

# Appendix 6 - Thematic reviews

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# 1. Submission of the end of contract reports

- 1.1 There are two reports required at the end of a contract: the CCR; and the CCS. The timing of these reports is fixed by reference to the contract completion date. The Regulations require the primary contractor to provide a CCR within six months after the contract completion date, and a CCS within 12 months after the contract completion date.
- 1.2 Information included in the CCR can be considered under the broad categories of deliverables; payments; costs, profits and adjustments; material events and circumstances; and sub-contracts. The CCS contains an annual profile of the actual Allowable Costs. This must show the information in relation to: all purchased items, services and expenses that are direct costs (including payments to sub-contractors); any other direct costs; total actual costs that the contractor claims are Allowable Costs; and all indirect costs, showing each cost recovery rate charged and the amount of the cost recovery base.
- 1.3 The SSRO's compliance methodology states that *"Where an expected contract report... is not submitted, the SSRO will attempt to contact the contractor... within five working days of the expected submission date and notify the MOD of the delay at the same time.... The SSRO will monitor the status of outstanding submissions and provide an update to the MOD at regular intervals"*.
- 1.4 As at the cut-off date for this report of 30 June 2021, reporting plans submitted by contractors on DefCARS detailed that a total of 25 out of 88 (28 per cent) end of contract report submissions (13 CCR and 12 CCS) were due by 30 April 2021 but had not been submitted. These 25 submissions were due across 15 individual contracts, from 14 contractors.
- 1.5 Table 1 summarises the length of delay for the 25 outstanding submissions for each end of contract report type, based on the reporting plan data.

**Table 1: length of delay by end of contract report type for outstanding submissions, based on the reporting plan data**

Report type	Length of delay				
	0-3 months	4-6 months	7-9 months	10-12 months	13+ months
CCR	2	0	3	1	7
CCS	4	1	2	1	4

- 1.6 Our thematic review in relation to the missing end of contract reports set out to consider:
  - what correspondence, if any, had been had with contractors to date;
  - whether the MOD's Contract, Purchasing and Finance (CP&F) system provided any indication of why the submissions may still have been outstanding;
  - what proportion of the end of contract reports were missing by price;
  - whether any prior submissions had been received in relation to the contracts where the end of contract reports were missing; and
  - what enforcement action, if any, had been taken by the MOD over the missing reports.
- 1.7 In every case, the SSRO has made contact with the contractor about the outstanding submission. Depending on the length of delay, some contractors had been contacted on multiple occasions and the MOD has been kept regularly updated with the correspondence.

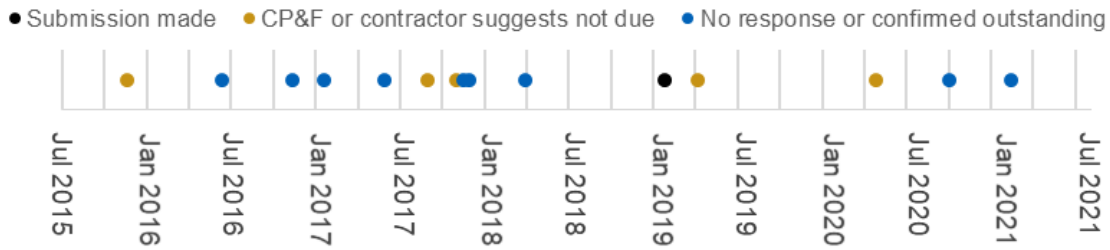
- 1.8 For 13 of the 25 outstanding reports (52 per cent), the SSRO received a response from the contractor when the delay was queried:
- in six cases the contractor reported that the contract completion date had been extended from that originally reported on DefCARS. For four of these, this reconciled to information detailed on the MOD's CP&F system, but in two cases the contract completion date was missing from CP&F. In each of the six cases the contractors noted that an on-demand contract reporting plan was required to make clear when subsequent submissions would be made, but have not updated the reporting plans in DefCARS;
  - in four cases the contractor stated that the submission of completion reports will be made, but have failed to do so; and
  - in three cases the completion report submissions were made after the cut-off date for analysis of 30 June 2021. One of these submissions was made following a compliance notice from the MOD. One other contractor has submitted a report, but has failed to include the full information required under the legislation.
- 1.9 For the remaining 12 outstanding reports, no response to our correspondence has been received from the contractor:
- our thematic review has identified that in one of these cases CP&F details a completion date that is different to DefCARS, although we are aware that the definition of 'contract end date' for reporting within CP&F is not the same as that set out in the legislation. While this indicates that the contract has been extended, no such confirmation has been received from the contractor directly; and
  - of the remaining 11 cases there is no evidence to suggest that the contract completion date reported in DefCARS is incorrect. One compliance notice was issued by the MOD in relation to one of these reports, however this submission has remained outstanding beyond the reporting timescale set out in the notice.
- 1.10 Excluding the cases where the contractor or CP&F data has indicated that a contract has been extended, or where a submission was made after the cut-off date, a total of 15 reports (8 CCR and 7 CCS) across nine individual contracts remain outstanding. Table 2 details the proportion of missing contracts, by the total number expected and also by contract price. This shows that the reporting plans with respect to completion reports for contracts with a combined price of over £150m are incorrect, and that information is missing in relation to contracts with a combined price of over £176m.

