

**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 Web site at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Hada Flowers, Director, Regulatory Secretariat Division, Room 783E, 1275 First Street NE., Washington, DC 20417, (202) 501-4755.

**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 Web site at <http://www.acquisition.gov/far>.

Dated: September 9, 2011.

**Joseph A. Neurauter,**  
*Director, Office of Acquisition Policy and Senior Procurement Executive.*

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

| Sequence No. | Title   | Regulation Identifier No. |
|--------------|---|---------------------------|
| 480 .....    | FAR Case 2010-013, Privacy Training .....   | 9000-AM02                 |
| 481 .....    | Basic Safeguarding of Contractor Information Systems .....  | 9000-AM10                 |
| 482 .....    | FAR Case 2009-009, American Recovery and Reinvestment Act of 2009 (the Recovery Act)—Reporting Requirements.        | 9000-AL21                 |
| 483 .....    | FAR Case 2010-008, Recovery Act Subcontract Reporting Procedures .....  | 9000-AL63                 |
| 484 .....    | FAR Case 2008-039, Reporting Executive Compensation and First-Tier Subcontract Awards .....                         | 9000-AL66                 |
| 485 .....    | FAR Case 2011-004, Socioeconomic Program Parity .....   | 9000-AL88                 |
| 486 .....    | FAR Case 2010-015, Woman-Owned Small Business Program .....   | 9000-AL97                 |
| 487 .....    | FAR Case 2010-004, Biobased Procurements .....  | 9000-AM03                 |
| 488 .....    | FAR Case 2009-016, Constitutionality of Federal Contracting Programs for Minority-Owned and Other Small Businesses. | 9000-AM05                 |
| 489 .....    | FAR Case 2011-015, Extension of Sunset Date for Protests of Task and Delivery Orders .....                          | 9000-AM08                 |
| 490 .....    | FAR Case 2011-024, Set-Asides for Small Business .....  | 9000-AM12                 |

**DOD/GSA/NASA (FAR)—COMPLETED ACTIONS**

| Sequence No. | Title  | Regulation Identifier No. |
|--------------|--|---------------------------|
| 491 .....    | FAR Case 2010-011, Standard Form 330 for Architect-Engineer Services ..... | 9000-AM04                 |

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

*Proposed Rule Stage*

**480. FAR Case 2010-013, Privacy Training**

*Legal Authority:* 5 U.S.C. 552a; 40 U.S.C. 121(c); 10 U.S.C. ch 137; 42 U.S.C. 2473(c)

*Abstract:* DoD, GSA, and NASA will publish a proposed rule. This rule develops a new FAR clause to ensure that all contractors are required to complete training in the protection of privacy and the handling and safeguarding of Personally Identifiable

Information (PII). A number of agencies currently require that contractors who handle personally identifiable information or operate a system of records on behalf of the Federal Government complete agency-provided privacy training. However, in some circumstances an agency may provide a contractor the Privacy Act requirements, and the contractor will train its own employees, and shall upon request, provide evidence of privacy training for all applicable employees. The proposed FAR language provides flexibility for agencies to conduct the privacy training or require the contractor to conduct the privacy training.

*Timetable:*

| Action                   | Date     | FR Cite     |
|--------------------------|----------|-------------|
| NPRM .....               | 10/14/11 | 76 FR 63896 |
| NPRM Comment Period End. | 12/13/11 |             |
| Final Rule .....         | 06/00/12 |             |

*Regulatory Flexibility Analysis Required: Yes.*

*Agency Contact:* Karlos Morgan, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20417, *Phone:* 202 501-2364, *Email:* [karlos.morgan@gsa.gov](mailto:karlos.morgan@gsa.gov).

*RIN:* 9000-AM02

**481. • Basic Safeguarding of Contractor Information Systems**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 42 U.S.C. 2473(c)

*Abstract:* DoD, GSA, and NASA proposes to amend the Federal Acquisition Regulation (FAR) to add a new subpart for the safeguarding of unclassified Government information within contractor information systems. The amendment would also add a contract clause to address requirements for the safeguarding of unclassified Government information.

*Timetable:*

| Action     | Date     | FR Cite |
|------------|----------|---------|
| NPRM ..... | 05/00/12 |         |

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* William Clark, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20417, *Phone:* 202 219-1813, *Email:* william.clark@gsa.gov.

*RIN:* 9000-AM10

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

*Final Rule Stage*

**482. FAR Case 2009-009, American Recovery and Reinvestment Act of 2009 (The Recovery Act)—Reporting Requirements**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 42 U.S.C. 2473(c)

*Abstract:* This final rule amends the Federal Acquisition Regulation to implement section 1512 of Division A of the American Recovery and Reinvestment Act of 2009, which requires contractors to report on their use of Recovery Act funds.

