DEPARTMENT OF DEFENSE
GENERAL SERVICES ADMINISTRATION
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1
[Docket No. FAR–2019–0001, Sequence No. 6]

Federal Acquisition Regulation; Federal Acquisition Circular 2020–01; Introduction

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

ACTION: Summary presentation of a final rule.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rule agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2020–01. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the internet at http://www.regulations.gov.

DATES: For effective date see the separate document, which follows.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at 202–969–7207 or zenaida.delgado@gsa.gov for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2020–01, FAR Case 2018–008.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the Federal Register at 84 FR 20607 on May 10, 2019, to implement the statutory changes made to the definition of “commercial item” by section 847 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 (Pub. L. 115–91, enacted December 12, 2017). The rule would broaden the definition to allow certain additional items developed exclusively at private expense to qualify for the benefits associated with being treated as a commercial item. Section 847 expands the universe of nondevelopmental items (NDIs) that qualify as commercial items to include items sold, in substantial quantities on a competitive basis, to foreign governments. Three respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments is provided as follows:

A. Summary of Changes

This final rule amends the definition of commercial item in FAR part 2 to reflect the statutory change made by section 847. Specifically, the rule adds the phrase “or to multiple foreign governments” at the end of paragraph (8). There are no changes as a result of comments on the proposed rule.

B. Analysis of Public Comments

1. Supports the proposed rule.

Comment: One respondent stated that the proposed rule accurately and effectively implements section 847.

Response: Noted.

2. Does not support the proposed rule.

Comment: One respondent stated that the rule is unnecessary, clouds the definition of what a commercial item is, and sets the stage for contracting officers

SUMMARY: DoD, GSA and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act for Fiscal Year 2018 to revise the definition of a “commercial item.”

DATES: Effective: November 12, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at 202–969–7207 or zenaida.delgado@gsa.gov for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2020–01, FAR Case 2018–008.

DEPARTMENT OF DEFENSE
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48 CFR Part 2
[FAC 2020–01; FAR Case 2018–008; Docket No. FAR–2018–0008; Sequence No. 1]

RIN 9000–AN68

Federal Acquisition Regulation: Definition of “Commercial Item”

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

ACTION: Final rule.

SUMMARY: DoD, GSA and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement a section of the National Defense