

**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. The public can comment on rules by visiting <http://www.regulations.gov> and following the instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Lois Mandell, Division Director, Regulatory Secretariat Division, 1800 F Street, NW, 2nd Floor, Washington, DC 20405–0001, 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 website at <http://www.acquisition.gov/far>.

Dated: March 31, 2022.

**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.
234 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–016, Controlled Unclassified Information (CUI) .....	9000–AN56
235 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–013, Exemption of Commercial and COTS Item Contracts From Certain Laws and Regulations.	9000–AN72
236 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–014, Increasing Task-Order Level Competition .....	9000–AN73
237 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–015, Improving Consistency Between Procurement & Non-Procurement Procedures on Suspension and Debarment.	9000–AN98
238 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–018, Federal Acquisition Supply Chain Security Act of 2018.	9000–AO01
239 .....	Federal Acquisition Regulation (FAR); FAR Case 2020–005, Explanations to Unsuccessful Offerors on Certain Orders Under Task and Delivery Order Contracts.	9000–AO08
240 .....	Federal Acquisition Regulation (FAR); FAR Case 2020–008, Prohibition on Criminal History Inquiries by Contractors Prior to Conditional Offer.	9000–AO11
241 .....	Federal Acquisition Regulation (FAR); FAR Case 2020–010, Small Business Innovation Research and Technology Transfer Programs.	9000–AO12
242 .....	Federal Acquisition Regulation (FAR); FAR Case 2020–016, Rerepresentation of Size and Socioeconomic Status.	9000–AO18
243 .....	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
244 .....	FAR Acquisition Regulation (FAR); FAR Case 2021–005, Disclosure of Beneficial Owner in Federal Contracting.	9000–AO23
245 .....	Federal Acquisition Regulation (FAR); FAR Case 2021–009, Protests of Orders Set Aside for Small Business.	9000–AO26
246 .....	Federal Acquisition Regulation (FAR); FAR Case 2021–011, Past Performance of First-Tier Subcontractors.	9000–AO28
247 .....	Federal Acquisition Regulation (FAR); FAR Case 2021–012, 8(a) Program .....	9000–AO29
248 .....	Federal Acquisitions Regulation (FAR); FAR Case 2021–013, Access to Past Performance Information ....	9000–AO30
249 .....	Federal Acquisition Regulation (FAR); FAR Case 2021–015, Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk.	9000–AO32
250 .....	Federal Acquisition Regulation (FAR); FAR Case 2021–016, Minimizing the Risk of Climate Change in Federal Acquisitions.	9000–AO33
251 .....	Federal Acquisition Regulation (FAR); FAR Case 2021–017, Cyber Threat and Incident Reporting and Information Sharing.	9000–AO34
252 .....	Federal Acquisition Regulation (FAR); FAR Case 2021–019, Standardizing Cybersecurity Requirements for Unclassified Information Systems.	9000–AO35
253 .....	Federal Acquisition Regulations (FAR); FAR Case 2021–020, Limitations on Subcontracting .....	9000–AO36
254 .....	Federal Acquisition Regulation (FAR); FAR Case 2022–006, Sustainable Procurement .....	9000–AO43

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

Sequence No.	Title	Regulation Identifier No.
255 .....	Federal Acquisition Regulation: FAR Case 2016–005; Effective Communication Between Government and Industry.	9000–AN29
256 .....	FAR Acquisition Regulation (FAR); FAR Case 2015–038, Reverse Auction Guidance .....	9000–AN31

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

Sequence No.	Title	Regulation Identifier No.
257 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–005, Whistleblower Protection for Contractor Employees.	9000–AN32
258 .....	Federal Acquisition Regulation (FAR); FAR Case 2017–014, Use of Acquisition 360 to Encourage Vendor Feedback.	9000–AN43
259 .....	Federal Regulation Acquisition (FAR); FAR Case 2017–019, Policy on Joint Ventures .....	9000–AN59
260 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–020, Construction Contract Administration .....	9000–AN78
261 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–017, Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.	9000–AN83
262 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–007, Update of Historically Underutilized Business Zone Program.	9000–AN90
263 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–008, Small Business Program Amendments .....	9000–AN91
264 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment.	9000–AN92
265 .....	Federal Acquisition Regulation (FAR); FAR Case 2020–007, Accelerated Payments Applicable to Contracts With Certain Small Business Concerns.	9000–AO10
266 .....	Federal Acquisition Regulation (FAR); FAR Case 2020–011, Implementation of FASC Exclusion Orders ...	9000–AO13
267 .....	Federal Acquisition Regulation (FAR); FAR Case 2020–013, Certification of Women-Owned Small Businesses.	9000–AO17
268 .....	Federal Acquisition Regulation (FAR); FAR Case 2021–008, Amendments to the FAR Buy American Act Requirements.	9000–AO22
269 .....	Federal Acquisition Regulation (FAR); FAR Case 2021–014, Increasing the Minimum Wage for Contractors.	9000–AO31

