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Department of Defense

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Unified 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 announces the proposed regulatory actions the Council plans for the next 12 months and those completed since the fall 2018 edition. This agenda was developed under the

guidelines of Executive Orders (E.O.) 12866 “Regulatory Planning and Review,” as amended, Executive Order 13771 “Reducing Regulation and Controlling Regulatory Costs,” and Executive Order 13563 “Improving Regulation and Regulatory Review.” The purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process. Members of the public may submit comments on individual proposed and interim final rulemakings at www.regulations.gov during the comment period that follows publication in the **Federal Register**. This agenda updates the report published on October 17, 2018 and next agenda is scheduled for publication in the fall of 2019. The complete Unified Agenda is available online at www.reginfo.gov.

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 1, 2019.

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.
205	FAR Acquisition Regulation (FAR); FAR Case 2015-038, Reverse Auction Guidance	9000-AN31
206	Federal Acquisition Regulation; FAR Case 2016-002, Applicability of Small Business Regulations Outside the United States.	9000-AN34
207	Federal Acquisition Regulation (FAR); FAR Case 2016-013, Tax on Certain Foreign Procurement	9000-AN38
208	Federal Acquisition Regulation (FAR); FAR Case 2017-003; Individual Sureties	9000-AN39
209	Federal Acquisition Regulations (FAR); FAR Case 2015-002, Requirements for DD Form 254, Contract Security Classification Specification.	9000-AN40
210	Federal Acquisition Regulation (FAR); FAR Case 2017-014, Use of Acquisition 360 to Encourage Vendor Feedback.	9000-AN43
211	Federal Acquisition Regulation (FAR); FAR Case 2017-013, Breaches of Personally Identifiable Information.	9000-AN44
212	Federal Acquisition Regulation (FAR); FAR Case 2017-011, Section 508-Based Standards in Information and Communication Technology.	9000-AN46
213	Federal Acquisition Regulation (FAR); FAR Case 2017-016, Controlled Unclassified Information (CUI)	9000-AN56
214	Federal Acquisition Regulation (FAR); FAR Case 2017-018, Violation of Arms Control Treaties or Agreements With the United States.	9000-AN57
215	Federal Regulation Acquisition (FAR); FAR Case 2017-019, Policy on Joint Ventures	9000-AN59
216	Federal Acquisition Regulation (FAR); FAR Case 2018-003, Credit for Lower-Tier Small Business Subcontracting.	9000-AN61
217	Federal Acquisition Regulation (FAR); FAR Case 2018-002, Protecting Life in Global Health Assistance	9000-AN62
218	Federal Acquisition Regulation (FAR); FAR Case 2018-004; Increased Micro-Purchase and Simplified Acquisition Thresholds.	9000-AN65
219	Federal Acquisition Regulation (FAR); FAR Case 2018-006; Provisions and Clauses for Commercial Items and Simplified Acquisitions.	9000-AN66
220	Federal Acquisition Regulation (FAR); FAR Case 2018-005, Modifications to Cost or Pricing Data and Reporting Requirements.	9000-AN69
221	Federal Acquisition Regulation (FAR); FAR Case 2018-012, Rights to Federally Funded Inventions and Licensing of Government-Owned Inventions.	9000-AN71
222	Federal Acquisition Regulation (FAR); FAR Case 2018-013, Exemption of Commercial and COTS Item Contracts From Certain Laws and Regulations.	9000-AN72
223	Federal Acquisition Regulation (FAR); FAR Case 2018-014, Increasing Task-Order Level Competition	9000-AN73
224	Federal Acquisition Regulation (FAR); FAR Case 2018-016, Lowest Price Technically Acceptable Source Selection Process.	9000-AN75
225	Federal Acquisition Regulation (FAR); FAR Case 2018-018, Revision of Definition of “Commercial Item”	9000-AN76
226	Federal Acquisition Regulation (FAR); FAR Case 2018-019, Review of Commercial Clause Requirements and Flowdown.	9000-AN77
227	Federal Acquisition Regulation (FAR); FAR Case 2018-020, Construction Contract Administration	9000-AN78
228	Federal Acquisition Regulation (FAR); FAR Case 2018-021, Reserve Officer Training Corps and Military Recruiting on Campus.	9000-AN79
229	Federal Acquisition Regulation (FAR); FAR Case 2018-022; Orders Issued Via Fax or Electronic Commerce.	9000-AN80
230	Federal Acquisition Regulation (FAR); FAR Case 2018-023, Taxes—Foreign Contracts in Afghanistan	9000-AN81
231	Federal Acquisition Regulation (FAR); FAR Case 2018-024; Use of Interagency Fleet Management System Vehicles and Related Services.	9000-AN82
232	Federal Acquisition Regulation (FAR); FAR Case 2019-001, Analysis for Equipment Acquisitions	9000-AN84

