

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Ch. 1****Semiannual Regulatory Agenda**

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual Regulatory Agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in

compliance with Executive Order 12866 “Regulatory Planning and Review.” This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process. The Regulatory Secretariat Division has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

Published proposed rules may be reviewed in their entirety at the Government’s rulemaking website at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Lois Mandell, Division Director, Regulatory Secretariat Division, 1800 F Street NW, 7th Floor, Washington, DC 20405–0001, 202–501–4755 or by email at lois.mandell@gsa.gov.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of changes published in the **Federal Register** and produced electronically as Federal Acquisition Circulars (FACs).

The electronic version of the FAR, including changes, can be accessed on the FAR website at <http://www.acquisition.gov/far>.

Dated: March 21, 2023.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

DOD/GSA/NASA (FAR)—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
212	Federal Acquisition Regulation (FAR); FAR Case 2017–016, Controlled Unclassified Information (CUI)	9000–AN56
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214	Federal Acquisition Regulation (FAR); FAR Case 2019–015, Improving Consistency Between Procurement & Non-Procurement Procedures on Suspension and Debarment.	9000–AN98
215	Federal Acquisition Regulation (FAR); FAR Case 2020–005, Explanations to Unsuccessful Offerors on Certain Orders Under Task and Delivery Order Contracts.	9000–AO08
216	Federal Acquisition Regulation (FAR); FAR Case 2020–008, Prohibition on Criminal History Inquiries by Contractors Prior to Conditional Offer.	9000–AO11
217	Federal Acquisition Regulation (FAR); FAR Case 2020–010, Small Business Innovation Research and Technology Transfer Programs.	9000–AO12
218	Federal Acquisition Regulation (FAR); FAR Case 2020–016, Rerepresentation of Size and Socioeconomic Status.	9000–AO18
219	Federal Acquisition Regulation (FAR); FAR Case 2021–001, Increased Efficiencies With Regard to Certified Mail, In-Person Business, Mail, Notarization, Original Documents, Seals, and Signatures.	9000–AO19
220	FAR Acquisition Regulation (FAR); FAR Case 2021–005; Disclosure of Beneficial Owner in Federal Contracting.	9000–AO23
221	Federal Acquisition Regulation (FAR); FAR Case 2021–009, Protests of Orders Set Aside for Small Business.	9000–AO26
222	Federal Acquisition Regulation (FAR); FAR Case 2021–011, Past Performance Ratings for Small Business Joint Venture Members and Small Business First-Tier Subcontractors.	9000–AO28
223	Federal Acquisition Regulation (FAR); FAR Case 2021–016, Minimizing the Risk of Climate Change in Federal Acquisitions.	9000–AO33
224	Federal Acquisition Regulation (FAR); FAR Case 2021–017, Cyber Threat and Incident Reporting and Information Sharing.	9000–AO34
225	Federal Acquisition Regulation (FAR); FAR Case 2021–019, Standardizing Cybersecurity Requirements for Unclassified Information Systems.	9000–AO35
226	Federal Acquisition Regulations (FAR) FAR Case 2021–020, Limitations on Subcontracting	9000–AO36
227	Federal Acquisition Regulation (FAR); FAR Case 2022–004, Enhanced Price Preferences for Critical Components and Critical Items.	9000–AO41
228	Federal Acquisition Regulation (FAR); FAR Case 2022–006, Sustainable Procurement	9000–AO43
229	Federal Acquisition Regulation (FAR); FAR Case 2022–009, Certification of Service-Disabled Veteran-Owned Small Businesses.	9000–AO46
230	Federal Acquisition Regulation (FAR); FAR Case 2023–002, Supply Chain Software Security	9000–AO49
231	Federal Acquisition Regulation (FAR); FAR Case 2023–001, Subcontracting to Puerto Rican and Covered Territory Small Businesses.	9000–AO50
232	Federal Acquisition Regulation (FAR); FAR CASE 2023–003, Prohibition on the Use of Reverse Auctions for Complex, Specialized, or Substantial Design and Construction Services.	9000–AO51
233	Federal Acquisition Regulation (FAR); FAR Case 2023–006, Preventing Organizational Conflicts of Interest in Federal Acquisition.	9000–AO54
234	Federal Acquisition Regulation (FAR); FAR Case 2023–008, Prohibition on Certain Semiconductor Products and Services.	9000–AO56

DOD/GSA/NASA (FAR)—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
235	FAR Acquisition Regulation (FAR); FAR Case 2015–038, Reverse Auction Guidance	9000–AN31
236	Federal Acquisition Regulation (FAR); FAR Case 2017–005, Whistleblower Protection for Contractor Employees.	9000–AN32
237	Federal Acquisition Regulation (FAR); FAR Case 2017–014, Use of Acquisition 360 to Encourage Vendor Feedback.	9000–AN43
238	Federal Acquisition Regulation (FAR); FAR Case 2018–017, Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.	9000–AN83
239	Federal Acquisition Regulation (FAR); FAR Case 2019–009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment.	9000–AN92
240	Federal Acquisition Regulation (FAR); FAR Case 2020–011, Implementation of FASC Exclusion Orders ...	9000–AO13
241	Federal Acquisition Regulation (FAR); FAR Case 2021–012, 8(a) Program	9000–AO29
242	Federal Acquisition Regulation (FAR); FAR Case 2021–014, Increasing the Minimum Wage for Contractors.	9000–AO31
243	Federal Acquisition Regulation (FAR); FAR Case 2021–015, Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk.	9000–AO32
244	Federal Acquisition Regulation (FAR); FAR Case 2022–003, Use of Project Labor Agreement for Federal Construction Projects.	9000–AO40
245	Federal Acquisition Regulation (FAR); FAR Case 2022–011, Nondisplacement of Qualified Workers Under Service Contracts.	9000–AO48
246	FAR Case 2023–010, Prohibition on a ByteDance Covered Application	9000–AO58