## DOD/GSA/NASA (FAR)—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
270 .....	Federal Acquisition Regulation (FAR); FAR Case 2018–006; Definition of Subcontract .....	9000–AN66

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

Sequence No.	Title	Regulation Identifier No.
271 .....	Federal Acquisition Regulation; FAR Case 2016–002, Applicability of Small Business Regulations Outside the United States.	9000–AN34
272 .....	Federal Acquisition Regulation (FAR); FAR Case 2019–003, Substantial Bundling and Consolidation .....	9000–AN86
273 .....	Federal Acquisition Regulation (FAR); FAR Case 2021–003, Update to Certain Online References in the FAR.	9000–AO21
274 .....	Federal Acquisition Regulation (FAR); FAR Case 2021–007, Maximum Award Price for Certain Sole Source Manufacturing Contracts.	9000–AO25

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

## Proposed Rule Stage

**234. 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. 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 November 4, 2010 as implemented in NARA's implementing regulations at 32

CFR 2002, and implement the 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
NPRM .....	06/00/22	
NPRM Comment Period End.	08/00/22	

*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

**235. 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.137; 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 John S. McCain National Defense Authorization Act for fiscal year 2019 which requires

the FAR Council to review each past determination made not to 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 exempt under 41 U.S.C. 1906(d) or 41 U.S.C. 1907(b). A new determination is to be made whether to provide exemptions from those certain laws and if so, propose revisions to the FAR to reflect those exemptions. The law also requires the FAR Council to review the FAR to assess every regulation not based on law or Executive order that requires a specific clause in contracts for commercial products or commercial service and propose to eliminate those regulations unless the FAR Council makes a new determination not to do so. It also requires an assessment of every regulation that requires a prime contractor to include a specific clause in subcontracts for commercially available off-the-shelf items, unless the clause is required by law or Executive order. Paragraph (c) also requires that revisions to the FAR be proposed to eliminate those regulations unless the FAR Council decides not to do so.

*Timetable:*

Action	Date	FR Cite
NPRM .....	05/00/23	
NPRM Comment Period End.	07/00/23	

*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–AN72

**236. 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. 137; 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 John S. McCain National Defense Authorization Act for fiscal year 2019, 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 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 .....	04/00/23	
NPRM Comment Period End.	06/00/23	

*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–AN73

**237. 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. 137; 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 .....	08/00/22	
NPRM Comment Period End.	10/00/22	

*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–AN98

**238. 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. 137; 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 .....	02/00/23	
NPRM Comment Period End.	04/00/23	

*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–AO01

**239. 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. 137; 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 NDAA for FY 2020. 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 ..... NPRM Comment Period End.	12/00/22 02/00/23	

*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-AO08

**240. 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. ch. 137; 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 NDAA for FY 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 ..... NPRM Comment Period End.	11/00/22 01/00/23	

*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-AO11

**241. 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. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement changes to the U.S. Small Business Administration (SBA) 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 ..... NPRM Comment Period End.	01/00/23 03/00/23	

*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-AO12

**242. 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. 137; 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), requiring 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 MAC 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 FSS are exempt from the requirement to

rerepresent size and or socioeconomic status.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	10/00/22 12/00/22	

*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

**243. 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. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation 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 ..... NPRM Comment Period End.	03/00/23 05/00/23	

*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

**244. 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. 137; 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 William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021. 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 ..... NPRM Comment Period End.	12/00/22 02/00/23	

*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-AO23

**245. 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. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the requirements in SBA's final rule issued on October 16, 2020 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 protest.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	02/00/23 04/00/23	

*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

**246. Federal Acquisition Regulation (FAR); FAR Case 2021-011, Past Performance of First-Tier Subcontractors [9000-AO28]**

*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 statutory requirements (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's final rule published October 16, 2020 (85 FR 66146). 15 U.S.C. 644(e)(4)(B)(i) requires contracting officers to consider the capabilities and past performance of first tier subcontractors for bundled or consolidated contracts, and 15 U.S.C. 644(q)(1)(B) requires contracting officers 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 as appropriate where the first-tier subcontractors are specifically identified in the proposal, and the capabilities and past performance of the small business prime do not independently demonstrate capabilities and past performance necessary for award.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	11/00/22 01/00/23	

*Regulatory Flexibility Analysis  
Required: Yes.*

*Agency Contact:* Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605-2815, *Email:* malissa.jones@gsa.gov.

