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Semiannual Regulatory Agenda

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.

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: Joanne Sosa, Regulatory Secretariat Division, 1800 F Street NW., Washington, DC 20405, or via telephone at 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: March 31, 2017.

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

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217	Federal Acquisition Regulation (FAR); FAR Case 2015–014; Prohibition on Providing Funds to the Enemy	9000–AN03
218	FAR Acquisition Regulation (FAR); FAR Case 2015–038, Reverse Auction Guidance	9000–AN31
219	Federal Acquisition Regulation (FAR); FAR Case 2017–005, Whistleblower Protection for Contractor Employees.	9000–AN32
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221	Federal Acquisition Regulation; FAR Case 2016–002, Applicability of Small Business Regulations Outside the United States.	9000–AN34
222	Federal Acquisition Regulation (FAR); FAR Case 2017–008, Duties of Office of Small and Disadvantaged Business Utilization.	9000–AN36
223	Federal Acquisition Regulation (FAR); FAR Case 2016–013, Tax on Certain Foreign Procurement	9000–AN38
224	Federal Acquisition Regulation (FAR); FAR Case 2017–003; Alternatives in Lieu of Corporate or Individual Sureties.	9000–AN39
225	Federal Acquisition Regulations (FAR); FAR Case 2015–002, Requirements for DD Form 254, Contract Security Classification Specification.	9000–AN40
226	Federal Acquisition Regulation (FAR); FAR Case 2017–014, Acquisition 360	9000–AN43
227	Federal Acquisition Regulation (FAR); FAR Case 2017–013, Breaches of Personally Identifiable Information.	9000–AN44
228	Federal Acquisition Regulation (FAR); FAR Case 2017–011, Section 508-Based Standards in Information and Communication Technology.	9000–AN46
229	Federal Acquisition Regulation (FAR); FAR Case 2016–012, Incremental Funding of Fixed-Price Contracting Actions.	9000–AN47
230	Federal Acquisition Regulation (FAR); FAR Case 2015–037, Definition of “Information Technology”	9000–AN48
231	Federal Acquisition Regulation (FAR); FAR Case 2015–028, Performance-Based Payments	9000–AN49
232	Federal Acquisition Regulation (FAR); Far Case 2015–004, Provisions and Clauses for Acquisitions of Commercial Items and Acquisitions That do not Exceed the Simplified Acquisition Threshold (SAT).	9000–AN51
233	Federal Acquisition Regulation (FAR); FAR Case 2017–006, Exception From Certified Cost or Pricing Data Requirements—Adequate Price Competition.	9000–AN53
234	Federal Acquisition Regulation (FAR); FAR Case 2017–010, Evaluation Factors for Multiple-Award Contracts.	9000–AN54
235	Federal Acquisition Regulation (FAR); FAR Case 2015–026, Contractor Use of Mandatory Sources of Supply in Service Contracts.	9000–AN55
236	Federal Acquisition Regulation (FAR); FAR Case 2017–016, Controlled Unclassified Information (CUI)	9000–AN56

DOD/GSA/NASA (FAR)—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
237	Federal Acquisition Regulation (FAR); FAR Case 2015–015; Strategic Sourcing Documentation	9000–AM89
238	Federal Acquisition Regulation (FAR); FAR Case 2013–018; Clarification of Requirement for Justifications for 8(a) Sole Source Contracts.	9000–AM90
239	Federal Acquisition Regulation (FAR); FAR Case 2014–002; Set-Asides Under Multiple Award Contracts	9000–AM93

DOD/GSA/NASA (FAR)—FINAL RULE STAGE—Continued

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240	Federal Acquisition Regulation (FAR); FAR Case 2015–017; Combating Trafficking in Persons—Definition of “Recruitment Fees”.	9000–AN02
241	Federal Acquisition Regulation (FAR); FAR Case 2016–007, Non-Retaliation for Disclosure of Compensation Information.	9000–AN10
242	Federal Acquisition Regulation (FAR); FAR Case 2015–005, System for Award Management Registration	9000–AN19
243	Federal Acquisition Regulation (FAR); FAR Case 2015–039, Audit of Settlement Proposals	9000–AN26
244	Federal Acquisition Regulation (FAR); FAR Case 2017–001, Paid Sick Leave for Federal Contractors	9000–AN27
245	Federal Acquisition Regulation (FAR); FAR Case 2015–033, Sustainable Acquisition	9000–AN28
246	Federal Acquisition Regulation: FAR Case 2016–005; Effective Communication Between Government and Industry.	9000–AN29
247	Federal Acquisition Regulation (FAR); FAR Case 2016–011, (S) Revision of Limitations on Subcontracting	9000–AN35
248	Federal Acquisition Regulation (FAR); FAR Case 2017–004, Rate Adjustment of Liquidated Damages	9000–AN37
249	Federal Acquisition Regulation (FAR); FAR Case 2017–007, Task- and Delivery-Order Protests	9000–AN41
250	Federal Acquisition Regulation (FAR); FAR Case 2017–009, Special Emergency Procurement Authority ...	9000–AN45
251	Federal Acquisition Regulation (FAR); FAR Case 2017–012, Increased Micro-Purchase Threshold for Certain Procurement Activities.	9000–AN50
252	Federal Acquisition Regulation (FAR); FAR Case 2017–015, Removal of Fair Pay and Safe Workplaces Rule.	9000–AN52

DOD/GSA/NASA (FAR)—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
253	Federal Acquisition Regulation (FAR); FAR Case 2013–002; Expanded Reporting of Nonconforming Supplies.	9000–AM58