**Table 2: proportion of missing completion reports, by the total number expected**

	Submission made after cut-off date	CP&F or contractor suggests not due	No response or confirmed outstanding	Total
Number of completion reports missing	3	7	15	25
% of all completion reports which are missing	3%	8%	17%	28%
Contract price	£16.12m	£150.83m	£176.93m	£343.88m

1.11 Across the contracts that were considered in this thematic review, Figure 1 details where, if applicable, any previous submission had been received from the contractor in relation to the contracts with missing completion reports. This demonstrates that in a number of cases it has been at least two years since any other submission in relation to the contract was made in DefCARS.

**Figure 1: previous submissions received in relation to contracts with missing completion reports**



1.12 Other than the two compliance notices detailed above, there has been no further enforcement action by the MOD on these delayed end of contract submissions. In nine cases (five CCR and four CCS), where the reports have been outstanding for over 12 months, the MOD has confirmed to the SSRO that it is not expecting the statutorily required reports to be submitted, nor is it intending to take any enforcement action against the contractor in these cases.

## 2. Strategic Industry Capacity Report (SICR)

2.1 The SICR provides a long term view of a key supplier's capacity and overheads relevant to the MOD's current and future single source requirements. The SICR is concerned with forward planning and must include prescribed information specified in the legislation which is split into four areas:

- Regulation 41: Corporate structure;
- Regulation 42: Activities, people and infrastructure;
- Regulation 43: Forecast costs of maintaining industrial capacity; and
- Regulation 44: Capacity and supply chain.

### Contract value threshold

- 2.2 Supplier reports consist of the SICR, overhead reports and the Small and Medium Sized Enterprise (SME) Report which are set out in Part 6 of the Regulations.
- 2.3 The requirement to submit supplier reports only arises if a contractor or someone in the contractor's group is party to at least one QDC or QSC with a value at or above the threshold of £50 million. It is not the total value of a contractor's or group's contracts that triggers the requirement for supplier reports, but rather the existence of at least one contract that has a value that meets or exceeds this threshold.
- 2.4 The requirement to submit supplier reports applies for a financial year in which the contract value threshold is met. This requires that there are obligations outstanding for the supply of goods, works or services under any one of the contractor's QDCs or QSCs that satisfies the value threshold at any time in the relevant financial year.

### 2019/20 SICR submissions

- 2.5 A SICR submission becomes due:
- 12 months after the end of the time period for the designated person's financial accounting statements ending on any day within the relevant financial year, or
  - 12 months after the date on which the ongoing contract condition was first met in relation to the financial year, whichever of (a) or (b) is later, or
  - A date agreed by the Secretary of State within six months after the date in (a).
- 2.6 For the 2019/20 financial year the SSRO expected to receive 28 SICR submissions in 2020/21 based upon QDCs and QSCs submitted with a value of £50m or more. The SSRO, as at July 2021, received and reviewed 12 SICRs relating to the 2019/20 financial year and two reports relating to 2018/19. Further details are contained in Table 3 below:

**Table 3: SICR Timeliness**

Reporting financial year	Reports expected	Submitted on time	Not submitted on time	Late but now submitted	Remain overdue
2019/20	28	8	20	4	16

- 2.7 Section 25(8) of the Act states the Secretary of State may direct that a particular contract is not to be taken into account in determining whether the ongoing contract condition is met in relation to a financial year. The MOD advised that it had exempted some contractors from making SICR submissions. We have not received details of such exemptions. It is not clear that the contractors have been exempt using the available mechanism under section 25(8) of the Act. That would involve also exempting the contractors from submitting overhead reports and SMERs but we can see evidence of some of those other reports being submitted in three cases.
- 2.8 Some UPUs are based overseas and the SSRO understands that legislative restrictions within some countries may prevent the submission of a SICR due to the sensitivity of the information contained within it. Such a situation may fall within the definition of a 'relevant restriction' under Regulation 46 and may explain why some of the 16 outstanding SICR submissions for the 2019/20 financial year were not submitted. Some UPUs based overseas have still managed to submit SICRs by restricting the level of information to that which is attributable to their UK operations.