*RIN:* 9000-AO28

**247. 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. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the SBA, in its final rule published in the **Federal Register** on October 16, 2020, 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 ..... NPRM Comment Period End.	09/00/22 11/00/22	

*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

**248. 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. 137; 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 (CPARS) 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.	01/00/23 03/00/23	

*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-AO30

**249. 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. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend 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 FAR 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 ..... NPRM Comment Period End.	08/00/22 10/00/22	

*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

**250. 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. 137; 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 FAR Council to consider amending the FAR to ensure that major agency procurements minimize the risk of climate change and to require consideration of the social cost of greenhouse gas emissions in procurement decisions for major agency procurements.

*Timetable:*

Action	Date	FR Cite
ANPRM ..... Comment Period Extended.	10/15/21 12/07/21	86 FR 57404 86 FR 69218
ANPRM Comment Period End.	01/13/22	
NPRM ..... NPRM Comment Period End.	01/00/23 03/00/23	

*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–AO33

**251. 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. 137; 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 OMB

recommendations, in accordance with section 2(b)–(c), and Department of Homeland Security recommendations, in accordance with section 8(b), of Executive Order 14028, Improving the Nation's Cybersecurity. In addition, requires certain contractors to report cyber incidents to the Federal Government to facilitate effective cyber incident response and remediation, pursuant to Department of Homeland Security recommendations in accordance with sections 2(g)(i) of Executive Order 14028.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	08/00/22 10/00/22	

*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–AO34

**252. 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. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to standardize common cybersecurity contractual requirements across Federal agencies for unclassified 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.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	08/00/22 10/00/22	

*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

**253. 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. 137; 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 November 29, 2019, and October 16, 2020, which implemented sections of the National Defense Authorization Acts (NDAA) for fiscal years 2016 and 2017, and the Recovery Improvements for Small Entities After Disaster Act of 2015 (RISE Act).

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; similarly situated entities and the treatment of independent contractors; applicability of the Nonmanufacturer rule to 541519 when using the Information Technology Value Added Reseller (ITVAR) exception; the multiple item rule; mixed contracts; and CO discretion to ask for compliance information.

*Timetable:*

Action	Date	FR Cite
NPRM ..... NPRM Comment Period End.	03/00/23 05/00/23	

*Regulatory Flexibility Analysis*  
Required: Yes.

*Agency Contact:* Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605–2815, *Email:* malissa.jones@gsa.gov.

*RIN:* 9000–AO36

**254. • 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. 137; 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 and 8102) for the purposes of agency affirmative procurement programs.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/00/22	
NPRM Comment Period End.	12/00/22	

#### *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

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

Final Rule Stage

#### **255. 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 section 887 of the NDAA for FY 2016 (Pub. L. 114–92). This law provides that Government acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry. This change will permit and encourage Government acquisition personnel to engage in responsible and constructive exchanges with industry as part of market research as long as those exchanges are consistent with existing laws and regulations and promote a fair competitive environment.

*Timetable:*

Action	Date	FR Cite
NPRM .....	11/29/16	81 FR 85914
NPRM Comment Period End.	03/02/17	
Final Rule .....	07/00/22	

#### *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–AN29

#### **256. 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. 137; 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 (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). 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 .....	12/00/22	

#### *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

#### **257. 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. 137; 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 (NDAA) for fiscal year (FY) 2013. 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 .....	09/00/22	

#### *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–AN32

#### **258. 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. 137; 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 .....	07/00/22	

*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](mailto:curtis.glover@gsa.gov).

*RIN:* 9000-AN43

**259. Federal Regulation Acquisition (FAR); FAR Case 2017-019, Policy on Joint Ventures [9000-AN59]**

*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 implement regulatory changes made by the Small Business Administration (SBA), Small Business Mentor Protégé Programs, published on July 25, 2016 (81 FR 48557), regarding joint ventures and to clarify policy on 8(a) joint ventures. The regulatory changes provide industry with a new way to compete for small business or socioeconomic set-asides using a joint venture made up of a mentor and a protégé. The 8(a) joint venture clarification prevents confusion on an 8(a) joint venture's eligibility to compete for an 8(a) competitive procurement.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/05/20	85 FR 34561
NPRM Comment Period End.	08/04/20	
Final Rule .....	07/00/22	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605-2815, *Email:* [malissa.jones@gsa.gov](mailto:malissa.jones@gsa.gov).