DOD/GSA/NASA (FAR)—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
254	Federal Acquisition Regulation (FAR); FAR Case 2010–013; Privacy Training	9000–AM02
255	Federal Acquisition Regulation (FAR); FAR Case 2012–025; Applicability of the Senior Executive Compensation Benchmark.	9000–AM39
256	Federal Acquisition Regulation (FAR); FAR Case 2012–022; Contracts Under the Small Business Administration 8(a) Program.	9000–AM68
257	Federal Acquisition Regulation (FAR); FAR Case 2013–014; Uniform Use of Line Items	9000–AM73
258	Federal Acquisition Regulation (FAR); FAR Case 2014–003; Small Business Subcontracting Improvements.	9000–AM91
259	Federal Acquisition Regulation (FAR); FAR Case 2015–016; Prohibition on Reimbursement for Congressional Investigations and Inquiries.	9000–AM97
260	Federal Acquisition Regulation (FAR); FAR Case 2014–004; Payment of Subcontractors	9000–AM98
261	Federal Acquisition Regulation (FAR); FAR Case 2015–012; Contractor Employee Internal Confidentiality Agreements.	9000–AN04
262	Federal Acquisition Regulation (FAR); FAR Case 2016–004; Acquisition Threshold for Special Emergency Procurement Authority.	9000–AN18
263	Federal Regulation Acquisition (FAR); FAR Case 2015–024, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation.	9000–AN20
264	Federal Acquisition Regulation (FAR); FAR Case 2015–035, Removal of Regulations Relating to Telegraphic Communication.	9000–AN23

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

Proposed Rule Stage

216. Federal Acquisition Regulation (FAR); FAR Case 2015-021; Determination of Fair and Reasonable Prices on Orders Under Multiple Award Contracts

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 proposing to amend the FAR to direct contracting officers to make a determination of fair and reasonable pricing when using GSA's Federal Supply Schedules (FSS). The Federal Acquisition Streamlining Act (FASA) of 1994 established a preference for the types of information used to assess price reasonableness. Fair and reasonable price determinations are used for evaluating quotations, bids, and proposals for the source selection decision and during sole-source negotiations with the goal of promoting a healthy and efficient competitive sourcing environment.

This rule will ensure uniform implementation of this FAR change across government contracts and avoid the proliferation of agency actions (e.g. revisions to FAR supplements or issuance of policy guidance) implementing this requirement.

Timetable:

Action	Date	FR Cite
NPRM	10/00/17	
NPRM Comment Period End.	12/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501-1448, *Email:* curtis.glover@gsa.gov. *RIN:* 9000-AM94

217. Federal Acquisition Regulation (FAR); FAR Case 2015-014; Prohibition on Providing Funds to the Enemy

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 proposing to amend the Federal Acquisition Regulation (FAR) to prevent the flow of funds to persons or entities that are actively opposing United States or coalition forces involved in a contingency operation. This rule implements subtitle E of title VIII of the Carl Levin and Howard P. Buck"

McKeon National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015, which prohibits providing funds to the enemy. The statute does not apply to contracts that are equal to or less than \$50,000, contracts performed inside the United States, or contracts subject to a national security exception.

Timetable:

Action	Date	FR Cite
NPRM	08/00/17	
NPRM Comment Period End.	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 219-0202, *Email:* cecelia.davis@gsa.gov. *RIN:* 9000-AN03

218. • FAR Acquisition Regulation (FAR); FAR Case 2015-038, Reverse Auction Guidance

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 proposing to amend the FAR to implement policies addressing the effective use of reverse auctions. Reverse auctions involve offerors lowering their pricing over rounds of bidding in order to win federal contracts. This change will incorporate guidance from the OFPP memorandum, "Effective Use of Reverse Auctions," which was issued in response to recommendations from the GAO report, *Reverse Auctions: Guidance is Needed to Maximize Competition and Achieve Cost Savings* (GAO-14-108).

Timetable:

Action	Date	FR Cite
NPRM	11/00/17	
NPRM Comment Period End.	01/00/18	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501-1448, *Email:* curtis.glover@gsa.gov. *RIN:* 9000-AN31

219. • Federal Acquisition Regulation (FAR); FAR Case 2017-005, Whistleblower Protection for Contractor Employees

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 proposing to amend the 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 (NDAA) for Fiscal Year (FY) 2013. This statute also clarifies that the cost principles at 10 U.S.C. 2324(k) and 41 U.S.C. 4304 and 4310 apply to costs incurred by a contractor, subcontractor, or personal services contractor.

Timetable:

Action	Date	FR Cite
NPRM	07/00/17	
NPRM Comment Period End.	09/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 219-0202, *Email:* cecelia.davis@gsa.gov. *RIN:* 9000-AN32

220. • Federal Acquisition Regulation (FAR); FAR Case 2015-031, Policy on 8(a) Joint Ventures

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 proposing to amend the Federal Acquisition Regulation (FAR) to be consistent with the guidance in SBA regulations at 13 CFR 124 8(A) Business Development/Small Disadvantaged Business Status Determinations > These clarifications are expected to relieve burden on both industry and government by reducing the number of protests related to inappropriate elimination from competition of offers from 8(a) joint ventures and inappropriate awards to ineligible 8(a) joint ventures. This will reduce the risk for fraud by clarifying the role of SBA as the authority for making eligibility determination. The rule is also expected to facilitate competition by clarifying the circumstances under which a joint venture is eligible for award under the 8(a) program.

Timetable:

Action	Date	FR Cite
NPRM	09/00/17	
NPRM Comment Period End.	11/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mahruha Uddowla, Procurement Analyst, DOD/GSA/NASA

(FAR), 1800 F Street NW., Washington, DC 20405, Phone: 703 605-2868, Email: mahruha.uddowla@gsa.gov.
RIN: 9000-AN33

221. • Federal Acquisition Regulation; FAR Case 2016-002, Applicability of Small Business Regulations Outside the United States

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 proposing to amend the Federal Acquisition Regulation (FAR) consistent with SBA's final rule at 13 CFR 125.2 as finalized in their rule Acquisition Process: Task and Delivery Order Contracts, Bundling, Consolidation" issued on October 2, 2013 to clarify that overseas contracting is not excluded from agency responsibilities to foster small business participation.

In its final rule, SBA has clarified that, as a general matter, its small business contracting regulations apply regardless of the place of performance. In light of these changes, there is a need to amend the FAR both to bring its coverage into alignment with SBA's regulation and to give agencies the tools they need especially the ability to use set-asides to maximize opportunities for small businesses overseas.