## **SICR Review Findings**

- 2.9 During 2021, 14 SICR reviews were undertaken which included the 12 submissions relating to 2019/20 and a further two submissions relating to the 2018/19 financial year that were submitted late.

## **Submissions and formats**

- 2.10 Regulation 33(5) states all reports relating to overheads and forward planning must be provided to the Secretary of State and to the SSRO. Contractors can access a SICR submission policy from the SSRO Helpdesk that confirms the submission must be provided to both parties. This was not always the case requiring the SSRO and SSAT to compare the SICR submissions each had received.
- 2.11 SICR submissions are made outside of DefCARS, so the document formats that contractor's use varies. From the 14 SICR reviews undertaken seven were in Portable Document Format (PDF), four in Microsoft Excel and three in Microsoft Word formats.
- 2.12 The ten SICR submissions in PDF or Microsoft Word formats tended to more comprehensively address the reporting requirements over those who submit in Microsoft Excel, although this was not always the case. Whilst the number of pages in a SICR does not necessarily correspond with compliance with reporting requirements, PDF and Microsoft Word versions ranged from 7 to 191 pages.
- 2.13 One contractor used Microsoft Word to submit their SICR and embedded a Microsoft Excel sheet for each business to provide their responses to Regulations 42 to 44. Whilst this is acceptable, the format of each Microsoft Excel sheet differed for each business within the Group making the review of the SICR more difficult.
- 2.14 Nine contractors mapped the reporting requirements against the information supplied within their SICR, in a consistent, comprehensive, easy to understand manner that made the document easy to follow and check for compliance. Using Microsoft Excel does seem to provide an easier method to map the reporting requirements against the SICR submission, as demonstrated by all four of the Microsoft Excel submissions we received. Whereas with the ten PDF and Microsoft Word formats, two contractors simply used Regulations 40 to 44 as sub-titles and three contractors provided no mapping at all in their SICR submissions.

- 2.15 Including published annual accounts, corporate training or graduate/apprenticeship brochures is acceptable as supplemental information, but some contractors attach or embed such information rather than preparing a standalone document focused on the regulatory requirements. There have been a number of issues with this. Some contractors refer to attachments that were not included with or within the submission, one contractor supplied hyperlinks to internal systems that we could not access. Another contractor provided embedded documents in a number of the appendices to the SICR, which the SSRO could not access. The same contractor's SICR contained an appendix that was titled correctly but contained no information other than "unknown error".
- 2.16 Some contractors have supplied a minimum amount of data which does not, on the face of it, provide sufficient detail to meet the regulation requirement. One contractor referred to their QBUCAR submission to satisfy the SICR requirements under Regulation 43 in relation to forecast costs of maintaining industrial capacity.

### **SICR requirements completed comprehensively**

- 2.17 Regulation 41 requires corporate structure information and with the exception of one SICR submission, all contractors endeavoured to meet these reporting requirements. Regulation 41(f) was the most inconsistent area that is explained in more detail below.
- 2.18 Disclosure of undertakings under Regulation 41(a) and (b) were best answered by those contractors that provided a table where columns were used to provide the breakdown required by Regulation 41(b) and rows for each undertaking.
- 2.19 The identification of Qualifying Business Units (QBUs) within Regulation 41 was sufficiently completed by contractors. Although one contractor provided consistent reporting requirements against a number of businesses, but explained that not all of those businesses were QBUs but were included to provide a full picture. This made it difficult to identify which businesses were QBUs. It is difficult for the SSRO to cross check whether the supplied information on QBUs is correct.
- 2.20 Regulations 42 to 44 can apply to multiple businesses and therefore the format adopted to presenting these reporting requirements for both the use of SICRs and checking for compliance is important. Submissions that used tables where column headings were used for each business and each row represented a reporting requirement was the easiest to read. The alternative methods adopted by contractors was to provide written submissions either by each business or by each reporting requirement, both of which were less user friendly.
- 2.21 Regulation 42 and Regulation 44 whilst contained more discrepancies than with Regulation 41, were still adequately compliant in most submissions.

### **Inconsistencies identified within submissions**

- 2.22 The SSRO has not historically raised compliance issues with contractors in relation to SICR submissions, instead raising them with the MOD directly. We are, however not aware of any UPU's receiving feedback on their SICR submissions from the MOD. This results in data quality issues that lead to utility problems as the data is not available to the MOD when required by statute. During the review of the 14 SICR submissions there were a number of compliance issues where contractors have missed a regulation or a specific requirement(s) within a regulation.

