

Advocacy Submits Comments on the Defense Federal Acquisition System, Department of Defense, Proposed Rule on Prompt Payment to Small Business Contractors

- On May 31, 2019, the Defense Federal Acquisition System (DFARS) published a proposed regulation to implement Section 852 of the National Defense Authorization Act for Fiscal Year 2019 that provides for accelerated payments to small business contractors and subcontractors.
- The Office of Advocacy (Advocacy) has supported accelerated payments to small businesses, prime and subcontractors. The statute and this proposed rule are positive steps forward.
- On July 30, 2019 the Advocacy submitted a comment letter that urges the DFARS Council to revisit and revise the Initial Regulatory Flexibility Analysis (IRFA) to ensure that proper alternatives are considered, as required by the Regulatory Flexibility Act.
- The IRFA that accompanies the proposed rule lacks required elements that would provide small businesses with an adequate amount of information to determine the impact of the rule.
- The proposed rule states that according to an expert one percent of contractors including 308 small businesses would be denied accelerated payments because such payments would put DOD at risk of potentially violating the law. The proposed regulation does not provide clarity as to who are the 308 small businesses nor is there and guidelines for small businesses to follow to avoid being a part of the 308 businesses.