SBA intends to include contracts performed outside of the United States in agencies' prime contracting goals beginning in FY 2016. Although inclusion for goaling purposes is not dependent on FAR changes, amending FAR part 19 will allow agencies to take advantage of the tools authorized for providing small business opportunities for contracts awarded outside of the United States.

This rule will allow agencies to take advantage of the tools authorized for providing small business opportunities for contracts awarded outside of the United States. This will make it easier for small businesses to receive additional opportunities for contracts performed outside of the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/00/17	
NPRM Comment Period End.	12/00/17	

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: mahruha.uddowla@gsa.gov.
RIN: 9000-AN34

222. • Federal Acquisition Regulation (FAR); FAR Case 2017-008, Duties of Office of Small and Disadvantaged Business Utilization

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 proposing to amend the FAR to provide additional duties for the Office of Small and Disadvantaged Business Utilization (OSDBU), or for DoD, the Office of Small Business Programs (OSBP). Additionally the rule will include existing OSDBU duties that are not currently listed in the FAR.

This rule implements sections 1812, paragraph (a) of section 1813 and paragraph (b) of section 1821 of the National Defense Authorization Act of Fiscal Year 2017, which amends section 15(k) of the Small Business Act (15 U.S.C. 644(k)). Additionally the rule will include existing duties prescribed in section 15(k) of the Small Business Act that are not currently listed in the FAR.

Timetable:

Action	Date	FR Cite
NPRM	10/00/17	
NPRM Comment Period End.	12/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Janet Fry, Program Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, Phone: 703 605-3167, Email: janet.fry@gsa.gov.
RIN: 9000-AN36

223. • Federal Acquisition Regulation (FAR); FAR Case 2016-013, Tax on Certain Foreign Procurement

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch 37; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the FAR to implement a final rule issued by the Department of the Treasury (published at 81 FR 55133) that implements section 301 of the James Zadroga 9/11 Health and Compensation Act of 2010, Public Law 111347. This section imposes on any foreign person that receives a specified Federal procurement payment a tax equal to 2 percent of the amount such payment. This rule applies to Federal government contracts for goods or services that are awarded to foreign persons.

Timetable:

Action	Date	FR Cite
NPRM	08/00/17	

Action	Date	FR Cite
NPRM Comment Period End.	10/00/17	

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-AN38

224. • Federal Acquisition Regulation (FAR); FAR Case 2017-003; Alternatives in Lieu of Corporate or Individual Sureties

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

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to change the kinds of assets that individual sureties must use as security for their individual surety bonds. This change will implement section 874 of the NDAA for FY 2016 (Pub. L. 114-92).

Timetable:

Action	Date	FR Cite
NPRM	10/00/17	
NPRM Comment Period End.	12/00/17	

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-AN39

225. • Federal Acquisition Regulations (FAR); FAR Case 2015-002, Requirements for DD Form 254, Contract Security Classification Specification

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 proposing to amend the Federal Acquisition Regulation (FAR) to require the use of Wide Area Workflow (WAWF) for the submission of the DD Form 254, Contract Security Classification Specification. This form is used to convey security requirements regarding classified information to contractors and subcontractors and must be submitted to the Defense Security Services (DSS) when contractors or subcontractors require access to classified information under contracts awarded by agencies covered by the National Industrial Security Program (NISP).

The NISP Contracts Classification System (NCCS) is being deployed as a module within the existing WAWF platform to provide a centralized repository for classified contract security requirements and automate the DD Form 254 processes and workflows. The rule also clarifies that a unique CAGE code is required for each location of performance listed on a DD Form 254 and that System for Award Management (SAM) registration is only required for the business location listed on the contract. The DD Form 254 is used to convey security requirements regarding classified information to contractors and subcontractors and must be submitted to DSS when contractors or subcontractors require access to classified information. On average, approximately 130,000 forms are received each year from 61 agencies and components. These forms are submitted manually and there is no central repository for the form. The rule will provide a centralized repository for classified contract security requirements and supporting data while automating the DD Form 254 processes and workflows. By using this form, burden will reduce.

Timetable:

Action	Date	FR Cite
NPRM	08/00/17	
NPRM Comment Period End.	10/00/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Curtis E. Glover, Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, Phone: 202 501-1448, Email: curtis.glover@gsa.gov.

RIN: 9000-AN40

226. • Federal Acquisition Regulation (FAR); FAR Case 2017-014, Acquisition 360

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 proposing to amend the 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 would create FAR policy to encourage regular feedback in accordance with agency practice (both on contract formation and administration activities) and a standard FAR solicitation provision to support a sustainable model for broadened use of Acquisition 360 survey to elicit feedback on the pre-award and

debriefing processes in a consistent and standardized manner. Agencies would 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 on the pre-award process.

Timetable:

Action	Date	FR Cite
NPRM	12/00/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Curtis E. Glover, Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, Phone: 202 501-1448, Email: curtis.glover@gsa.gov.

RIN: 9000-AN43

227. • Federal Acquisition Regulation (FAR); FAR Case 2017-013, Breaches of Personally Identifiable Information

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 proposing to revise the Federal Acquisition Regulation (FAR) to create and implement appropriate contract clauses and regulatory coverage to address contractor requirements for breach response consistent with the requirements. This FAR change will implement the requirements outlined in Office of Management and Budget (OMB) Memorandum, M-17-12 “Preparing for and Responding to a Breach of Personally Identifiable Information” section V part B.

Timetable:

Action	Date	FR Cite
NPRM	12/00/17	
NPRM Comment Period End.	02/00/18	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, Phone: 202 550-0935, Email: camara.francis@gsa.gov.

RIN: 9000-AN44

228. • Federal Acquisition Regulation (FAR); FAR Case 2017-011, Section 508-Based Standards in Information and Communication Technology

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 proposing to amend the Federal Acquisition Regulation (FAR) to incorporate revisions and updates to standards in Section 508 of the

Rehabilitation Act of 1973, developed by the Architectural and Transportation Barriers Compliance Board (also referred to as the “Access Board”). This FAR change incorporates the U.S. Access Board’s final rule 82 FR 5790, Information and Communication Technology (ICT) Standards and Guidelines, published on January 18, 2017, which implemented revisions and updates to the section 508-based standards and section 255-based guidelines.