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

Sequence No.	Title	Regulation Identifier No.
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234	Federal Acquisition Regulation (FAR); FAR Case 2019–004, Good Faith in Small Business Subcontracting.	9000–AN87
235	Federal Acquisition Regulation (FAR); FAR Case 2019–007, Update of Historically Underutilized Business Zone Program.	9000–AN90
236	Federal Acquisition Regulation (FAR); FAR Case 2019–008, Small Business Program Amendments	9000–AN91
237	Federal Acquisition Regulation (FAR); FAR Case 2019–009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment.	9000–AN92

DOD/GSA/NASA (FAR)—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
238	Federal Acquisition Regulation (FAR); FAR Case 2013–002; Reporting of Nonconforming Items to the Government-Industry Data Exchange Program.	9000–AM58
239	Federal Acquisition Regulation (FAR); FAR Case 2014–002; Set-Asides Under Multiple Award Contracts	9000–AM93
240	Federal Acquisition Regulation: FAR Case 2016–005; Effective Communication Between Government and Industry.	9000–AN29
241	Federal Acquisition Regulation (FAR); FAR Case 2017–005, Whistleblower Protection for Contractor Employees.	9000–AN32
242	Federal Acquisition Regulation (FAR); FAR Case 2016–011, Revision of Limitations on Subcontracting	9000–AN35
243	Federal Acquisition Regulation (FAR); FAR Case 2017–006, Exception From Certified Cost or Pricing Data Requirements—Adequate Price Competition.	9000–AN53
244	Federal Acquisition Regulation (FAR); FAR Case 2017–010, Evaluation Factors for Multiple-Award Contracts.	9000–AN54
245	Federal Acquisition Regulation (FAR); FAR Case 2017–020, Ombudsman for Indefinite-Delivery Contracts	9000–AN58
246	Federal Acquisition Regulation (FAR); FAR Case 2018–010, Use of Product and Services of Kaspersky Lab.	9000–AN64
247	Federal Acquisition Regulation (FAR); FAR Case 2018–017, Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.	9000–AN83
248	Federal Acquisition Regulation (FAR); FAR Case 2019–002, Recreational Services on Federal Lands	9000–AN85
249	Federal Acquisition Regulation (FAR); FAR Case 2019–005, Update to Contract Performance Assessment Reporting System (CPARS).	9000–AN88

DOD/GSA/NASA (FAR)—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
250	Federal Acquisition Regulation (FAR); FAR Case 2015–021; Determination of Fair and Reasonable Prices on Orders Under Multiple Award Contracts.	9000–AM94
251	Federal Acquisition Regulation (FAR); FAR Case 2015–017; Combating Trafficking in Persons—Definition of “Recruitment Fees”.	9000–AN02
252	Federal Acquisition Regulation (FAR); FAR Case 2017–009, Special Emergency Procurement Authority ...	9000–AN45
253	Federal Acquisition Regulation (FAR); FAR Case 2016–012, Incremental Funding of Fixed-Price Contracting Actions.	9000–AN47
254	Federal Acquisition Regulation (FAR); FAR Case 2017–017, Rental Cost Analysis in Equipment Acquisitions.	9000–AN63

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

Proposed Rule Stage

**205. FAR Acquisition Regulation (FAR);
FAR Case 2015–038, Reverse Auction
Guidance**

E.O. 13771 Designation: Other.