- 2.23 Regulation 41(f) requires a description of any anticipated change to the corporate structure of the designated person and any undertakings associated with it, including mergers or acquisitions, that may affect the performance of any qualifying defence contract, any qualifying sub-contract or any other defence contract. The majority of SICRs simply stated “there are no anticipated changes” or used words to that effect. Two contractors provided a description of anticipated changes, but did not explain the impact on the performance of any contracts. Two contractors did not address this requirement.
- 2.24 Six contractors did not comply with Regulation 42(2) where key infrastructure on the site and the extent to which the capacity available on site has been used are required to be presented in categories of qualifying defence contracts or qualifying sub-contracts, other defence contracts and all other contracts.
- 2.25 Compliance with Regulation 43 ‘forecast costs of maintaining industrial capacity’ seemed to be a problematic area. Regulation 43(2)(a), (b) and (c) can be summarised as requiring the following, and must be presented using the following categories: (i) QDCs and QSCs; (ii) other defence contract; and (iii) all other contracts:
- description of forecast costs for the five years;
  - anticipated changes in accounting policies or business practices that could affect those costs;
  - forecast labour requirements for the five years; and
  - estimate cost recovery rates for each QBU over 5 years.
- 2.26 There was a mix of contractors whose submissions met the requirements in full; provided the information but for a time period of less than five years with no justification/explanation; provided the financial information at a QBU level but not broken down into the prescribed categories; or did not provide any information to satisfy the requirement.
- 2.27 Regulation 43(2)(d) requires contractors to provide for each QBU or site a description of any policy to employ graduates or apprentices, to provide staff bonuses or for training and development of personnel and the approximate cost of the policy, presented using the categories: (i) QDCs and QSCs; (ii) other defence contract; and (iii) all other contracts. Compliance ranged from meeting the requirement to not providing anything at all. Some contractors provided the description but no approximate costs, whereas others provided approximate costs but it was not presented in the required categories. As referred to earlier, this requirement was also affected by supplemental information attached that we could not access and a reference to a contractor’s previously submitted QBUCAR.
- 2.28 In total ten contractors did not provide the information required under Regulation 43 in the prescribed categories, which may indicate that contractor’s financial systems are simply unable to divide such information in this way.
- 2.29 Regulation 44(e) refers to plans for material investment in people, skills or infrastructure in order to deliver current committed work and planned future contracts, including the approximate costs of those plans. Two contractors did not provide any information relating to this requirement, and another two contractors included descriptions but no such costs. A number of contractors simply stated “No”, “N/A” or “no significant initiatives underway” for some of their businesses whilst providing the information required where it was applicable to the remaining businesses.



- 2.30 Regulation 44(f) requires a description of all persons party to a contract with the designated person for contracts over £25m. Many contractors complied by listing their suppliers along with the values. One contractor listed their suppliers with no values. It could be assumed that the suppliers listed were all over £25m, but without the values it is difficult to understand whether the requirement was met. Two contractors did not provide any information to satisfy this requirement.
- 2.31 There were further areas throughout Regulations 41 to 44 that were not adequately answered or missed entirely, but these were isolated incidents and therefore not included here.
- 2.32 Where reports have been submitted it is clear that UPU's have strived to meet the reporting requirements, but it is unclear whether two of the suppliers who had made submissions had genuinely sought to comply with the reporting requirements. SICRs are not submitted in DefCARS and as a result UPU's have used different formats to produce the report, meaning the submissions are made in a varying manner that is difficult to analyse.
- 2.33 We found areas of SICR submissions that were incomplete or where the regulatory requirements had not been addressed. Compliance with the requirements of Regulation 43 were a particular area of concern. UPU's often use the previous year submission as a template for the new submission, and as such inconsistencies and errors are repeated year on year. Contractors need to ensure embedded documents, hyperlinks and attachments that are included can be opened.

