventory of contracted services to inform strategic workforce planning, workforce mix, and budget decision-making processes, as statutorily required.”<sup>9</sup>

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<sup>3</sup> Letter from Project On Government Oversight to Secretary of Defense Chuck Hagel, “POGO Highlights GAO Report and Documented DoD Failures in Hiring a Cost-Efficient Workforce,” October 17, 2013. <https://www.pogo.org/letter/2013/10/pogo-highlights-gao-report-and-documented-dod-failures-in-hiring-cost-efficient-workforce/>; Letter from Project On Government Oversight to Secretary of Defense Chuck Hagel, “POGO Highlights DoD Effort to Kill Beneficial Service Contract Inventory System,” November 25, 2014. <https://www.pogo.org/letter/2014/11/pogo-highlights-dod-effort-to-kill-beneficial-service-contract-inventory-system/>

<sup>4</sup> 10 U.S.C. § 2330a(c)(1).

<sup>5</sup> 10 U.S.C. § 2330a(h)(6).

<sup>6</sup> Letter from POGO to Secretary of Defense on Pentagon effort to kill beneficial service contract inventory system [see note 3].

<sup>7</sup> “Advanced Search,” USAspending, data for Department of Defense, fiscal year 2019, as of July 31, 2020. <https://www.usaspending.gov/#/search/cc1bd9cddcfda547cd6516e2ac9dc27b>

<sup>8</sup> 10 U.S.C. § 129a(a).

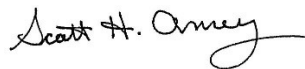
<sup>9</sup> Government Accountability Office, *Defense Contractors: Additional Actions Needed to Facilitate the Use of DOD’s Inventory of Contracted Services*, GAO-15-88 (November 2014), Summary, 22. <https://www.gao.gov/assets/670/667059.pdf>

In 2016, GAO found that little had changed at the Defense Department, finding that the “military departments generally have not developed plans to use the inventory of contracted services to inform workforce mix, strategic workforce planning, and budget decision-making processes,” as statutorily required.<sup>10</sup> The continued “delays hinder the department’s ability to use the inventory of contracted services as intended,” GAO concluded.<sup>11</sup>

Rather than meet current standards and provide useful information to the agency, the department wants to avoid collecting any data that is essential in making improved workforce decisions and getting the best results for taxpayers. This is particularly critical for the Defense Department, which is the government’s largest contracting agency and relies on contractors to provide a wide array of services. The proposed rule’s increasing the reporting threshold to \$3 million, limiting the reporting requirement to contracts for just four categories of services, and reducing the quantity of data collected from contractors will significantly hamper oversight of contractors and all efforts to truly understand the work performed by, and the cost of relying on, contractors.

If you have any questions, I can be reached at [scott@pogo.org](mailto:scott@pogo.org).

Sincerely,



Scott H. Amey  
General Counsel

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<sup>10</sup> Government Accountability Office, *DOD Inventory of Contracted Services: Timely Decisions and Further Actions Needed to Address Long-Standing Issues*, GAO-17-17 (October 2016), 19.  
<https://www.gao.gov/assets/690/680709.pdf>

<sup>11</sup> Government Accountability Office, *DOD Inventory of Contracted Services*, 19 [see note 10].