DOD/GSA/NASA (FAR)—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
247	Federal Acquisition Regulation (FAR); FAR Case 2018–013, Exemption of Commercial and COTS Item Contracts From Certain Laws and Regulations.	9000–AN72
248	Federal Acquisition Regulation (FAR); FAR Case 2019–018, Federal Acquisition Supply Chain Security Act of 2018.	9000–AO01
249	Federal Acquisitions Regulation (FAR); FAR Case 2021–013, Access to Past Performance Information	9000–AO30

DOD/GSA/NASA (FAR)—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
250	Federal Acquisition Regulation: FAR Case 2016–005; Effective Communication Between Government and Industry.	9000–AN29
251	Federal Acquisition Regulation (FAR); FAR Case 2018–003, Credit for Lower-Tier Small Business Subcontracting.	9000–AN61
252	Federal Acquisition Regulation (FAR); FAR Case 2019–008, Small Business Program Amendments	9000–AN91
253	Federal Acquisition Regulation (FAR); FAR Case 2020–007, Accelerated Payments Applicable to Contracts With Certain Small Business Concerns.	9000–AO10
254	Federal Acquisition Regulation (FAR): FAR Case 2022–002, Exemption of Certain Contracts From the Periodic Inflation Adjustments to the Acquisition-Related Thresholds.	9000–AO39

**DEPARTMENT OF DEFENSE/
GENERAL SERVICES
ADMINISTRATION/NATIONAL
AERONAUTICS AND SPACE
ADMINISTRATION (FAR)**

Proposed Rule Stage

**212. Federal Acquisition Regulation
(FAR); FAR Case 2017–016, Controlled
Unclassified Information (CUI) [9000–
AN56]**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to

implement the National Archives and Records Administration (NARA) Controlled Unclassified Information (CUI) program of Executive Order 13556 of November 4, 2010 as implemented in NARA's implementing regulations at 32 CFR 2002, and to implement the Office of Management and Budget (OMB) Memorandum M–17–12, entitled Preparing for and Responding to a Breach of Personally Identifiable Information (PII).” This rule will apply the CUI program requirements in Federal contracts in a uniform manner to protect CUI. This rule is one element of a larger strategy to improve the Government's efforts to identify, deter, protect against, detect, and respond to

increasing sophisticated threat actions targeting Federal contractors.

Timetable:

Action	Date	FR Cite
Proposed Rule	07/00/23	
NPRM Comment Period End.	09/00/23	

*Regulatory Flexibility Analysis
Required:* Yes.

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208–4949, *Email:* michaelo.jackson@gsa.gov.

RIN: 9000–AN56

213. Federal Acquisition Regulation (FAR); FAR Case 2018–014, Increasing Task-Order Level Competition [9000–AN73]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. ch. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 876 of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232), which would provide civilian agencies with an exception to the existing statutory requirement to include price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals for all contracts. The exception would only apply to indefinite-delivery, indefinite-quantity (IDIQ) contracts and to Federal Supply Schedule contracts for services that are priced at an hourly rate. Furthermore, the exception would only apply in those instances where the Government intends to make a contract award to all qualifying offerors, thus affording maximum opportunity for effective competition at the task order level. An offeror would be qualified only if it is a responsible source and submits a proposal that conforms to the requirements of the solicitation, meets any technical requirements, and is otherwise eligible for award.

Timetable:

Action	Date	FR Cite
NPRM	01/00/24	
NPRM Comment Period End.	03/00/24	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Dana Bowman, Procurement Analyst, DoD/GSA/NASA (FAR), DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 803–3188, Email: dana.bowman@gsa.gov.

RIN: 9000–AN73

214. Federal Acquisition Regulation (FAR); FAR Case 2019–015, Improving Consistency Between Procurement & Non-Procurement Procedures on Suspension and Debarment [9000–AN98]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to bring the FAR and the Non-procurement

Common Rule (NCR) procedures on suspension and debarment into closer alignment. The FAR covers procurement matters and the NCR covers other transactions, such as grants, cooperative agreements, contracts of assistance, loans and loan guarantees.

The Government uses suspension and debarment procedures to exercise business judgment. These procedures give Federal officials a discretionary means to exclude parties from participation in certain transactions, while affording those parties due process.

Timetable:

Action	Date	FR Cite
NPRM	09/00/23	
NPRM Comment Period End.	11/00/23	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 969–7207, Email: zenaida.delgado@gsa.gov.

RIN: 9000–AN98

215. Federal Acquisition Regulation (FAR); FAR Case 2020–005, Explanations to Unsuccessful Offerors on Certain Orders Under Task and Delivery Order Contracts [9000–AO08]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 874 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116–92). For awards of certain task or delivery orders, section 874 provides unsuccessful offerors the opportunity to request in writing an explanation as to why their offer was unsuccessful. Contracting offers are required to provide a brief explanation, including the rationale for award and an evaluation of the significant weak or deficient factors in the offeror's offer.

Timetable:

Action	Date	FR Cite
NPRM	06/00/23	
NPRM Comment Period End.	08/00/23	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington,

DC 20405, Phone: 202 208–4949, Email: michael.o.jackson@gsa.gov.

RIN: 9000–AO08

216. Federal Acquisition Regulation (FAR); FAR Case 2020–008, Prohibition on Criminal History Inquiries by Contractors Prior to Conditional Offer [9000–AO11]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 4; 10 U.S.C. chapter 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 1123 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116–92), which added at 41 U.S.C. 4714 and 10 U.S.C. 2339 prohibitions related to criminal history inquiries on individuals competing for or applying to work on Federal contracts. Per the statute, a contractor may not request criminal history record information on an applicant for a position related to work under a contract before the contractor has extended a conditional offer to the applicant for that position. In addition, the Federal Government may not request criminal history record information on an individual or sole proprietor who is competing on a Federal Government contract, unless that individual is the apparently successful offeror. This proposed rule implements the statutory prohibition and the associated procedures and exceptions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/24	
NPRM Comment Period End.	03/00/24	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Jennifer Hawes, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 969–7386, Email: jennifer.hawes@gsa.gov.