Timetable:

Action	Date	FR Cite
NPRM	10/00/17	
NPRM Comment Period End.	12/00/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, Phone: 202 550-0935, Email: camara.francis@gsa.gov.

RIN: 9000-AN46

229. • Federal Acquisition Regulation (FAR); FAR Case 2016-012, Incremental Funding of Fixed-Price Contracting Actions

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 proposing to amend the Federal Acquisition Regulation (FAR) to allow for incrementally funding of certain fixed-price contracting action to help minimize disruptions to agency operations, and provide Federal acquisition professionals with new funding flexibility for fixed-price contracting actions. The importance of incremental funding policy is driven, in large part, by chronic impediments to the timely passage of the Federal budget. Because the FAR is silent on the incremental funding of fixed-price contracts; however, in many cases, full funding (due to budgetary uncertainties) is not possible. There is potential for benefits to be realized through creating consistent language in the FAR. The flexibility to incrementally fund fixed-price contracts will enable acquisition professionals more efficiently get contracts underway.

Timetable:

Action	Date	FR Cite
NPRM	11/00/17	
NPRM Comment Period End.	01/00/18	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 550-0935, *Email:* camara.francis@gsa.gov.
RIN: 9000-AN47

230. • Federal Acquisition Regulation (FAR); FAR Case 2015-037, Definition of “Information Technology”

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 proposing to revise the FAR to update the definition of “information technology,” as directed in the Office of Management and Budget Memo, M-15-14, entitled Management Oversight of Federal Information Technology.” Specifically, the rule broadens the definition of information technology to include services such as cloud computing and to remove an exemption for information technology embedded in other systems.

Timetable:

Action	Date	FR Cite
NPRM	10/00/17	
NPRM Comment Period End.	12/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 550-0935, *Email:* camara.francis@gsa.gov.
RIN: 9000-AN48

231. • Federal Acquisition Regulation (FAR); FAR Case 2015-028, Performance-Based Payments

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 proposing to amend the FAR to harmonize the policy on flowdown requirements at FAR 32.504 with FAR clause 52.232-32 for the financing of subcontracts through performance-based payments. FAR 32.504(f) states that “When financing payments are in the form of performance-based payments, the Performance-Based Payments clause at 52.232-32 requires that the subcontract terms include the substance of the Performance-Based Payments clause, modified to indicate that the contractor, not the Government, awards the subcontract and administers the performance-based payments” However, FAR clause 52.232-32 does not include instructions to the contractor to flowdown the requirements to the subcontractor. The FAR recognizes that prudent contract

financing can be a useful working tool in Government acquisition. Performance-based payments are a form of contract financing authorized by the FAR under certain conditions. The proposed rule would merely make it clear to the contractor under which circumstances the substance of this form of contract financing is required to flow down to the subcontractor, when FAR 52.232-32 is included in its contract.

Timetable:

Action	Date	FR Cite
NPRM	10/00/17	
NPRM Comment Period End.	12/00/17	

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-AN49

232. • Federal Acquisition Regulation (FAR); FAR Case 2015-004, Provisions and Clauses for Acquisitions of Commercial Items and Acquisitions That Do Not Exceed the Simplified Acquisition Threshold (SAT)

Legal Authority: Not Yet Determined

Abstract: DoD, GSA, and NASA are proposing to revise the FAR with an internal administrative change to support the use of automated contract writing systems and reduce FAR maintenance when clauses are updated. Currently, the FAR provides a single, consolidated list of all provisions and clauses applicable to the acquisition of commercial items. When new clauses applicable to commercial items are added the FAR, a manual process of cross checking and renumbering of the list is employed to conform the FAR. The process is cumbersome and inefficient, and challenging to maintain, especially for contract writing systems. The propose rule would propose a change to each clause prescription and each clause flowdown for commercial items to specify required information within the prescription/clause itself, without having to cross-check another clause, list or other parts of the FAR.

Timetable:

Action	Date	FR Cite
NPRM	10/00/17	
NPRM Comment Period End.	12/00/17	

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-AN51

233. • Federal Acquisition Regulation (FAR); FAR Case 2017-006, Exception From Certified Cost or Pricing Data Requirements—Adequate Price Competition

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 proposing to amend the Federal Acquisition Regulation (FAR) to implement section 822 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114-328). This addresses the exception from certified cost or pricing data requirements when price is based on adequate price competition. It also limits the exception for price based on adequate price competition to circumstances in which there is adequate competition that results in at least two or more responsive and viable competing bids.

Timetable:

Action	Date	FR Cite
NPRM	08/00/17	
NPRM Comment Period End.	10/00/17	

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-AN53

234. • Federal Acquisition Regulation (FAR); FAR Case 2017-010, Evaluation Factors for Multiple-Award Contracts

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 proposing to amend the Federal Acquisition Regulation (FAR) to implement section 825 of the NDAA for FY 17 (Pub. L. 114-328) which changes the requirement regarding the consideration of cost or price to the Government as a factor in the evaluation of proposals for certain multiple-award task order contracts. At the Government’s discretion, solicitations for multiple-award contracts, which intend to award the same or similar services to each qualifying offeror, do not require price or cost as an evaluation factor for the base contract award. This exception does not apply to

solicitations for multiple-award contracts that provide for sole source orders pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)). When cost or price is not considered in evaluation of the base award, the contracting officer must consider price or cost as one of the factors in the selection decision for each order.