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 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	08/00/19	
NPRM Comment Period End.	10/00/19	

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

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

E.O. 13771 Designation: Other.
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 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 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 has included contracts performed outside of the United States in agencies' prime contracting goals since 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 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	11/00/19	
NPRM Comment Period End.	01/00/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA

(FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7185, *Email:* marilyn.chambers@gsa.gov.
RIN: 9000-AN34

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

E.O. 13771 Designation: Other.
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 Federal Acquisition Regulation (FAR) to implement a final rule issued by the Department of the Treasury 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 two percent of the amount of such payment. This rule applies to foreign persons that are awarded Federal Government contracts to provide goods or services.

Timetable:

Action	Date	FR Cite
NPRM	08/00/19	
NPRM Comment Period End.	10/00/19	

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

208. Federal Acquisition Regulation (FAR); FAR Case 2017-003; Individual Sureties

E.O. 13771 Designation: Other.
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 implements section 874 of the National Defense Authorization Act (NDAA) for FY 2016 (Pub. L. 114-92), codified at 31 U.S.C. 9310, Individual Sureties. Individual sureties will no longer be able to pledge real property, corporate stocks, corporate bonds, or irrevocable letters of credit. The requirements of 31 U.S.C. 9310 are intended to strengthen the assets pledged by individual sureties, thereby mitigating risk to the Government.

Timetable:

Action	Date	FR Cite
NPRM	07/00/19	
NPRM Comment Period End.	09/00/19	

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

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

E.O. 13771 Designation: Other.
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 Department of Defense (DoD) Wide Area Workflow (WAWF) for the electronic 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 that are covered by the National Industrial Security Program (NISP). By changing the submittal process of the form from a manual process to an automated one, the Government will reduce the cost of maintaining the forms, while also providing a centralized repository for classified contract security requirements and supporting data.

Timetable:

Action	Date	FR Cite
NPRM	07/00/19	
NPRM Comment Period End.	09/00/19	

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

210. Federal Acquisition Regulation (FAR); FAR Case 2017-014, Use of Acquisition 360 To Encourage Vendor Feedback

E.O. 13771 Designation: Other.

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 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 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 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
ANPRM	07/23/18	83 FR 34820
ANPRM Comment Period End.	09/21/18	
NPRM	11/00/19	
NPRM Comment Period End.	01/00/20	

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

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

E.O. 13771 Designation: Other.
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 create and implement appropriate contract clauses and regulatory coverage to address contractor requirements for a breach response consistent with the requirements. This FAR change will implement the requirements outlined in the 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	10/00/19	
NPRM Comment Period End.	12/00/19	

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

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

E.O. 13771 Designation: Other.
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, "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. This rule is expected to impose additional costs on Federal agencies. The purpose is to increase productivity for Federal employees with disabilities, time savings due to improved accessibility of federal websites for members of the public with disabilities, and reduced call volumes to Federal agencies. Additionally, this rule harmonizes standards with national and international consensus standards this would assist American ICT companies by helping them to achieve economies of scale created by a wider use of these technical standards.

Timetable:

Action	Date	FR Cite
NPRM	10/00/19	
NPRM Comment Period End.	12/00/19	

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

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

E.O. 13771 Designation: Other.
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 the executive agent designated to oversee the Governmentwide CUI program, NARA issued implementing regulations in late 2016 designed to address Federal agency policies for designating, safeguarding, disseminating, marking, decontrolling and disposing of CUI. The NARA rule, which is codified at 32 CFR 2002, affects contractors that handle, possess, use, share or receive CUI. This FAR rule helps to ensure uniform implementation of the requirements of the CUI program in contracts across Government agencies.