RIN: 9000–AO11

217. Federal Acquisition Regulation (FAR); FAR Case 2020–010, Small Business Innovation Research and Technology Transfer Programs [9000–AO12]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to

implement changes to the Small Business Administration Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Policy Directive issued (May 2, 2019). The proposed changes include updating FAR 27 to add reference to the STTR program, revise: definitions, allocation of rights, protection period, SBIR/STTR rights notice, data rights marking provisions, and add language to FAR 6.302–5(b) to acknowledge the unique competition requirements for SBIR/STTR Phase III contracts permitted by the Small Business Act.

Timetable:

Action	Date	FR Cite
NPRM	04/07/23	88 FR 20822
NPRM Comment Period End.	06/06/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605–2868, *Email:* mahruba.uddowla@gsa.gov.

RIN: 9000–AO12

218. Federal Acquisition Regulation (FAR); FAR Case 2020–016, Rerepresentation of Size and Socioeconomic Status [9000–AO18]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the FAR to implement statutory requirements as implemented by the Small Business Administration's final rule published October 16, 2020 (85 FR 66146), which requires contractors to rerepresent its size and economic status for all set-aside orders issued under full and open multiple-award contract. Additionally, rerepresentation is required for orders issued under a small business set-aside multiple-award contract where the orders are further set-aside exclusively for a particular socioeconomic category and the required socioeconomic status differs from the underlying multiple-award contract. Orders issued under any Federal Supply Schedule are exempt from the requirement to rerepresent size and or socioeconomic status.

Timetable:

Action	Date	FR Cite
NPRM	10/00/23	
NPRM Comment Period End.	12/00/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dana Bowman, Procurement Analyst, DoD/GSA/NASA (FAR), DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 803–3188, *Email:* dana.bowman@gsa.gov.

RIN: 9000–AO18

219. Federal Acquisition Regulation (FAR); FAR Case 2021–001, Increased Efficiencies With Regard to Certified Mail, In-Person Business, Mail, Notarization, Original Documents, Seals, and Signatures [9000–AO19]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to increase flexibilities and efficiencies regarding certified mail, in-person business, mail, notarization, original documents, seals, and signatures using digital and virtual technology. This would streamline certain essential contracting procedures.

Timetable:

Action	Date	FR Cite
NPRM	09/00/23	
NPRM Comment Period End.	11/00/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–7207, *Email:* zenaida.delgado@gsa.gov.

RIN: 9000–AO19

220. FAR Acquisition Regulation (FAR); FAR Case 2021–005; Disclosure of Beneficial Owner in Federal Contracting [9000–AO23]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement sections 885 and 6403 of the National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283). Section 885 requires that the Federal Awardee Performance and Integrity Information System include identifying information on the beneficial owner of a Federal contractor that is a corporation. Paragraph (c) of section 6403 directs the FAR to be changed to require certain offerors to disclose

beneficial ownership information in their offers for contracts over the simplified acquisition threshold.

Timetable:

Action	Date	FR Cite
NPRM	02/00/24	
NPRM Comment Period End.	04/00/24	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–7207, *Email:* zenaida.delgado@gsa.gov.

RIN: 9000–AO23

221. Federal Acquisition Regulation (FAR); FAR Case 2021–009, Protests of Orders Set Aside for Small Business [9000–AO26]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the requirements in the Small Business Administration (SBA) final rule published on October 16, 2020 (85 FR 66146) regarding size protests on set-aside orders under multiple-award contracts that were not set-aside; socioeconomic status protests on set-aside orders where the required status differs from that of the underlying multiple-award contract; and the authority for SBA's Associate General Counsel for Procurement Law to initiate size protests.

Timetable:

Action	Date	FR Cite
NPRM	06/00/23	
NPRM Comment Period End.	08/00/23	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Dana Bowman, Procurement Analyst, DoD/GSA/NASA (FAR), DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 803–3188, *Email:* dana.bowman@gsa.gov.

RIN: 9000–AO26

222. Federal Acquisition Regulation (FAR); FAR Case 2021–011, Past Performance Ratings for Small Business Joint Venture Members and Small Business First-Tier Subcontractors [9000–AO28]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy

provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the statutory requirements at 15 U.S.C. 644(e)(4)(B)(i) and 15 U.S.C. 644(q)(1)(B) as implemented by the Small Business Administration (SBA) final rule published on October 16, 2020 (85 FR 66146). The statute requires contracting officers to consider the capabilities and past performance of first-tier subcontractors for bundled or consolidated contracts, and to consider the capabilities and past performance of first-tier subcontractors for multiple award contracts valued above the substantial bundling threshold of the Federal agency. SBA's final rule also gives contracting officers discretion to consider past performance and experience of first-tier subcontractors for other procurements where the first-tier subcontractors are specifically identified in the proposal where appropriate.

Additionally this rule will implement section 868 of the National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283) as implemented in SBA's final rule published on July 22, 2022 (87 FR 43731). Section 868 provided two methods for small businesses to obtain past performance: (1) a small business may use the past performance of a joint venture of which it is a member, provided the small business worked on the joint venture's contract(s), and (2) a small business may use past performance it obtained as a first-tier subcontractor from a prime contractor when specifically identified under a subcontracting plan for the contract. This rule promotes equity in Federal procurement.

Timetable:

Action	Date	FR Cite
NPRM	11/00/23	
NPRM Comment Period End.	01/00/24	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Carrie Moore, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 571 300–5917, *Email:* carrie.moore@gsa.gov.