Timetable:

Action	Date	FR Cite
NPRM	09/00/17	
NPRM Comment Period End.	11/00/17	

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-AN54

235. • Federal Acquisition Regulation (FAR); FAR Case 2015-026, Contractor Use of Mandatory Sources of Supply in Service Contracts

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 proposing to amend the Federal Acquisition Regulation (FAR) clause associated with the AbilityOne Program. These revisions respond to concerns raised by the Committee for Purchase From People Who Are Blind or Severely Disabled (Committee) that a FAR clarification is necessary for situations when Government agencies contract with commercial sources to perform an agency's service function. The Committee believes that reductions in procurement of several service-related supplies has adversely affected employment of people who are blind or have significant disabilities because of the lack of this clarification.

The proposed revision will emphasize that contractors must use mandatory sources of supply in service contracts and to update the procedures associated with purchases made through the AbilityOne Program to conform to the current Committee regulatory administration of this statutory program. The rule will clarify the obligation for Government agencies to satisfy their requirements for certain supplies and services from the Procurement List maintained by the Committee.

Timetable:

Action	Date	FR Cite
NPRM	10/00/17	
NPRM Comment Period End.	12/00/17	

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-AN55

236. • Federal Acquisition Regulation (FAR); FAR Case 2017-016, Controlled Unclassified Information (CUI)

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 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 Nov 4, 2010. As the executive agent designated to oversee the governmentwide CUI program, NARA issued implementing regulations in late 2016 designed to address agency policies for designating, safeguarding, disseminating, marking, decontrolling and disposing of CUI. The NARA rule affects contractors that handle, possess, use, share or receive CUI. The NARA regulation is codified at 32 CFR 2002. This FAR rule is necessary to ensure uniform implementation of the requirements of the CUI program in contracts across the government, thereby avoiding potentially inconsistent agency-level action.

Timetable:

Action	Date	FR Cite
NPRM	12/00/17	
NPRM Comment Period End.	02/00/18	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 550-0935, *Email:* camara.francis@gsa.gov. *RIN:* 9000-AN56

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

Final Rule Stage

237. Federal Acquisition Regulation (FAR); FAR Case 2015-015; Strategic Sourcing Documentation

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 Carl Levin and Howard P. Buck" McKeon National Defense Authorization Act for Fiscal Year 2015. This section requires the contract file shall contain certain documentation if the Federal Government makes a purchase of supplies and services offered under the Federal Strategic Sourcing Initiative (FSSI), but the FSSI is not used. The contract file for the purchase shall include a brief analysis of the comparative value, including price and non-price factors, between the supplies and services offered under the FSSI and those offered under the source(s) to be used for the purchase.

While all action involved on the rule is internal to the Government, the documentation requirement ensures a contracting officer considers contract vehicles under the Federal Strategic Sourcing Initiative (FSSI). In doing so, the rule will raise the visibility of these strategic sourcing solutions, promote their use, and help to better leverage the Government's buying power.

Timetable:

Action	Date	FR Cite
NPRM	06/20/16	81 FR 39883
NPRM Comment Period End.	08/19/16	
Final Rule	10/00/17	

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-AM89

238. Federal Acquisition Regulation (FAR); FAR Case 2013-018; Clarification of Requirement for Justifications for 8(A) Sole Source Contracts

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 implementing a final rule to amend the Federal Acquisition Regulation to clarify the guidance for sole source 8(a) contract awards exceeding \$22 million. This rule implements guidance from a Government Accountability Office report entitled Federal Contracting: Slow Start to Implementation of Justifications for 8(a) Sole-Source Contracts" (GAO-13-118, December 2012). Sole-source contracting regulations are statutory and are found in section 811 of the National Defense

Authorization Act for Fiscal Year 2010 (Pub. L. 11184) (see 77 FR 23369). These clarifications improve the contracting officer's ability to comply with the sole source contracts statutory requirements.

The GAO report indicates that the FAR needed additional clarification of justification to help ensure that agencies are applying the requirement consistently. This rule provides such guidance, including when justification is necessary, how contracting officers should comply, and when a separate sole-source justification is necessary for out-of-scope modifications to 8(a) sole-source contracts.

Timetable:

Action	Date	FR Cite
NPRM	11/15/16	81 FR 80012
NPRM Comment Period End.	01/17/17	
Final Rule	10/00/17	

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–AM90

239. Federal Acquisition Regulation (FAR); FAR Case 2014–002; Set-Asides Under Multiple Award Contracts

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 FAR to implement regulatory changes regarding procedures for the use of small business partial set-asides, reserves, and orders placed under multiple-award contracts. This rule incorporates statutory requirements discussed at section 1331 of the Small Business Jobs Act of 2010 (15 U.S.C. 644(r)) and the Small Business Administration's final rule at 78 FR 61114, dated October 2, 2013.

The rule increases small business participation in Federal prime contracts by ensuring that small businesses have greater access to multiple award contracts and clarifying the procedures for submitting proposals for partial set-asides, reserves, and orders placed under such contracts.

Timetable:

Action	Date	FR Cite
NPRM	12/06/16	81 FR 88072
NPRM Comment Period End.	02/06/17	
Final Rule	09/00/17	

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–AM93

240. Federal Acquisition Regulation (FAR); FAR Case 2015–017; Combating Trafficking in Persons—Definition of “Recruitment Fees”

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 to revise the FAR to implement Executive Order (E.O.) 13627, Strengthening Protections Against Trafficking in Persons in Federal Contracts, and title XVII of the National Defense Authorization Act for Fiscal Year 2013, which became effective on March 2, 2015. The rule adds a definition of “recruitment fees” to subpart 22.17, Combating Trafficking in Persons, and the associated clause in order to clarify how the Government treats this prohibited practice that has been associated with labor trafficking under contracts and subcontracts.

Timetable:

Action	Date	FR Cite
NPRM	05/11/16	81 FR 29244
NPRM Comment Period End.	07/11/16	
Final Rule	09/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 219–0202, *Email:* cecelia.davis@gsa.gov. *RIN:* 9000–AN02

241. Federal Acquisition Regulation (FAR); FAR Case 2016–007, Non-Retaliation for Disclosure of Compensation Information

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

Abstract: DoD, GSA, and NASA plan to adopt as final, without change, an interim rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13665, entitled “Non-Retaliation for Disclosure of Compensation Information.” signed April 8, 2014, (79 FR 20749) and the final rule issued by the Office of Federal Contract Compliance Programs (OFCCP) of the Department of Labor (DOL) at 80 FR 54934, on September 11, 2015, entitled ‘Government Contractors, Prohibitions Against Pay Secrecy Policies and Actions.’