Timetable:

Action	Date	FR Cite
NPRM	10/00/19	
NPRM Comment Period End.	12/00/20	

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

214. Federal Acquisition Regulation (FAR); FAR Case 2017-018, Violation of Arms Control Treaties or Agreements With the United States

E.O. 13771 Designation: Other.
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 proposed rule to address a public comment on the interim rule issued to amend the Federal Acquisition Regulation (FAR) to implement section 1290(c)(3) of the National Defense Authorization Act (NDAA) for FY 2017, which requires an offeror or any of its subsidiaries to certify that it does not engage in any activity that contributed to or is a significant factor in the determination that a country is not in full compliance with its obligations undertaken in all arms control, nonproliferation, and disarmament agreements or commitments in which the United States is a participating state.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/18	83 FR 28145
Interim Final Rule Comment Period End.	08/14/18	
NPRM	08/00/19	
NPRM Comment Period End.	10/00/19	

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-AN57

215. Federal Acquisition Regulation (FAR); FAR Case 2017-019, Policy on Joint Ventures

E.O. 13771 Designation: Other.
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 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	07/00/19	
NPRM Comment Period End.	09/00/19	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7185, *Email:* marilyn.chambers@gsa.gov, *RIN:* 9000-AN59

216. Federal Acquisition Regulation (FAR); FAR Case 2018-003, Credit for Lower-Tier Small Business Subcontracting

E.O. 13771 Designation: Other.
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 implement section 1614 of the National Defense Authorization Act (NDAA) of Fiscal Year 2014, as implemented in the Small Business Administration's final rule issued on December 23, 2016. Section 1614 allows other than small business prime contractors to receive small business subcontracting credit for subcontracts their subcontractors award to small businesses.

Timetable:

Action	Date	FR Cite
NPRM	10/00/19	
NPRM Comment Period End.	12/00/19	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7185, *Email:* marilyn.chambers@gsa.gov, *RIN:* 9000-AN61

217. Federal Acquisition Regulation (FAR); FAR Case 2018-002, Protecting Life in Global Health Assistance

E.O. 13771 Designation: Regulatory.
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 implement Presidential Memorandum, entitled "The Mexico City Policy," issued on January 13, 2017, in accordance with the Department of State's implementation plan dated May 9, 2017. This rule would extend requirements of the memorandum and plans to new funding agreements for global health assistance furnished by all Federal departments or agencies. This expanded policy will cover global health assistance to include funding for international health programs, such as those for HIV/AIDS, maternal and child health, malaria, global health security, and certain family planning and reproductive health.

Timetable:

Action	Date	FR Cite
NPRM	07/00/19	
NPRM Comment Period End.	09/00/19	

Regulatory Flexibility Analysis

Required: Yes.

RIN: 9000-AN62

218. Federal Acquisition Regulation (FAR); FAR Case 2018-004; Increased Micro-Purchase and Simplified Acquisition Thresholds

E.O. 13771 Designation: Deregulatory.

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 proposed rule to amend the FAR to implement sections 805, 806, and 1702(a) of the National Defense Authorization Act (NDAA) for FY 2018. Section 805 increases the micro-purchase threshold (MPT) to \$10,000 and limits the use of convenience checks to not more than one half of the MPT amount (*i.e.*, \$5,000). Section 806 increases the simplified acquisition threshold (SAT) to \$250,000. Section 1702(a) amends section 15(j)(1) of the Small Business Act (15 U.S.C. 644(j)(1)) to replace specific dollar thresholds with the terms micro-purchase threshold and simplified acquisition threshold.

Timetable:

Action	Date	FR Cite
NPRM	07/00/19	
NPRM Comment Period End.	09/00/19	

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-AN65

219. Federal Acquisition Regulation (FAR); FAR Case 2018-006; Provisions and Clauses for Commercial Items and Simplified Acquisitions

E.O. 13771 Designation: Other.
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 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" in certain circumstances. This rule also implements a new approach to the prescription and flowdown for provisions and clauses applicable to acquisitions of commercial items or acquisitions that do not exceed the simplified acquisition threshold.