RIN: 9000–AO28

223. Federal Acquisition Regulation (FAR); FAR Case 2021–016, Minimizing the Risk of Climate Change in Federal Acquisitions [9000–AO33]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy

provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 5(b)(ii) of Executive Order 14030, Climate-Related Financial Risk. Section 5(b)(ii) directs the Federal Acquisition Regulatory Council to consider amending the FAR to ensure that major agency procurements minimize the risk of climate change.

Timetable:

Action	Date	FR Cite
ANPRM	10/15/21	86 FR 57404
Comment Period Extended.	12/07/21	86 FR 69218
ANPRM Comment Period End.	01/13/22	
NPRM	11/00/23	
NPRM Comment Period End.	01/00/24	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jennifer Hawes, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–7386, *Email:* jennifer.hawes@gsa.gov.

RIN: 9000–AO33

224. Federal Acquisition Regulation (FAR); FAR Case 2021–017, Cyber Threat and Incident Reporting and Information Sharing [9000–AO34]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to increase the sharing of information about cyber threats and incident information between the Government and certain providers, pursuant to Office of Management and Budget recommendations, in accordance with section 2(b)–(c), and Department of Homeland Security (DHS) recommendations, in accordance with section 8(b), of Executive Order (E.O.) 14028, Improving the Nation's Cybersecurity. In addition, the rule will propose requiring certain contractors to report cyber incidents to the Federal Government to facilitate effective cyber incident response and remediation, pursuant to DHS recommendations in accordance with sections 2(g)(i) of E.O. 14028.

Timetable:

Action	Date	FR Cite
NPRM	06/00/23	

Action	Date	FR Cite
NPRM Comment Period End.	08/00/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marissa Ryba, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 314 586–1280, *Email:* marissa.ryba@gsa.gov.

RIN: 9000–AO34

225. Federal Acquisition Regulation (FAR); FAR Case 2021–019, Standardizing Cybersecurity Requirements for Unclassified Information Systems [9000–AO35]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation to standardize common cybersecurity contractual requirements across Federal agencies for unclassified Federal information systems, pursuant to Department of Homeland Security recommendations in accordance with sections 2(i) and 8(b) of Executive Order 14028, Improving the Nation's Cybersecurity. As a result, this rule will ensure Federal information systems are better positioned to protect from cybersecurity threats.

Timetable:

Action	Date	FR Cite
NPRM	06/00/23	
NPRM Comment Period End.	08/00/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Carrie Moore, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 571 300–5917, *Email:* carrie.moore@gsa.gov.

RIN: 9000–AO35

226. Federal Acquisition Regulations (FAR) FAR Case 2021–020, Limitations on Subcontracting [9000–AO36]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Small Business Administration (SBA) changes to the limitations on subcontracting in SBA's final rules published on May 31, 2016, November 29, 2019, and October 16, 2020 (81 FR 34243, 84 FR 65647, 85 FR

66146, respectively), which implemented sections of the National Defense Authorization Acts (NDAA) for Fiscal Years 2016 (Pub. L. 114–92) and the NDAA for FY 2017 (Pub. L. 114–328), and the Recovery Improvements for Small Entities After Disaster Act of 2015 (RISE Act, Pub. L. 114–88).

Generally, this rule will clarify matters related to the limitations on subcontracting for small businesses. Changes will be made in areas such as: exclusions of other direct costs from the limitations on subcontracting for services; the application of the limitations on subcontracting to similarly situated entities, the application of the nonmanufacturer rule to kit assemblers; and the application of the limitations on subcontracting to construction contracts that also contain supplies and/or services.

Timetable:

Action	Date	FR Cite
NPRM	06/00/23	
NPRM Comment Period End.	08/00/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Carrie Moore, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 571 300–5917, *Email:* carrie.moore@gsa.gov.

RIN: 9000–AO36

227. Federal Acquisition Regulation (FAR); FAR Case 2022–004, Enhanced Price Preferences for Critical Components and Critical Items [9000–AO41]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to add a list of critical components and critical items and, along with their associated enhanced price preference, that will apply to acquisitions subject to the Buy American statute. The list and accompanying enhanced price preferences will complete the framework added to the FAR as part of implementation of section 8 of Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers. The proposed rule would provide further guidance to contracting officers on how to evaluate offers for critical components and critical items and provide for a post-award reporting requirement for contractors.

Timetable:

Action	Date	FR Cite
NPRM	08/00/23	
NPRM Comment Period End.	10/00/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605–2868, *Email:* mahruba.uddowla@gsa.gov.

RIN: 9000–AO41

228. Federal Acquisition Regulation (FAR); FAR Case 2022–006, Sustainable Procurement [9000–AO43]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Order 14057, Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability, and Office of Management and Budget Memorandum M–22–06, requirements for the procurement of sustainable products and services. This proposed rule will also reorganize FAR part 23 for consistency and clarity and include statutory updates to definition of “biobased product” (7 U.S.C. 8101) for the purposes of agency affirmative procurement programs.

Timetable:

Action	Date	FR Cite
NPRM	07/00/23	
NPRM Comment Period End.	09/00/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jennifer Hawes, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–7386, *Email:* jennifer.hawes@gsa.gov.

RIN: 9000–AO43

229. Federal Acquisition Regulation (FAR); FAR Case 2022–009, Certification of Service-Disabled Veteran-Owned Small Businesses [9000–AO46]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA will amend the Federal Acquisition Regulation (FAR) to implement Small Business Administration (SBA) changes

to the certification program for Service-Disabled Veteran-Owned Small Businesses (SDVOSB), as required by section 862 of the National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283). Section 862 transfers responsibility for SDVOSB certification to the SBA as of January 1, 2023. This rule will clarify the certification requirements for SDVOSBs to be eligible for the award of a sole source or set-aside SDVOSB contract. This rule promotes equity in Federal procurement.