This rule provides for a uniform policy for the Federal Government to prohibit Federal contractors from discriminating against employees and job applicants who inquire about, discuss, or disclose their own compensation or the compensation of other employees or applicants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/16	81 FR 67732
Interim Final Rule Comment Period End.	11/29/16	
Final Rule	11/00/17	

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–AN10

242. Federal Acquisition Regulation (FAR); FAR Case 2015–005, System for Award Management Registration

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 to amend the Federal Acquisition Regulation (FAR) to update the instructions for System for Award Management (SAM) registration requirements and to correct an inconsistency with offeror representation and certification requirements. This rule makes consistent the language regarding offerors' registration in SAM prior to submitting an offer or prior to award. The instructions clarify that once a business is registered in the SAM database, it is only required to update the SAM database registration in accordance with the clause 52.204–7 or if there are new decisions on its labor violations at clause 52.222–59.

Timetable:

Action	Date	FR Cite
NPRM	05/20/16	81 FR 31895
NPRM Comment Period End.	07/19/16	
Final Rule	09/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Curtis E Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501–1448, *Email:* curtis.glover@gsa.gov.

RIN: 9000–AN19

243. Federal Acquisition Regulation (FAR); FAR Case 2015-039, Audit of Settlement Proposals

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 to amends the Federal Acquisition Regulation (FAR) to raise the dollar threshold requirement for the audit of prime contract settlement proposals and subcontract settlements from \$100,000 to the Truth In Negotiation Act (TINA) threshold of \$750,000 to help alleviate the backlog of contract close-outs and to enable contracting officers to more quickly deobligate excess funds from terminated contracts.

Timetable:

Action	Date	FR Cite
NPRM	09/14/16	81 FR 63158
NPRM Comment Period End.	11/14/16	
Final Rule	09/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 550-0935, *Email:* camara.francis@gsa.gov. *RIN:* 9000-AN26

244. Federal Acquisition Regulation (FAR); FAR Case 2017-001, Paid Sick Leave for Federal Contractors

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

Abstract: DoD, GSA, and NASA plan to finalize an interim rule amending the Federal Acquisition Regulation (FAR) requiring Federal Government contractors to ensure that employees on those contracts can earn up to 7 days or more of paid sick leave annually, including paid sick leave for family care. This rule implements the objective of E.O. 13706, Establishing Paid Sick Leave for Federal Contractors and Department of Labor's final rule codified at 29 CFR part 13.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/16/16	81 FR 91627
Interim Final Rule Effective.	01/01/17	
Interim Final Rule Comment Period End.	02/14/17	
Final Rule	11/00/17	

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-AN27

245. • Federal Acquisition Regulation (FAR); FAR Case 2015-033, Sustainable Acquisition

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

Abstract: DoD, GSA and NASA plan to issue a final rule to amends the FAR to add a new definition for sustainable products and services and update several existing definitions germane to sustainable acquisition. This rule will also provide two new Web sites to help contractors understand the sustainable acquisition requirements and gain access to a listing of sustainable products and services as determined by the Federal Government. The rule implements Executive Order 13693, Planning for Federal Sustainability in the Next Decade (supersedes E.O.s 13423 and 13514), and the biobased product acquisition provisions of the Agricultural Act of 2014 (also known as the 2014 Farm Bill).

Timetable:

Action	Date	FR Cite
NPRM	01/18/17	82 FR 5490
NPRM Comment Period End.	03/20/17	
Final Rule	11/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles Gray, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 703 795-6328, *Email:* chuck.gray@gsa.gov. *RIN:* 9000-AN28

246. • Federal Acquisition Regulation: FAR CASE 2016-005; Effective Communication Between Government and Industry

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

Abstract: The Council amends the FAR to implement section 887 of the NDAA for FY 2016 (Pub. L. 114-92), which provides that agency acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry.

The rule clarifies agency acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry, in a manner consistent with existing law and regulation and without promoting an unfair competitive advantage.

Timetable:

Action	Date	FR Cite
NPRM	11/29/16	81 FR 85914
NPRM Comment Period End.	03/02/17	
Final Rule	11/00/17	

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-AN29

247. • Federal Acquisition Regulation (FAR); FAR Case 2016-011, (S) Revision of Limitations on Subcontracting

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 an interim rule is to amend the Federal Acquisition Regulation (FAR) to revise and standardize the limitations on subcontracting (LOS), including the nonmanufacturer rule (NMR), which apply to small business concerns under FAR part 19 procurements. This FAR change incorporates SBA final rule which implemented the statutory requirements of section 1651 of the National Defense Authorization Act for Fiscal Year 2013. This action is necessary to meet the Congressional intent of clarifying the limitations on subcontracting with which small businesses must comply, as well as the ways in which they can comply. Failure to implement section 1651 promptly will prevent small businesses from taking advantage of subcontracts with similarly situated entities. As a result, small businesses may be unable to compete for larger contracts, which would adversely affect their potential for growth as well as that of their potential subcontractors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/17	
Interim Final Rule Comment Period End.	10/00/17	

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-AN35

248. • Federal Acquisition Regulation (FAR); FAR Case 2017-004, Rate Adjustment of Liquidated Damages

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

Abstract: DoD, GSA, and NASA plan to issue a final rule amending the Federal Acquisition Regulation (FAR) to adjust the civil monetary penalties for inflation pursuant to the Inflation Adjustment Act Improvements Act. This Act requires agencies to adjust the levels of civil monetary penalties with an initial catch-up adjustment, followed by the annual adjustment for inflation.

This rule implements the Department of Labor (DOL) interim final rule published in the **Federal Register** at 81 FR 43430 on July 1, 2016, finalized at 82 FR 5373 on January 18, 2017. The DOL rule adjusted the civil monetary penalties for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114-74).