### 3. Review of validation rules

- 3.1 DefCARS is designed to allow contractors to input data in an efficient way so it is in-line with legislative requirements. Where data has been entered incorrectly or appears to not be in-line with legislation, DefCARS will automatically flag validation errors and warnings to alert contractors to review and correct data that has been entered before making the submission. We have implemented over two hundred [validation rules](#) since the system first went live, focusing on the areas where contractors had consistently made errors in submissions. Contractors can validate the whole report and review validation errors and warnings at any stage before submission. Acting on validation warnings prior to making the submissions allows a contractor to improve the quality of the submission being made at first attempt.
- 3.2 We selected four validation rules to review to determine their effectiveness since implementation. We analysed data from March 2017 when the system was introduced, up to June 2021 to determine whether the number of compliance issues had reduced.
- 3.3 The four rules chosen were applicable in the following DefCARS report pages:
- Summary Analysis of Price: Reporting of the Risk Contingency Element within the Allowable Costs Total, implemented on 11 November 2020. The Risk Contingency total in the 'Summary Analysis of Price' page should be consistent with the Risk Contingency amount reported in the 'Profit' page. Where this is inconsistent, a validation warning will be flagged;
  - Sub-contracts: Reporting of whether there are any sub-contracts, implemented on 11 November 2020. Within the 'Sub-contracts' page, a validation warning will flag if the contractor has not selected 'Yes' or 'No' to confirm whether there are any sub-contracts to be reported;
  - Sub-contracts: if applicable, ensuring that all fields in relation to the sub-contracts are completed, implemented on 13 December 2019. Where a sub-contract(s) is required to be reported on, all of the applicable information in relation to that subcontract such as the company number, its registered address, and whether it is an associated company needs to be completed. A validation warning will flag if any of these information requirements are missing; and
  - Financial quarters: In QCR submissions, the selection of the relevant financial year in the 'Quarter' page generates a profile of quarterly information that needs to be completed, implemented on 11 November 2020. Where the incorrect financial year is selected, the quarterly profile generated by the system will relate to an incorrect set of financial years. A validation warning flags where relevant government financial year selected appears to be out of line with timeframe that the QCR submission is being made for.
- 3.4 Table 4 shows the percentage of reports with issues being raised under each of the four areas pre-validation, and the percentage of individual issues being raised post-validation.

**Table 4: percentage of issues being raised pre and post the introduction of validation rules**

	Risk Contingency inconsistent	Sub- Contract 'Y/N'	Sub-Contract Completion of fields	Incorrect financial year selection
Issue rate pre-validation	1.5%	1.2%	2.0%	0.4%
Issue rate post-validation	0.5%	0.5%	1.6%	0.0%

3.5 It can be seen from Table 5 that issues across each of the categories decreased after the validation rules were introduced. Some issues, however, continued to be raised on submissions after the validation rules were introduced. Table 8 details the number of issues raised in the period from validation implementation to 30 June 2021, by the SSRO or the MOD.

**Table 5: number of issues raised post-validation introduction from validation implementation to 30 June 2021, by the SSRO or the MOD**

Validations	Issues raised by the SSRO post-validation	Issues raised by MOD post-validation	Notes
Risk Contingency inconsistent between profit page and summary analysis of price page	2	0	In both cases, subsequent submissions corrected for the issues identified.
Sub-Contract 'Y/N'	1	1	In one case the issue was responded to and subsequently closed by the SSRO. In the other case the issue was not responded to by the contractor.
Sub-Contract Completion of fields	13	1	In 12 cases, subsequent submissions corrected for the issues identified. In the remaining two cases, the issues have not been responded to by the contractor.

3.6 Post-validation compliance issues have decreased across the four areas that have been reviewed. In some cases, however, it appears that the validation warnings have been ignored prior to initial submission as subsequent submissions have rectified pre-warned data quality issues. We cannot be certain that the introduction of the validation rules is the sole reason for the decrease in compliance issues being raised. Other factors may have contributed to this decrease, for example the SSRO highlights during DefCARS demonstrations with contractors key areas where frequent issues are raised in DefCARS.

## 4. Review of Contract Profit Rate (CPR)

- 4.1 A contractor is required by regulation 23(2)(d) to describe the calculation that was made under Regulation 11 to determine the contract profit rate, including all adjustments that were made under steps 1 to 6 in its CPS submission. The contract profit rate should be the output of the six step process as required by regulations 10 and 11:
- Step 1 – Baseline Profit Rate (BPR)
  - Step 2 – Cost Risk Adjustment (CRA)
  - Step 3 – Profit On Cost Once Adjustment (POCO)
  - Step 4 – Single Source Regulations Office funding adjustment
  - Step 5 – Incentive Adjustment
  - Step 6 – Capital Servicing Adjustment (CSA)
- 4.2 Our thematic review in relation to the contract profit rate information set out to consider the following in relation to the six step contract profit rate calculations that had been submitted between the period 1 April 2015 to 30 June 2021, for QDCs/QSCs entered into by 31 March 2021:
- The number of contracts that had been priced with a contract profit rate that was not based on the six steps; and
  - Whether contractors were meeting their reporting requirements by correctly reporting the six step contract profit rate calculation that had been applied.
- 4.3 As of 30 June 2021, a total of 359 QDCs/QSCs met the criteria described above and were considered as part of the analysis. This included reports from the current system and some older reports which had been submitted in the previous system.
- 4.4 Out of the 359 contracts, a total of 99 contracts were initially identified as showing inconsistencies in the contract profit rate calculation. A profit rate inconsistency could be any of the six steps not being in accordance with the legislative requirements e.g. incorrect BPR rate used for the financial year the contract became a QDC or QSC. The SSRO performed further analysis on the 99 contracts identified, including reviewing compliance queries that had been raised on submissions, to determine whether there were actual contract profit rate inconsistencies. Through a review of the submissions and of the queries that had been raised with contractors, we determined that 43 of the 99 contracts could be excluded as having a potential error on the six steps. Table 6 explains why these 43 contracts were excluded from any further analysis:

**Table 6: Breakdown of contracts excluded from analysis**

Issue	Total number	Notes
Contract profit rate blended in DefCARS	30	<p>In these cases, contractors had reported blended contract profit rates primarily to take into account sunk or committed costs and profit but the regulatory framework requires that the whole contract price must conform to the price formula and statutory contract reports need to cover the contract period in respect of the entire contract.</p> <p>The SSRO has issued guidance to contractors on how to meet reporting requirements by better explaining in its guidance how contractors should report sunk and committed price elements when a contract has become a qualifying contract following an amendment. We have also issued a recommendation to the Secretary of State as part of our <a href="#">review of legislation recommendations</a> that costs incurred or committed prior to a contract being brought into the regulatory framework, and associated profit, should not be subject to the price formula.</p> <p>Additionally, the SSRO is currently undertaking a significant project with the aim of updating our guidance and DefCARS to support analysis of quantitative and qualitative segmented information about contract amendments and variances.</p>
Incorrect reporting of date the contract was entered into	2	<p>In two cases, the baseline profit rate for the year the contract was actually entered into was correct, however the contractor had reported the incorrect year as part of the submission and had not subsequently updated the submission.</p>
Incorrect reporting of the six steps	1	<p>In one case, in an earlier submission the six steps had been correctly reported. The contractor had made a correction report which had summed the six steps into a single figure. The contractor had not subsequently updated the report.</p>
Reporting of the POCO adjustment	7	<p>In these cases, the contractors had reported a POCO adjustment that had not been calculated in line with the SSRO's statutory guidance on adjustments to the baseline profit rate as they were unable to identify the attributable sub-contract profit.</p> <p>We have issued a recommendation to the Secretary of State as part of our <a href="#">review of legislation recommendations</a> that legislative changes are made to make the POCO adjustment operate more efficiently, including providing that where the parties are unable to identify the attributable profit in a subcontract, they should base the adjustment on an assumed profit rate equivalent to the contract profit rate of the qualifying contract.</p>
Rounding of the CPR	3	<p>In three cases the reported CPR was different to the sum of the six steps, but this was due to minor rounding differences only.</p>
<b>Total</b>	<b>43</b>	

- 4.5 Table 7 demonstrates the breakdown of the inconsistencies under each of the six profit rate steps for the remaining 56 contracts alongside the total value of these contracts. This table also identifies how many of these inconsistencies occurred in the 2020/21 financial year. A number of inconsistencies were identified with the sum of the six steps not equalling the reported contract profit rate and the incorrect baseline profit rate being used.

**Table 7: Inconsistencies identified in the contract profit rate calculation**

Issue arising	Total number of contracts including those from 2020/21	Total value of contracts including those from 2020/21	Number of contracts in 2020/21	Value of contracts in 2020/21	Impact (+ve) across all years	Impact (-ve) across all years
The sum of the six steps overwritten with a CPR that was agreed with the MOD. <sup>1</sup>	11 (3%)	£157m	5	£64m	£0.06m	-£0.46m
Components of the contract were priced with a different CPR. <sup>2</sup>	18 (5%)	£1,012m	3	£187m	£0.52m	-£2.34m
CRA reported over 25% of the BPR	2 (0.5%)	£1,479m	0	£0	£2.68	£0
The reported CSA value is different to the calculated CSA value using the DefCARS calculator. <sup>3</sup>	14 (4%)	£814m	6	£95m	£2.14m	-£1.10m
Incorrect financial year rate used for the BPR. <sup>4</sup>	11 (3%)	£305m	3	£92m	£1.58m	-£3.19m
<b>Total number of contracts with at least one of the above issues</b>	<b>56 (15%)</b>	<b>£3,767m</b>	<b>17</b>	<b>£438m</b>	<b>£6.98m</b>	<b>-£7.09m</b>