Timetable:

Action	Date	FR Cite
NPRM	08/00/23	
NPRM Comment Period End.	10/00/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Carrie Moore, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 571 300–5917, *Email:* carrie.moore@gsa.gov.

RIN: 9000–AO46

230. Federal Acquisition Regulation (FAR); FAR Case 2023–002, Supply Chain Software Security [9000–AO49]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to require suppliers of software available for purchase by agencies to comply with, and attest to complying with, applicable secure software development requirements in accordance with section 4(n) of Executive Order (E.O.) 14028, Improving the Nation's Cybersecurity. Office of Management and Budget Memorandum 18–22 requires agencies to take appropriate steps to comply with applicable secure software development requirements in accordance with section 4(k) of E.O. 14028 prior to this FAR rule becoming effective.

Timetable:

Action	Date	FR Cite
NPRM	09/00/23	
NPRM Comment Period End.	11/00/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marissa Ryba, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 314 586–1280, *Email:* marissa.ryba@gsa.gov.

RIN: 9000-AO49

231. Federal Acquisition Regulation (FAR); FAR Case 2023-001, Subcontracting to Puerto Rican and Covered Territory Small Businesses [9000-AO50]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 861 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115-232), as implemented by the Small Business Administration (SBA) in its final rule published October 16, 2020 (85 FR 66146), and section 866 of the NDAA for FY 2021 (Pub. L. 116-283) as implemented in SBA's direct final rule published August 19, 2022 (87 FR 50925). The two statutory provisions provide contracting incentives to mentors that subcontract to protégé firms that are Puerto Rican and covered territory businesses as defined by section 866. Additionally, this rule implements changes to SBA's regulations to clarify that (1) prime contractors may rely on self-certifications of their subcontractors, and (2) an Alaska Native Corporation owned firm that does not individually qualify as small but counts as a small business or a small disadvantaged business for subcontracting goaling purposes under 43 U.S.C. 1626(e)(4)(B) is not currently required to submit a subcontracting plan. This rule promotes equity in Federal procurement.

Timetable:

Action	Date	FR Cite
NPRM	10/00/23	
NPRM Comment Period End.	12/00/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Carrie Moore, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 571 300-5917, *Email:* carrie.moore@gsa.gov.

RIN: 9000-AO50

232. Federal Acquisition Regulation (FAR); FAR Case 2023-003, Prohibition on the Use of Reverse Auctions for Complex, Specialized, or Substantial Design and Construction Services [9000-AO51]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a proposed rule to amend the Federal Acquisition Regulation (FAR) to implement policies addressing the prohibition on the use of a reverse auction for the award of a contract for complex, specialized, or substantial design and construction services. These prohibitions are the result of the Construction Consensus Procurement Improvement Act of 2021 (Pub. L. 117-28), which amended the Consolidated Appropriations Act, 2020 (Pub. L. 116-93), to correct a provision on the prohibition on the use of a reverse auction. Reverse auctions differ from traditional auctions in that sellers compete against one another to provide the lowest price or highest-value offer to a buyer.

Timetable:

Action	Date	FR Cite
NPRM	10/00/23	
NPRM Comment Period End.	12/00/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208-4949, *Email:* michaelo.jackson@gsa.gov.

RIN: 9000-AO51

233. • Federal Acquisition Regulation (FAR); Far Case 2023-006, Preventing Organizational Conflicts of Interest in Federal Acquisition [9000-AO54]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the Preventing Organizational Conflicts of Interest in Federal Acquisition Act (Pub. L. 117-324). The statute requires the FAR to be revised to provide and update definitions, guidance, and examples related to organizational conflicts of interest (OCI), including the creation of solicitation provisions and contract clauses to avoid or mitigate OCI, that require contractors to disclose information relevant to potential OCI and limit future contracting. The statute also requires the FAR be updated to permit contracting officers to take into consideration professional standards and procedures to prevent OCI to which an offeror or contractor is subject.

Timetable:

Action	Date	FR Cite
NPRM	12/00/23	
NPRM Comment Period End.	02/00/24	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605-2868, *Email:* mahruba.uddowla@gsa.gov.

RIN: 9000-AO54

234. • Federal Acquisition Regulation (FAR); FAR Case 2023-008, Prohibition on Certain Semiconductor Products and Services [9000-AO56]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 5949(a) of the National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117-263) to prohibit executive agencies from: (1) procuring or obtaining, or extending or renewing a contract to procure or obtain, any electronic parts, products, or services that include covered semiconductor products or services; or (2) entering into a contract, or extending or renewing a contract, with an entity to procure or obtain electronic parts or products that include covered semiconductor products or services.

Timetable:

Action	Date	FR Cite
NPRM	02/00/24	
NPRM Comment Period End.	04/00/24	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marissa Ryba, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 314 586-1280, *Email:* marissa.ryba@gsa.gov.

RIN: 9000-AO56

**DEPARTMENT OF DEFENSE/
GENERAL SERVICES
ADMINISTRATION/NATIONAL
AERONAUTICS AND SPACE
ADMINISTRATION (FAR)**

Final Rule Stage

**235. FAR Acquisition Regulation (FAR);
FAR Case 2015–038, Reverse Auction
Guidance [9000–AN31]**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement policies addressing the effective use of reverse auctions. Reverse auctions involve offerors lowering their pricing over multiple rounds of bidding in order to win Federal contracts. This change incorporates guidance from the Office of Federal Procurement Policy memorandum, “Effective Use of Reverse Auctions,” which was issued in response to recommendations from the Government Accountability Office (GAO) report, Reverse Auctions: Guidance is Needed to Maximize Competition and Achieve Cost Savings” (GAO–14–108). Reverse auctions are one tool used by Federal agencies to increase competition and reduce the cost of certain items. Reverse auctions differ from traditional auctions in that sellers compete against one another to provide the lowest price or highest-value offer to a buyer. This change to the FAR will include guidance that will standardize agencies’ use of reverse auctions to help agencies maximize competition and savings when using reverse auctions.