Timetable:

Action	Date	FR Cite
Final Rule	09/00/17	

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-AN37

249. • Federal Acquisition Regulation (FAR); FAR Case 2017-007, Task- and Delivery-Order Protests

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

Abstract: DoD, GSA, and NASA plan to issue a final rule to raise the threshold for task- and delivery-order protests from \$10 million to \$25 million for DoD and make permanent the General Accountability Office's authority to hear protests on civilian task or delivery contracts valued in excess of \$10 million. The rule implements sections 835 of the National Defense Authorization Act for FY 2017 (Pub. L. 114-328) and Public Law 114-260 835(a). Implementation of the Act reinforces the importance of bid protests in the procurement process as it provides relief to protestors either a sustain" decision or voluntary agency corrective action.

Timetable:

Action	Date	FR Cite
Final Rule	09/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles Gray, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 703 795-6328, *Email:* chuck.gray@gsa.gov.

RIN: 9000-AN41

250. • Federal Acquisition Regulation (FAR); FAR Case 2017-009, Special Emergency Procurement Authority

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

Abstract: The Council is proposing to amend the Federal Acquisition Regulation (FAR) to implement sections 816 and 1641 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114-328). Section 816 adds international disaster assistance under the Foreign Assistance Act of 1961 and emergency or disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Section 1641 adds special emergency procurement authority to facilitate defense against or recovery from a cyber-attack.

Timetable:

Action	Date	FR Cite
Final Rule	08/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 550-0935, *Email:* camara.francis@gsa.gov.

RIN: 9000-AN45

251. • Federal Acquisition Regulation (FAR); FAR Case 2017-012, Increased Micro-Purchase Threshold for Certain Procurement Activities

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

Abstract: DoD, GSA, and NASA plan to issue a final rule to implement section 217(b)(1) of the NDAA for FY 2017 (Pub. L. 114-328). This section provide a micro-purchase threshold of \$10,000 or a higher amount, as determined appropriate by the head of the executive agency and consistent with clean audit findings under chapter 75 of title 31, internal institutional risk assessment, or state law. This new threshold applies to awards to institutions of higher education or related or affiliated nonprofit entities, or to nonprofit research organizations or independent research institutes.

Timetable:

Action	Date	FR Cite
Final Rule	08/00/17	

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-AN50

252. • Federal Acquisition Regulation (FAR); FAR Case 2017-015, Removal of Fair Pay and Safe Workplaces Rule

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

Abstract: DoD, GSA and NASA plan to issue a final rule to repeal the implementation of Executive Order 13673 on Fair Pay and Safe Workplaces since Executive Order 13673 was officially nullified on March 27, 2017 (see Pub. L. 115-11). Additionally, Executive Order 13782 of March 30, 2017, revoked Executive Order 13673, section 3 of Executive Order 13683 of December 11, 2014, and Executive Order 13738 of August 23, 2016. This action was made to have no force or effect by an enacted joint resolution of disapproval under the Congressional Review Act, H.J. Res. 37 (Pub. L. 115-11).

Timetable:

Action	Date	FR Cite
Final Rule, CRA Revocation.	06/00/17	

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-AN52

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

Long-Term Actions

253. Federal Acquisition Regulation (FAR); FAR Case 2013-002; Expanded Reporting of Nonconforming Supplies

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 proposing to amend the Federal Acquisition Regulation (FAR) to expand

Government and contractor requirements for reporting of nonconforming items. This rule partially implements section 818 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012 and implement requirements of the Office of Federal Procurement Policy (OFPP) Policy Letter 91-3, entitled "Reporting Nonconforming Products," dated April 9, 1991.

This change will help mitigate the growing threat that counterfeit items pose when used in systems vital to an agency's mission. The primary benefit of this rule is to reduce the risk of counterfeit items entering the supply chain by ensuring that contractors report suspect items to a widely available database.

Timetable:

Action	Date	FR Cite
NPRM	06/10/14	79 FR 33164
NPRM Comment Period End.	08/11/14	
Final Rule	06/00/18	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 550-0935, *Email:* camara.francis@gsa.gov. *RIN:* 9000-AM58

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

Completed Actions

254. Federal Acquisition Regulation (FAR); FAR Case 2010-013; Privacy Training

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

Abstract: DoD, GSA, and NASA issued a final rule to amend the Federal Acquisition Regulation (FAR) to ensure all contractors are required to complete training in the protection of privacy and the handling and safeguarding of Personally Identifiable Information (PII). The proposed FAR language provides flexibility for agencies to conduct the privacy training or require the contractor to conduct the privacy training.

Completed:

Reason	Date	FR Cite
Final Rule	12/20/16	81 FR 93476

Reason	Date	FR Cite
Final Rule Effective.	01/19/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Charles Gray, *Phone:* 202 795-6328, *Email:* charles.gray@gsa.gov.

RIN: 9000-AM02

255. Federal Acquisition Regulation (FAR); FAR Case 2012-025; Applicability of the Senior Executive Compensation Benchmark

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

Abstract: Withdrawal Justification: The NDAA for FY 17 repealed the retroactive applicability of the cap on contractor employee compensation (for allowability purposes), set forth in section 803(c) of the NDAA for FY 12 (Pub. L. 11281; 125 Stat. 1485; 10 U.S.C. 2324 note). Accordingly, the case was closed once the NDAA for FY 17 was signed into law.)

Completed:

Reason	Date	FR Cite
Withdrawn	03/15/17	

Regulatory Flexibility Analysis

Required: Yes.

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RIN: 9000-AM39

256. Federal Acquisition Regulation (FAR); FAR Case 2012-022; Contracts Under the Small Business Administration 8(a) Program

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

Abstract: DoD, GSA, and NASA amended the Federal Acquisition Regulation (FAR) to implement revisions made by the Small Business Administration to its regulations implementing section 8(a) of the Small Business Act, and to provide additional FAR coverage regarding protesting an 8(a) participant's eligibility or size status, procedures for releasing a requirement for non-8(a) procurements, and the ways a participant could exit the 8(a) Business Development program.