*RIN:* 9000-AN59

**260. Federal Acquisition Regulation (FAR); FAR Case 2018-020, Construction Contract Administration [9000-AN78]**

*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 implement section 855 of the NDAA for FY 2019 (Pub. L. 115-232). Section 855 requires, for solicitations for construction contracts anticipated to be awarded to a small business, notification to prospective offerors regarding agency policies or practices in complying with FAR requirements relating to the timely definitization of requests for equitable adjustment and agency past performance in definitizing such requests.

*Timetable:*

Action	Date	FR Cite
NPRM .....	04/01/20	85 FR 18181
NPRM Comment Period End.	06/01/20	
Final Rule .....	07/00/22	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Dana L. Bowman, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 803-3188, *Email:* [dana.bowman@gsa.gov](mailto:dana.bowman@gsa.gov).

*RIN:* 9000-AN78

**261. 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. 137; 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 (NDAA) for FY 19 (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 Effective.	12/13/19	84 FR 68314
Interim Final Rule Comment Period End.	12/13/19	
Interim Final Rule Comment Period End.	02/11/20	
Final Rule .....	10/00/22	

*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](mailto:carrie.moore@gsa.gov).

*RIN:* 9000-AN83

**262. Federal Acquisition Regulation (FAR); FAR Case 2019-007, Update of Historically Underutilized Business Zone Program [9000-AN90]**

*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 issued in a final rule on November 26, 2019, by the Small Business Administration regarding the Historically Underutilized Business Zone (HUBZone) Program. The regulatory changes are intended to reduce the regulatory burden associated with the HUBZone Program. This rule promotes equity in Federal procurement.

*Timetable:*

Action	Date	FR Cite
NPRM .....	06/14/21	86 FR 31468
NPRM Comment Period End.	08/13/21	
Final Rule .....	07/00/22	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605-2815, *Email:* [malissa.jones@gsa.gov](mailto:malissa.jones@gsa.gov).

*RIN:* 9000-AN90

**263. 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.

*Timetable:*

Action	Date	FR Cite
NPRM .....	02/24/22	87 FR 10327
NPRM Comment Period End.	04/25/22	
Final Rule .....	01/00/23	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605-2815, *Email:* malissa.jones@gsa.gov.

*RIN:* 9000-AN91

**264. 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. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement paragraph (a)(1)(B) of section 889 of the National Defense Authorization Act (NDAA) for FY 19 (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	

Action	Date	FR Cite
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 .....	10/00/22	

*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

**265. 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 to amend the Federal Acquisition Regulation (FAR) to establish an accelerated payment date for small business contractors, to the fullest extent permitted by law, with a goal of 15 days after receipt of a proper invoice, if a specific payment date is not established by contract. For contractors that subcontract with small businesses, the rule, to the fullest extent permitted by law, establishes an accelerated payment date, with a goal of 15 days after receipt of a proper invoice, if: (1) A specific payment date is not established by contract, and (2) the contractor agrees to make accelerated payments to the subcontractor without any further consideration from, or fees charged to, the subcontractor. This change implements section 873 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92). Section 873 amends 31 U.S.C. 3903(a).

*Timetable:*

Action	Date	FR Cite
NPRM .....	09/29/21	86 FR 53923
NPRM Comment Period End.	11/29/21	
Final Rule .....	10/00/22	

*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-AO10

**266. 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. 137; 51 U.S.C. 20113

*Abstract:* This rule will amend the Federal Acquisition Regulation (FAR) to address implementation of issued exclusion orders authorized by section 202 of the SECURE Technology Act (115 Pub. L. 390), which amends 41 U.S.C. 1323 by creating the Federal Acquisition Security Council (FASC) and authorizing 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	09/00/22	
Interim Final Rule Comment Period End.	11/00/22	

*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

**267. Federal Acquisition Regulation (FAR); FAR Case 2020-013, Certification of Women-Owned Small Businesses [9000-AO17]**

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

*Abstract:* The purpose of this FAR case is to implement the statutory requirement for certification of women-owned and economically disadvantaged women-owned small businesses participating in the Women-Owned Small Business Program (section 825 of the National Defense Authorization Act for Fiscal Year 2015), as implemented by the Small Business Administration in its final rule published May 11, 2020. This rule promotes equity in Federal procurement.

*Timetable:*

Action	Date	FR Cite
NPRM .....	10/07/21	86 FR 55769
NPRM Comment Period End.	12/06/21	
Final Rule .....	08/00/22	

*Regulatory Flexibility Analysis*  
Required: Yes.