Timetable:

Action	Date	FR Cite
NPRM	12/07/20	85 FR 78815
NPRM Comment Period End.	02/05/21	
Final Rule	10/00/23	

*Regulatory Flexibility Analysis
Required:* Yes.

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 208–4949, Email: michaelo.jackson@gsa.gov.
RIN: 9000–AN31

236. Federal Acquisition Regulation (FAR); FAR Case 2017–005, Whistleblower Protection for Contractor Employees [9000–AN32]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy

provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement 41 U.S.C. 4712, “Enhancement of Contractor Protection From Reprisal for Disclosure of Certain Information,” and makes the pilot program permanent. The pilot was enacted on January 2, 2013, by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239). The rule clarifies that contractors and subcontractors are prohibited from discharging, demoting, or otherwise discriminating against an employee as a reprisal for disclosing to any of the entities such as agency Inspector Generals and Congress information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract; a gross waste of Federal funds; an abuse of authority relating to a Federal contract; a substantial and specific danger to public health or safety; or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract.) This rule enhances whistleblower protections for contractor employees by making permanent the protection for disclosure of the aforementioned information and ensuring that the prohibition on reimbursement for legal fees accrued in defense against reprisal claims applies to both contractors and subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	12/26/18	83 FR 66223
NPRM Comment Period End.	02/25/19	
Final Rule	06/00/23	

*Regulatory Flexibility Analysis
Required:* Yes.

Agency Contact: Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 571 882–4687, Email: malissa.jones@gsa.gov.
RIN: 9000–AN32

237. Federal Acquisition Regulation (FAR); FAR Case 2017–014, Use of Acquisition 360 To Encourage Vendor Feedback [9000–AN43]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to address the solicitation of contractor feedback

on both contract formation and contract administration activities. Agencies would consider this feedback, as appropriate, to improve the efficiency and effectiveness of their acquisition activities. The rule will create FAR policy to encourage regular feedback in accordance with agency practice (both for contract formation and administration activities) and a standard FAR solicitation provision to support a sustainable model for broadened use of the Acquisition 360 survey to elicit feedback on the pre-award and debriefing processes in a consistent and standardized manner. Agencies will be able to use the solicitation provision to notify interested sources that a procurement is part of the Acquisition 360 survey and encourage stakeholders to voluntarily provide feedback on their experiences of the pre-award process.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/18	83 FR 34820
ANPRM Comment Period End.	09/21/18	
NPRM	09/15/20	85 FR 57177
NPRM Comment Period End.	11/16/20	
Final Rule	07/00/23	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 969–7207, Email: zenaida.delgado@gsa.gov.
RIN: 9000–AN43

238. Federal Acquisition Regulation (FAR); FAR Case 2018–017, Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment [9000–AN83]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA amended the Federal Acquisition Regulation (FAR) to implement section 889 (a)(1)(A) of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232). Section 889(a)(1)(A) prohibits the Government from procuring covered telecommunications equipment and services from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Technology Company, or Dahua Technology Company, to include any subsidiaries or affiliates. Provisions have been added to the FAR which require that an offeror represent at an entity level in SAM, and if applicable on an offer-by-offer basis,

if the offeror will or will not provide any covered telecommunications equipment or services to the Government. If an offeror responds in an offer that it will provide covered telecommunications, the offeror will need to provide additional disclosures. This FAR rule is needed to protect U.S. networks against cyber activities conducted through Chinese Government-supported telecommunications equipment and services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/13/19	84 FR 40216
Interim Final Rule Comment Period End.	10/15/19	
Interim Final Rule	12/13/19	84 FR 68314
Interim Final Rule Effective.	12/13/19	
Interim Final Rule Comment Period End.	02/11/20	
Final Rule	12/00/23	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-4075, *Email:* farpolicy@gsa.gov.

RIN: 9000-AN83

239. Federal Acquisition Regulation (FAR); FAR Case 2019-009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment [9000-AN92]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA amended the Federal Acquisition Regulation (FAR) to implement paragraph (a)(1)(B) of section 889 of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232). Beginning two years from the enacted date, paragraph (a)(1)(B) of section 889 prohibits the Government from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment and services from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Technology Company, or Dahua Technology Company, to include any subsidiaries or affiliates. This FAR rule is needed to protect U.S. networks against cyber activities conducted through Chinese Government-supported telecommunications equipment and

services. Paragraph (a)(1)(A) of section 889 is being implemented separately through FAR Case 2018-017.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/14/20	85 FR 42665
Interim Final Rule Effective.	08/13/20	
Interim Final Rule	08/27/20	85 FR 53126
Interim Final Rule Comment Period End.	09/14/20	
Interim Final Rule Comment Period End.	10/26/20	
Interim Final Rule Effective.	10/26/20	
Final Rule	12/00/23	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-4075, *Email:* farpolicy@gsa.gov.

RIN: 9000-AN92

240. Federal Acquisition Regulation (FAR); FAR Case 2020-011, Implementation of FASC Exclusion Orders [9000-AO13]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement policies regarding exclusion orders authorized by section 202 of the Strengthening and Enhancing Cyber-capabilities by Utilizing Risk Exposure (SECURE) Technology Act (Pub. L. 115-390). The SECURE Technology Act amended 41 U.S.C. 1323 to create the Federal Acquisition Security Council (FASC) and authorize the Secretary of Homeland Security, the Secretary of Defense, and the Director of National Intelligence to issue exclusion orders, upon the recommendation of the FASC. These orders are issued to protect national security by excluding certain covered products, services, or sources from the Federal supply chain.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/23	
Interim Final Rule Comment Period End.	09/00/23	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Marissa Ryba, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington,

DC 20405, *Phone:* 314 586-1280, *Email:* marissa.ryba@gsa.gov.