*Timetable:*

| Action                                 | Date     | FR Cite     |
|--|----------|-------------|
| Interim Final Rule                     | 03/31/09 | 74 FR 14639 |
| Interim Final Rule Comment Period End. | 06/01/09 |             |
| Final Rule .....                       | 06/00/12 |             |

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* William Clark, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20417, *Phone:* 202 219-1813, *Email:* william.clark@gsa.gov.

*RIN:* 9000-AL21

**483. FAR Case 2010-008, Recovery Act Subcontract Reporting Procedures**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 42 U.S.C. 2473(c)

*Abstract:* This final rule will amend the Federal Acquisition Regulation to include the clause at 52.204-11 to require first-tier subcontractors to report the number of jobs resulting from Recovery Act funded subcontracts to their prime contractor. The final rule will not require the renegotiation of contracts that included the FAR clause 52.204-11 dated March 2009.

*Timetable:*

| Action                                 | Date     | FR Cite     |
|--|----------|-------------|
| Interim Final Rule                     | 07/02/10 | 75 FR 38684 |
| Interim Final Rule Comment Period End. | 08/31/10 |             |
| Final Rule .....                       | 06/00/12 |             |

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Karlos Morgan, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20417, *Phone:* 202 501-2364, *Email:* karlos.morgan@gsa.gov.

*RIN:* 9000-AL63

**484. FAR Case 2008-039, Reporting Executive Compensation and First-Tier Subcontract Awards**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 42 U.S.C. 2473(c)

*Abstract:* DoD, GSA, and NASA will adopt as final, with changes, the interim rule that amended the Federal Acquisition Regulation (FAR) to implement section 2 of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of Public Law 110-252, which requires the Office of Management and Budget (OMB) to establish a free, public, Web site containing full disclosure of all Federal contract award information. This rule requires contractors to report executive compensation and first-tier subcontractor awards on contracts expected to be \$25,000 or more, except classified contracts, and contracts with individuals.

*Timetable:*

| Action                                 | Date     | FR Cite     |
|--|----------|-------------|
| Interim Final Rule                     | 07/08/10 | 75 FR 39414 |
| Interim Final Rule Comment Period End. | 09/07/10 |             |
| Final Rule .....                       | 03/00/12 |             |

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* William Clark, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20417, *Phone:* 202 219-1813, *Email:* william.clark@gsa.gov.

*RIN:* 9000-AL66

**485. FAR Case 2011-004, Socioeconomic Program Parity**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 42 U.S.C. 2473(c)

*Abstract:* DoD, GSA, and NASA will issue a final rule amending the Federal Acquisition Regulation (FAR) to implement section 1347 of the “Small Business Jobs Act of 2010.” Section 1347 clarifies there is no order of precedence among the small business socioeconomic programs. Accordingly, this final rule clarifies the existence of socioeconomic parity and that contracting officers may exercise discretion when determining whether an acquisition will be restricted to small businesses participating in the 8(a) Business Development Program, Historically Underutilized Business Zones (HUBZone) Program, Service-Disabled Veteran-Owned Small Business (SDVOSB) Program, or the Women-Owned Small Business (WOSB) Program.

*Timetable:*

| Action                                 | Date     | FR Cite     |
|--|----------|-------------|
| Interim Final Rule                     | 03/16/11 | 76 FR 14566 |
| Interim Final Rule Effective.          | 03/16/11 |             |
| Interim Final Rule Comment Period End. | 05/16/11 |             |
| Final Action .....                     | 02/00/12 |             |

*Regulatory Flexibility Analysis*

*Required:* Yes.

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*RIN:* 9000-AL88

**486. FAR Case 2010-015, Woman-Owned Small Business Program**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 42 U.S.C. 2473(c)

*Abstract:* DoD, GSA, and NASA will issue a final rule amending the Federal Acquisition Regulation (FAR) to implement section 8(m) of the Small Business Act, 15 U.S.C. 637(m) to provide a tool for Federal agencies to increase Federal procurement opportunities to Women-owned Small Business (WOSB) concerns. The objective of the final rule is to assist Federal agencies in eliminating barriers to the participation by WOSBs in Federal contracting, thereby achieving the Federal Government’s goal of awarding five percent of Federal contract dollars to WOSBs, as provided in the Federal Acquisition Streamlining Act of 1994.

*Timetable:*

| Action                                 | Date     | FR Cite     |
|--|----------|-------------|
| Interim Final Rule                     | 04/01/11 | 76 FR 18304 |
| Interim Final Rule Effective.          | 04/01/11 |             |
| Interim Final Rule Comment Period End. | 05/31/11 |             |
| Final Action .....                     | 02/00/12 |             |

*Regulatory Flexibility Analysis*

Required: Yes.