Completed:

Reason	Date	FR Cite
Final Rule	01/13/17	82 FR 4724
Final Rule Effective.	01/13/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Mahruba Uddowla, *Phone:* 703 605-2868, *Email:* mahruba.uddowla@gsa.gov. *RIN:* 9000-AM68

257. Federal Acquisition Regulation (FAR); FAR Case 2013-014; Uniform Use of Line Items

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

Abstract: DoD, GSA, and NASA amended the Federal Acquisition Regulation to establish and require a uniform use of a line item identification structure in Federal procurement. The system is designed to improve the accuracy, traceability, and usability of procurement data.

Completed:

Reason	Date	FR Cite
Final Rule	01/13/17	82 FR 4709
Final Rule Effective.	01/13/17	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Camara Francis, *Phone:* 202 550-0935, *Email:* camara.francis@gsa.gov. *RIN:* 9000-AM73

258. Federal Acquisition Regulation (FAR); FAR Case 2014-003; Small Business Subcontracting Improvements

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

Abstract: DoD, GSA, and NASA amended the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration (SBA) in its final rule, concerning small business subcontracting. Among other things, SBA's final rule implements the statutory requirements set forth at sections 1321 and 1322 of the Small Business Jobs Act of 2010.

Completed:

Reason	Date	FR Cite
Final Rule Effective.	11/01/16	

Regulatory Flexibility Analysis

Required: Yes.

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259. Federal Acquisition Regulation (FAR); FAR Case 2015-016; Prohibition on Reimbursement for Congressional Investigations and Inquiries

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

Abstract: DoD, GSA, and NASA amended the Federal Acquisition

Regulation (FAR) to implement section 857 of the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015. This section provides additional requirements relative to the allowability of costs incurred by a contractor in connection with a congressional investigation or inquiry.

Completed:

Reason	Date	FR Cite
Final Rule Final Rule Effective.	01/13/17 01/13/17	82 FR 4732

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Zenaida Delgado, *Phone:* 202 969-7207, *Email:* zenaida.delgado@gsa.gov, *RIN:* 9000-AM97

260. Federal Acquisition Regulation (FAR); FAR Case 2014-004; Payment of Subcontractors

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

Abstract: DoD, GSA, and NASA amended the Federal Acquisition Regulation (FAR) to implement a section of the Small Business Jobs Act of 2010. This statute requires contractors to notify the contracting officer in writing if the contractor pays a reduced price to a small business subcontractor, or if the contractor’s payment to a small business contractor is more than 90 days past due. Additional information is located in the FAR final plan (2016), available at: <https://www.acquisition.gov/>.

Completed:

Reason	Date	FR Cite
Final Rule Final Rule Effective.	12/20/16 01/19/17	81 FR 93481

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Curtis E Glover, *Phone:* 202 501-1448, *Email:* curtis.glover@gsa.gov, *RIN:* 9000-AM98

261. Federal Acquisition Regulation (FAR); FAR Case 2015-012; Contractor Employee Internal Confidentiality Agreements

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

Abstract: DoD, GSA, and NASA amended the Federal Acquisition Regulation (FAR) to implement a section of the Consolidated and Further

Continuing Appropriations Act, 2015, that prohibits the use of funds, appropriated or otherwise made available, for a contract with an entity that requires employees or subcontractors to sign an internal confidentiality agreement that restricts such employees or subcontractors from lawfully reporting waste, fraud, or abuse to a designated Government representative authorized to receive such information.

Completed:

Reason	Date	FR Cite
Final Rule Final Rule Effective.	01/13/17 01/19/17	82 FR 4717

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Cecelia L Davis, *Phone:* 202 219-0202, *Email:* cecelia.davis@gsa.gov, *RIN:* 9000-AN04

262. Federal Acquisition Regulation (FAR); FAR Case 2016-004; Acquisition Threshold for Special Emergency Procurement Authority

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

Abstract: DoD, GSA, and NASA amended the FAR to implement section 816 of the National Defense Authorization Act for Fiscal Year 2016 to raise the simplified acquisition threshold for special emergency procurement authority from \$300,000 to \$750,000 (within the United States) and from \$1 million to \$1.5 million (outside the United States). The threshold is used to support contingency operations or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack.

Completed:

Reason	Date	FR Cite
Final Rule Final Rule Effective.	01/13/17 01/13/17	82 FR 4716

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Camara Francis, *Phone:* 202 550-0935, *Email:* camara.francis@gsa.gov, *RIN:* 9000-AN18

263. Federal Regulation Acquisition (FAR); FAR Case 2015-024, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation

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

Abstract: DoD, GSA, and NASA amended the Federal Acquisition Regulation (FAR) to create an annual representation within the System for Award Management for vendors to indicate if and where they publicly disclose greenhouse gas emissions and greenhouse gas reduction goals or targets. This information will help the Government assess supplier greenhouse gas management practices and assist agencies in developing strategies to engage with contractors to reduce supply chain emissions, as directed in the Executive Order on Planning for Federal Sustainability in the Next Decade.

Completed:

Reason	Date	FR Cite
Final Rule Final Rule Effective.	11/18/16 12/19/16	81 FR 83092

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Charles Gray, *Phone:* 703 795-6328, *Email:* charles.gray@gsa.gov, *RIN:* 9000-AN20

264. Federal Acquisition Regulation (FAR); FAR Case 2015-035, Removal of Regulations Relating to Telegraphic Communication

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

Abstract: DoD, GSA, and NASA amended the Federal Acquisition Regulation (FAR) to delete the use of telegram, telegraph, and related terms. The objective is to delete reference to obsolete technologies no longer in use and replace with references to electronic communications. In addition, conforming changes are proposed covering expedited notice of termination and change orders.

Completed:

Reason	Date	FR Cite
Final Rule Final Rule Effective.	11/18/16 12/19/16	81 FR 83097

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Camara Francis, *Phone:* 202 550-0935, *Email:* camara.francis@gsa.gov, *RIN:* 9000-AN23