1 Six-steps, where known, used to calculate impact.

2 Reported six-steps used across entire contract to calculate impact.

3 CSA calculator figure used to calculate impact.

4 Relevant BPR for year used to calculate impact.

## Analysis of issues arising

- 4.6 Out of the 56 contracts identified to have inconsistencies with the six step profit calculation there were five key categories of issue identified by the SSRO with these contracts, in:
- 11 cases, contractors reported that they had agreed the CPR with the MOD. In five of these cases, the contractor had reported the six step CPR calculation which would have been applicable had the legislation been followed to price the contract, but in the other six cases the contractor reported that the six steps were not followed at all;
  - 18 cases, the contractors reported that components of the contract had been priced with a rate different to that calculated using the six steps. These included cases where the contractor had offered a 'discount' to the MOD for part of the contract, or where commercially priced items had been included within the contract price;
  - two cases, the CRA reported by the contractor was above the maximum +25% of the BPR allowed for under the legislation;
  - 14 cases, the CSA calculation included within DefCARS did not reconcile with the CSA rate used within the contract. This was either because the contractor had used capital servicing rates that were not applicable at the time the contract was entered into, or because a different CSA had been negotiated with the MOD; and
  - 11 cases, the BPR used at step 1 of the six steps was not in force at the time the contract was agreed. In most of these contract negotiations had started in one year and were finalised in another, however the BPR was not updated accordingly.

## 5. Review of sub-contract information

- 5.1 As part of the reporting requirements in various reports, the regulations require the contractor to provide information on the sub-contracts which the primary contractor has entered into or intends to enter into for the purposes of enabling it to perform its obligations under the QDC or QSC. Contractors must provide a description of actual or intended sub-contracts valued at £1m or more.
- 5.2 The regulations were amended through a third Statutory Instrument (SI), applicable from September 2019, to enable greater transparency of the supply chain. From September the limit of reporting only the top 20 sub-contracts valued above £1m was removed. The SI additionally created new reporting obligations for primary contractors, relating to contracts valued at £15m or more where the prime contractor had made an assessment that the sub-contract would not be a qualifying sub-contract, to report:
- the outcome of the negative assessment;
  - confirmation of whether the award of the contract was not, or would not be, the result of a competitive process; and
  - confirmation of whether the contract enabled the performance of contracts other than a qualifying defence contract or qualifying sub-contract.
- 5.3 New fields were developed and introduced into DefCARS from December 2019 to allow contractors to report these additional requirements in a consistent, analysable manner. The information was submitted through spreadsheets in the intervening period.
- 5.4 Our thematic review in relation to the reporting of sub-contract information set out to consider the following in relation to the sub-contract information that had been submitted in the period 1 September 2019 – 30 June 2021:
- whether contractors were meeting the additional reporting requirements in all the cases where it became applicable; and
  - whether the reported information was accurate and of the kind required to provide the MOD with information on the transparency of the supply chain.
- 5.5 A total of 4,730 sub-contract entries were reported within the attachments and sub-contract page within DefCARS. Some data collection and data quality issues were identified early on in the analysis:
- There was a significant amount of duplication within the different submissions across individual contracts, prompted by legislation. The regulations require sub-contracts information in relation to:
    - i. *“each such sub-contract into which the primary contractor has entered or intends to enter...”in the CNR;*
    - ii. *“any actual or intended sub-contracts which the primary contractor has entered into, or intends to enter into, for the purposes of enabling it to perform its obligations under the qualifying defence contract...”in the ICR and CCR; and*
    - iii. *“each such sub-contract into which the primary contractor has entered in the period covered by the report, or intends to enter in the calendar quarter following the period covered by the report...”in the QCR. In these submissions, contractors had also copied information from one QCR to another rather than only report for that quarter.*



- Excluding duplicates, there were a total of 1,458 individual sub-contract entries reported, across 186 reports for 140 individual contracts. In a number of cases prime contractors had appeared to report sub-contract information at individual task or purchase order (PO) level within the 1,458 sub-contract entries. This was identified by the reporting of multiple lines for a sub-contractor for similar contract descriptions with different contract values, rather than against the sub-contract as a whole. It was not possible to categorically remove these PO and task entries from the analysis.

5.6 Within the 1,458 entries a total of 1,136 were marked as 'not a QSC', 144 as 'assessed yes' and 178 as 'not yet assessed'.