RIN: 9000-AO13

241. Federal Acquisition Regulation (FAR); FAR Case 2021-012, 8(A) Program [9000-AO29]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration, in its final rule published on October 16, 2020 (85 FR 66146), to the 8(a) Business Development Program to eliminate or reduce unnecessary or excessive burdens on 8(a) Participants. This rule promotes equity in Federal procurement.

Timetable:

Action	Date	FR Cite
NPRM	12/15/22	87 FR 76598
NPRM Comment Period End.	02/13/23	
Final Rule	06/00/23	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Dana Bowman, Procurement Analyst, DoD/GSA/NASA (FAR), DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 803-3188, *Email:* dana.bowman@gsa.gov.

RIN: 9000-AO29

242. Federal Acquisition Regulation (FAR); FAR Case 2021-014, Increasing the Minimum Wage for Contractors [9000-AO31]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA will finalize an interim rule that amended the Federal Acquisition Regulation (FAR) to implement Executive Order 14026, Increasing the Minimum Wage for Federal Contractors, dated April 27, 2021, and Department of Labor regulations at 29 CFR part 23. The Executive order seeks to increase efficiency and cost savings in the work performed by parties who contract with the Federal Government by increasing to \$15.00 the hourly minimum wage paid to those contractors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/26/22	87 FR 4117

Action	Date	FR Cite
Interim Final Rule Comment Pe- riod End.	03/28/22	
Final Rule	07/00/23	

*Regulatory Flexibility Analysis
Required: Yes.*

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605-2868, *Email:* mahruba.uddowla@gsa.gov.

RIN: 9000-AO31

243. Federal Acquisition Regulation (FAR); FAR Case 2021-015, Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk [9000-AO32]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement section 5(b)(i) of Executive Order 14030, Climate-Related Financial Risk. Section 5(b)(i) directs the Federal Acquisition Regulatory Council to consider amending the FAR to require major Federal suppliers to publicly disclose greenhouse gas emissions and climate-related financial risk and to set science-based reduction targets.

Timetable:

Action	Date	FR Cite
NPRM	11/14/22	87 FR 68312
Comment Period Extended.	12/23/22	87 FR 78910
NPRM Comment Period End.	01/13/23	
Final Rule	12/00/23	

*Regulatory Flexibility Analysis
Required: Yes.*

Agency Contact: Jennifer Hawes, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7386, *Email:* jennifer.hawes@gsa.gov.

RIN: 9000-AO32

244. Federal Acquisition Regulation (FAR); FAR Case 2022-003, Use of Project Labor Agreement for Federal Construction Projects [9000-AO40]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch.; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement Executive Order 14063 on the use of project labor agreements in connection

with large-scale construction projects to promote economy and efficiency in Federal procurement. The rule will require the use of project labor agreements for large-scale construction projects with a total estimated value of \$35 million or more. The rule will continue to provide discretionary use of a project labor agreement on construction projects that do not meet the definition of large-scale construction projects.

Timetable:

Action	Date	FR Cite
NPRM	08/19/22	87 FR 51044
NPRM Comment Period End.	10/18/22	
Final Rule	09/00/23	

*Regulatory Flexibility Analysis
Required: Yes.*

Agency Contact: Dana Bowman, Procurement Analyst, DoD/GSA/NASA (FAR), DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 803-3188, *Email:* dana.bowman@gsa.gov.

RIN: 9000-AO40

245. Federal Acquisition Regulation (FAR); FAR Case 2022-011, Nondisplacement of Qualified Workers Under Service Contracts [9000-AO48]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA will amend the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 14055, Nondisplacement of Qualified Workers Under Service Contracts, dated November 18, 2021 and Department of Labor regulations (29 CFR part 9). The E.O. establishes a general policy of the Federal Government that service contracts which succeed contracts for the same or similar services, and solicitations for such contracts, shall include a non-displacement clause. The non-displacement clause requires the contractor and its subcontractors to offer qualified employees employed under the predecessor contract a right of first refusal of employment under the successor contract.

Timetable:

Action	Date	FR Cite
Interim Final Rule Interim Final Rule Comment Pe- riod End.	07/00/23 09/00/23	

*Regulatory Flexibility Analysis
Required: Yes.*

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605-2868, *Email:* mahruba.uddowla@gsa.gov.

RIN: 9000-AO48

246. • FAR Case 2023-010, Prohibition on a Bytedance Covered Application [9000-AO58]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to implement a section of the Consolidated Appropriations Act, 2023, and its implementing guidance. This interim rule revises the FAR to implement the prohibition of having or using the social networking service TikTok developed or provided by ByteDance Limited. This prohibition applies to the presence or use of any covered application on any information technology owned or managed by the Government. The rule implements section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), the No TikTok on Government Devices Act, and its implementing guidance under Office of Management and Budget Memorandum M-23-13, dated February 27, 2023, No TikTok on Government Devices” Implementation Guidance. This rule is being implemented as a national security measure to protect Government information and information and communication technology systems.

Timetable:

Action	Date	FR Cite
Interim Final Rule Interim Final Rule Comment Pe- riod End.	06/00/23 08/00/23	

*Regulatory Flexibility Analysis
Required: Yes.*

Agency Contact: FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-4075, *Email:* farpolicy@gsa.gov.