*Agency Contact:* Karlos Morgan, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street NE., Washington, DC 20417, *Phone:* 202 501-2364, *Email:* karlos.morgan@gsa.gov. *RIN:* 9000-AL97

**487. FAR Case 2010-004, Biobased Procurements**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. 137; 42 U.S.C. 2473(c)

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement changes to 7 U.S.C. 8102, as amended by Public Law 110-246. The rule proposes to change the definition of “biobased product” and require contractors to report annually the product types and dollar value of any biobased products purchased during the preceding fiscal year on service and construct contracts where such products may be purchased.

*Timetable:*

| Action                   | Date     | FR Cite     |
|--------------------------|----------|-------------|
| NPRM .....               | 07/13/11 | 76 FR 41179 |
| NPRM Comment Period End. | 09/12/11 |             |
| Final Action .....       | 03/00/12 |             |

*Regulatory Flexibility Analysis*

Required: Yes.

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**488. Far Case 2009-016, Constitutionality of Federal Contracting Programs for Minority-Owned and Other Small Businesses**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 42 U.S.C. 2473(c)

*Abstract:* This rule implements the decision of the Rothe case. The Rothe case concerns the constitutionality of 10 U.S.C. 2323, section 1207 as enacted in

2006, that sets a 5 percent goal of DOD contracting dollars to small businesses, incorporating minorities and the award of contracts to SDBs at prices up to 10 percent above the fair market price. The Rothe case found that section 1207 is “facially unconstitutional” and impacts not only SDBs but certain institutions of higher learning (i.e., HBCUs/MIs).

*Timetable:*

| Action                   | Date     | FR Cite     |
|--------------------------|----------|-------------|
| NPRM .....               | 09/09/11 | 76 FR 55849 |
| NPRM Comment Period End. | 11/08/11 |             |
| Final Action .....       | 06/00/12 |             |

*Regulatory Flexibility Analysis*

Required: Yes.

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**489. FAR Case 2011-015, Extension of Sunset Date for Protests of Task and Delivery Orders**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 42 U.S.C. 2473(c)

*Abstract:* This interim rule amends the Federal Acquisition Regulation (FAR) to implement section 825 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011. The statute extends the sunset date for protests against the award of task or delivery orders by DoD, NASA, and the Coast Guard from May 27, 2011 to September 30, 2016.

*Timetable:*

| Action                                 | Date     | FR Cite     |
|--|----------|-------------|
| Interim Final Rule                     | 07/05/11 | 76 FR 39238 |
| Interim Final Rule Effective.          | 07/05/11 |             |
| Interim Final Rule Comment Period End. | 09/06/11 |             |
| Final Action .....                     | 06/00/12 |             |

*Regulatory Flexibility Analysis*

Required: Yes.

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**490. • FAR Case 2011-024, Set-Asides for Small Business**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 42 U.S.C. 2473(c)

*Abstract:* DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to implement section 1331 of the Small Business Jobs Act of 2010 (Jobs Act). Section 1331 addresses set-asides of task and delivery orders under multiple-award contracts, partial set-asides under multiple-award contracts, and the reserving of one or more multiple-award contracts that are awarded using full and open competition. Within this same context, section 1331 also addresses the Federal Supply Schedules Program managed by the General Services Administration. DoD, GSA, and NASA are coordinating with the Small Business Administration (SBA) on the development of an SBA proposed rule that will provide greater detail regarding implementation of section 1331 authorities.

*Timetable:*

| Action                                 | Date     | FR Cite     |
|--|----------|-------------|
| Interim Final Rule                     | 11/02/11 | 76 FR 68032 |
| Interim Final Rule Comment Period End. | 01/03/12 |             |
| Final Rule .....                       | 06/00/12 |             |

*Regulatory Flexibility Analysis*

Required: Yes.

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

*Completed Actions*

**491. FAR Case 2010-011, Standard Form 330 for Architect-Engineer Services**

*Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch 137; 42 U.S.C. 2473(c)

*Abstract:* This rule deletes part 2 of the SF 330, which collects general qualifications data not related to a particular planned contract action. The Online Representations and Certifications Application (ORCA) now collects this data centrally from interested A&E vendors at the time they complete the other representations and certifications in ORCA.

*Completed:*

*Agency Contact:* Curtis Glover, *Phone:*  
202 501-1448, *Email:*  
*curtis.glover@gsa.gov.*

| Reason                       | Date     | FR Cite |
|------------------------------|----------|---------|
| Withdrawn by Agency Request. | 10/26/11 |         |

*RIN:* 9000-AM04  
[FR Doc. 2012-1661 Filed 2-10-12; 8:45 am]  
**BILLING CODE 6820-27-P**

*Regulatory Flexibility Analysis*  
*Required: Yes.*





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Semiannual Regulatory Agenda