### Sub-contracts marked 'not a QSC'

5.7 A total of 75 of 1,136 entries were marked as 'not a QSC' (5 per cent of the 1,458 individual sub-contract entries reported excluding duplicates) individual sub-contracts entries were reported by the prime contractor as having a value of over £15m. All of these were subject to the additional transparency requirements set out in the third SI, however only 43 of the 75 (57 per cent) appeared to meet the requirements adequately by reporting that the sub-contract was the result of a competitive process; arose before the Act took effect; or assessed that the contract would not exceed the £25m QSC threshold. The information in relation to the remaining 32 contracts was less clear. Table 8 details the breakdown of information provided by the prime contractor for these 75 sub-contracts:

**Table 8: breakdown of information provided by prime contractors**

Breakdown	Number of sub-contract entries (£ total sub-contract value)	Notes
Competitive process	30 (£5,062m)	In four cases, contractors stated 'Not applicable' under this section on DefCARS but provided the QSC assessment as an attachment to DefCARS or as separate comments, which stated 'Competitive process' as the reason for not assessing as QSC.
Sub-contract entered into before implementation of the Act	5 (£3,126m)	In two cases, contractors left the DefCARS fields blank, but provided separate comments to confirm that the contracts were entered into before implementation of the Act.
Contract will not exceed £25m	8 (£151m)	In one case, a contractor reported the contract as more than £25m in the DefCARS page, but the attached QSC assessment confirmed that the contract was not a QSC because the value would be less than £25m.  In four other cases, contractors provided an attachment to their submission rather than completing the page in DefCARS.
Requirements under legislation not completed	28 (£1,569m)	Under sections 'Outcome of negative assessment', 'Competitive Process' and 'Enables non-qualifying contract', contractors manually input 'N/A', left blank, or '?'

Comments unclear	4 (£87m)	In four cases contractors completed the fields with commentary that did not make clear why the outcome of the QSC assessment was negative, citing discussions with their legal team for example, rather than the actual reason for the negative assessment.
<b>Total</b>	<b>75 (£9,995m)</b>	

5.8 When contractors are not completing the fields as required, this leads to data quality issues and action must be taken to eliminate this. In the 32 cases where 'N/A', 'No' '?' has been input or where the fields have been left incomplete, with total sub-contract values of £1.65bn, it is not clear if a QSC assessment has been undertaken at all and, if not, whether there may be additional contracts which meet the QSC requirements that are not being assessed as such.

#### Sub-contracts marked as 'assessed yes'

5.9 We compared the 144 (10 per cent of the 1,458 individual sub-contract entries reported excluding duplicates) entries where the prime had marked the QSC assessment as 'assessed yes' against our list of known qualifying sub-contracts. Table 9 sets out where we have been able to map the entries.

**Table 9: mapping of sub-contract entries with a positive QSC assessment against known QSCs**

Outcome of mapping	Number
Sub-contracts identified in contract reports which appear to be QSCs	135 – in some cases the same QSC relates to a number of identified sub-contracts. 41 QSCs could be mapped to these entries.
Incorrectly assessed as QSCs	4 – subsequent submissions amended the 'assessed yes' to 'not assessed as QSC'
Potentially missing QSCs from DefCARS	5 – these entries could not be mapped to a known QSC.
<b>Total</b>	<b>144</b>

5.10 As noted in the section above, a number of these entries appeared to be made at PO or task level. Out of a total of 135 entries, 45 individual QSCs were identified as already known to the SSRO. In four cases, the 'assessed yes' entry from an earlier submission had been changed on later submissions, but the original reporting error had not been corrected. This has left data quality issues within the system.

5.11 Five other entries appeared to be against individual sub-contracts that were unknown to the SSRO. Following the thematic review, we contacted the four prime contractors responsible for these five entries to confirm the status of each sub-contract. The prime contractors reported that:

- In two cases the sub-contract entries reported were confirmed by the prime contractors as being assessed as QSCs. One prime contractor also confirmed that the two sub-contractors in question had already been notified of the assessment;
- In one case the sub-contract entries were confirmed by the prime contractor as being incorrectly assessed as QSCs and these fields should not have been completed at all as the contract value was confirmed well below £15m; and
- In two cases we are awaiting a response from the prime contractor.

5.12 We have subsequently added the two additional QSCs to DefCARS and contacted the sub-contractors to make arrangements for an onboarding session. While these sub-contractors had been informed of the positive QSC assessment, they had not contacted the SSRO to be set up on DefCARS.

**Sub-contracts marked as ‘not yet assessed’**

5.13 A total of 178 (12 per cent of the 1,458 individual sub-contract entries reported excluding duplicates) entries were shown within the system as not yet having been subject to a QSC assessment. These entries related to sub-contracts with a total value reported by prime contractors as £1.738bn.

5.14 Regulation 61 sets out the requirement to undertake a QSC assessment when it is proposed to enter into a relevant sub-contract but does not impose a time limit or deadline by which either the QSC assessment must be undertaken or notice of a positive QSC assessment must be given. We have issued a recommendation to the Secretary of State as part of our [review of legislation recommendations](#) that legislative changes are made to require a QSC assessment to be completed (and any resultant positive QSC assessment to be notified to the Secretary of State and the prospective sub-contractor) before the sub-contract is entered into.