RIN: 9000-AO58

**DEPARTMENT OF DEFENSE/
GENERAL SERVICES
ADMINISTRATION/NATIONAL
AERONAUTICS AND SPACE
ADMINISTRATION (FAR)**

Long-Term Actions

247. Federal Acquisition Regulation (FAR); FAR Case 2018–013, Exemption of Commercial and Cots Item Contracts From Certain Laws and Regulations [9000–AN72]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 839 of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232). Section 839 requires a review of each existing determination to not exempt contracts and subcontracts for commercial products, commercial services, and commercially available off-the-shelf (COTS) items from certain laws when these contracts would otherwise have been exempted under 41 U.S.C. 1906(d) or 1907(b), and a new determination whether to provide exemptions for those products, services, or items and revisions to the FAR, as necessary. This rule will also assess every FAR regulation that does not originate from a law or Executive Order, but establishes a clause to be used in contracts for commercial products or commercial services, and eliminate those regulations, unless a new determination is made not to do so. The rule will also assess each FAR regulation that requires a contractor to include a specific clause in subcontracts for COTS items, unless such inclusion is required by law or Executive Order. As a result this rule attempts to streamline the application of rules and requirements to commercial acquisitions.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	06/00/24 08/00/24	

*Regulatory Flexibility Analysis
Required:* Yes.

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 703 605–2868, Email: mahruba.uddowla@gsa.gov.

RIN: 9000–AN72

248. Federal Acquisition Regulation (FAR); Far Case 2019–018, Federal Acquisition Supply Chain Security Act of 2018 [9000–AO01]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to partially implement a section of the Federal Acquisition Supply Chain Security Act of 2018. This law provides executive agency authorities for determining and mitigating supply chain risks in procurements involving controlled unclassified information, information technology, embedded information technology, and telecommunications. The law allows executive agencies to exclude sources or covered articles from any executive agency procurement action, including source selection and consent for a contractor to subcontract.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	06/00/24 08/00/24	

*Regulatory Flexibility Analysis
Required:* Yes.

Agency Contact: Marissa Ryba, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 314 586–1280, Email: marissa.ryba@gsa.gov.

RIN: 9000–AO01

249. Federal Acquisitions Regulation (FAR); FAR Case 2021–013, Access to Past Performance Information [9000–AO30]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to clarify language at FAR 42.1503(d) regarding restrictions on the release of past performance information in the Contractor Performance Assessment Reporting System to other than Government personnel to perform value added services to the Government. Artificial intelligence (e.g., machine learning) may improve the workforce's ability to leverage the use of contractor performance information in informing future contract award decisions and other related efforts.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	06/00/24 08/00/24	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Dana Bowman, Procurement Analyst, DoD/GSA/NASA (FAR), DOD/GSA/NASA (FAR), 1800 F Street, NW, Washington, DC 20405, Phone: 202 803–3188, Email: dana.bowman@gsa.gov.

RIN: 9000–AO30

**DEPARTMENT OF DEFENSE/
GENERAL SERVICES
ADMINISTRATION/NATIONAL
AERONAUTICS AND SPACE
ADMINISTRATION (FAR)**

Completed Actions

250. Federal Acquisition Regulation: FAR Case 2016–005; Effective Communication Between Government and Industry [9000–AN29]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act for Fiscal Year 2016. This rule clarifies that agency acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry, so long as those exchanges are consistent with existing law and regulation and do not promote an unfair competitive advantage to particular firms.

Completed:

Reason	Date	FR Cite
Final Rule Final Rule Effective.	12/01/22 12/30/22	87 FR 73902

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Michael O. Jackson, Phone: 202 208–4949, Email: michaelo.jackson@gsa.gov.

RIN: 9000–AN29

251. Federal Acquisition Regulation (FAR); FAR Case 2018–003, Credit for Lower-Tier Small Business Subcontracting [9000–AN61]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are withdrawing this proposed rule. The

decision not to proceed with a final rule was made because the underlying statute has been changed. Accordingly, this proposed rule is withdrawn, and the FAR case is closed.

Completed:

Reason	Date	FR Cite
Withdrawn	03/30/23	88 FR 19045

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Malissa Jones, Phone: 571 882-4687, Email: malissa.jones@gsa.gov.
RIN: 9000-AN61

252. Federal Acquisition Regulation (FAR); FAR Case 2019-008, Small Business Program Amendments [9000-AN91]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement regulatory changes proposed by the Small Business Administration regarding small business programs. The proposed regulatory changes include the timing of the determination of size status for multiple-award contracts for which price is not evaluated at the contract level; the grounds for size-status protests; and the grounds for socioeconomic status protests.

Completed:

Reason	Date	FR Cite
Final Rule	02/14/23	88 FR 9734

Reason	Date	FR Cite
Final Rule Effective.	03/16/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Malissa Jones, Phone: 571 882-4687, Email: malissa.jones@gsa.gov.
RIN: 9000-AN91

253. Federal Acquisition Regulation (FAR); FAR Case 2020-007, Accelerated Payments Applicable to Contracts With Certain Small Business Concerns [9000-AO10]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act for Fiscal Year 2020 to provide for accelerated payments to small business contractors and subcontractors and a comparable statute applicable only to the Department of Defense.

Completed:

Reason	Date	FR Cite
Final Rule	02/14/23	88 FR 9730
Final Rule Effective.	03/16/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Zenaida Delgado, Phone: 202 969-7207, Email: zenaida.delgado@gsa.gov.

RIN: 9000-AO10

254. Federal Acquisition Regulation (FAR); FAR Case 2022-002, Exemption of Certain Contracts From the Periodic Inflation Adjustments to the Acquisition-Related Thresholds [9000-AO39]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 4; 10 U.S.C. ch. 137 legacy provisions; 10 U.S.C. 3016; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act for Fiscal Year 2022 that provides a statutory exception to the periodic inflation adjustments of acquisition-related thresholds for certain bond requirements.

Completed:

Reason	Date	FR Cite
Final Rule	04/26/23	88 FR 25476
Final Rule Effective.	05/26/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marissa Ryba, Phone: 314 586-1280, Email: marissa.ryba@gsa.gov.

RIN: 9000-AO39

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