*Agency Contact:* Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605-2815, *Email:* malissa.jones@gsa.gov.  
*RIN:* 9000-AO17

**268. Federal Acquisition Regulation (FAR); FAR Case 2021-008, Amendments to the FAR Buy American Act Requirements [9000-AO22]**

*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 section 8 of Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers. Section 8 requires the Federal Acquisition Regulatory Council to strengthen the impact of the Buy American Act. In pursuit of the goals of section 8, the final rule would provide for (1) an increase to the domestic content threshold, a schedule for future increases, and a fallback threshold that would allow for products meeting a specific lower domestic content threshold to qualify as domestic products under certain circumstances; and (2) a framework for application of an enhanced price preference for a domestic product that is considered a critical item or made up of critical components.

*Timetable:*

Action	Date	FR Cite
NPRM .....	07/30/21	86 FR 40980
NPRM Comment Period End.	09/28/21	
Comment Period Extended.	10/28/21	86 FR 52871
Final Rule .....	03/07/22	87 FR 12780
Final Rule Effective.	10/25/22	

*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-AO22

**269. 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. 137; 51 U.S.C. 20113

*Abstract:* DoD, GSA, and NASA will finalize an interim rule which 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 (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
Interim Final Rule Comment Period End.	03/28/22	
Final Rule .....	11/00/22	

*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

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

Long-Term Actions

**270. Federal Acquisition Regulation (FAR); FAR Case 2018-006; Definition of Subcontract [9000-AN66]**

*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 820 of the National Defense Authorization Act (NDAA) for FY 2018. Section 820 amends 41 U.S.C. 1906(c)(1) to change the definition of "subcontract" for the procurement of commercial items to exclude agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Federal Government and other parties and are not identifiable to any particular contract.

*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:* michaelo.jackson@gsa.gov.  
*RIN:* 9000-AN66

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

Completed Actions

**271. Federal Acquisition Regulation; FAR Case 2016-002, Applicability of Small Business Regulations Outside the United States [9000-AN34]**

*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 support SBA's policy of including overseas contracts in agency small business contracting goals. SBA revised its regulation at 13 CFR 125.2, as finalized in its 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 support the changes to 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.

*Completed:*

Reason	Date	FR Cite
Final Rule .....	04/22/22	87 FR 24836
Final Rule Effective.	05/26/22	

*Regulatory Flexibility Analysis*  
Required: Yes.

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*RIN:* 9000-AN34

**272. Federal Acquisition Regulation (FAR); FAR Case 2019-003, Substantial Bundling And Consolidation [9000-AN86]**

*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 section

863 of the National Defense Authorization Acts (NDAA) for FY 2016 and the Small Business Administration (SBA) implementing regulations requiring public notification of an agency’s determination to substantially bundle or consolidate contract requirements.

Completed:

Reason	Date	FR Cite
Final Rule ..... Final Rule Effective.	11/04/21 12/06/21	86 FR 61038

Regulatory Flexibility Analysis  
Required: Yes.  
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RIN: 9000–AN86

**273. Federal Acquisition Regulation (FAR); FAR Case 2021–003, Update to Certain Online References in the FAR [9000–AO21]**  
  
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 replace FAR references to Federal

Business Opportunities (*FBO.gov*) and Wage Determinations Online (*WDOL.gov*) with the System for Award Management (*SAM.gov*), because of their integration with and increased functionality of *SAM.gov*.  
Completed:

Reason	Date	FR Cite
Final Rule ..... Final Rule Effective.	12/15/21 01/14/22	86 FR 71323

Regulatory Flexibility Analysis  
Required: Yes.  
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RIN: 9000–AO21

**274. Federal Acquisition Regulation (FAR); FAR Case 2021–007, Maximum Award Price for Certain Sole Source Manufacturing Contracts [9000–AO25]**  
  
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 section 864 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021. Section 864 amends

the Small Business Act by modifying the maximum award price for sole source manufacturing contracts to \$7 million for the 8(a), Women-Owned Small Business (WOSB), Historically Underutilized Business Zone (HUBZone), and Service-Disabled Veteran-Owned Small Business (SDVOSB) programs. This rule will change the current FAR thresholds for the 8(a) and HUBZone programs from \$7.5 million to the statutory threshold of \$7 million. The thresholds for the WOSB and SDVOSB programs will remain unchanged at the current FAR \$7 million threshold.  
Completed:

Reason	Date	FR Cite
Final Rule ..... Final Rule Effective.	11/04/21 12/06/21	86 FR 61040

Regulatory Flexibility Analysis  
Required: Yes.  
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RIN: 9000–AO25  
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