Timetable:

Action	Date	FR Cite
NPRM	09/00/19	
NPRM Comment Period End.	11/00/19	

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

220. Federal Acquisition Regulation (FAR); FAR Case 2018-005, Modifications to Cost or Pricing Data and Reporting Requirements

E.O. 13771 Designation: Other.
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 Truth in Negotiation Act (TINA) threshold to \$2 million and require other than certified cost or pricing data. The rule reduces the burden on contractors because they would not be required to certify their cost or pricing data between \$750,000 and \$2 million. This change implements section 811 of the National Defense Authorization Act (NDAA) for FY 2018. Section 811 modifies 10 U.S.C. 2306a and 41 U.S.C. 3502.
Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	07/00/19 09/00/19	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 969-7185, Email: marilyn.chambers@gsa.gov.
RIN: 9000-AN69

221. Federal Acquisition Regulation (FAR); FAR Case 2018-012, Rights to Federally Funded Inventions and Licensing of Government-Owned Inventions

E.O. 13771 Designation: Other.
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 the changes to 37 CFR parts 401 and 404, "Rights to Federally Funded Inventions and Licensing of Government Owned Inventions," dated May 14, 2018. The changes reduce regulatory burdens, provide greater clarity to large businesses by codifying the applicability of Bayh-Dole as directed in Executive Order 12591, and provide greater clarity to all federal funding recipients by updating regulatory provisions to align with provisions of the Leahy-Smith America Invents Act in terms of definitions and time frames.
Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	09/00/19 11/00/19	

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-AN71

222. Federal Acquisition Regulation (FAR); FAR Case 2018-013, Exemption of Commercial and COTS Item Contracts From Certain Laws and Regulations

E.O. 13771 Designation: Deregulatory.
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 paragraph (a) of section 839 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019. Paragraph (a) requires the FAR Council to review each past determination made not to exempt contacts 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). The FAR Council or the Administrator for Federal Procurement Policy has to determine whether there still exists specific reason not to provide exemptions from certain laws. If no determination is made to continue to exempt commercial contracts and subcontracts from certain laws, paragraph (a) requires that revisions to the FAR be proposed, to reflect exemptions from those laws. Paragraph (a) requires these revisions to be proposed within one year of the date of enactment of section 839.
Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	07/00/19 09/00/19	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 703 605-2868, Email: mahruba.uddowla@gsa.gov.
RIN: 9000-AN72

223. Federal Acquisition Regulation (FAR); FAR Case 2018-014, Increasing Task-Order Level Competition

E.O. 13771 Designation: Other.
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 NPRM Comment Period End.	09/00/19 11/00/19	

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

224. Federal Acquisition Regulation (FAR); FAR Case 2018-016, Lowest Price Technically Acceptable Source Selection Process

E.O. 13771 Designation: Not subject to, not significant.
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 880 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 to avoid using lowest price technically acceptable source selection criteria in circumstances that would deny the Government the benefits of cost and

technical tradeoffs in the source selection process.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	09/00/19 11/00/19	

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–AN75

225. Federal Acquisition Regulation (FAR); FAR Case 2018–018, Revision of Definition of “Commercial Item”

E.O. 13771 Designation: Other.
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 separate the commercial item definition into definitions of commercial product and commercial service. Section 836 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115–232) set the effective date of the new definitions to January 1, 2020. This is consistent with the recommendations by the independent panel created by section 809 of the NDAA for FY 2016 (Pub. L. 114–92). This case implements amendment to 41 U.S.C. 103.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	11/00/19 01/00/20	

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–AN76

226. Federal Acquisition Regulation (FAR); FAR Case 2018–019, Review of Commercial Clause Requirements and Flowdown

E.O. 13771 Designation: Deregulatory.
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 paragraphs (b) and (c) of section 839 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019.

Paragraph (b) requires the FAR Council to review the FAR to assess every regulation that requires a specific clause in contracts for commercial products or commercial services, unless the regulation is required by law or Executive Order. Paragraph (b) also requires that revisions to the FAR be proposed to eliminate those regulations unless the FAR Council makes a determination not to eliminate a regulation.

Paragraph (c) requires the FAR Council to review the FAR to assess every regulation that requires a prime contractor to include 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 makes a determination not to eliminate a regulation.

Paragraphs (b) and (c) require these revisions to be proposed within one year of the date of the enactment of section 839.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	07/00/19 09/00/19	

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–AN77

227. Federal Acquisition Regulation (FAR); FAR Case 2018–020, Construction Contract Administration

E.O. 13771 Designation: Other.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113
Abstract: Implements 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 NPRM Comment Period End.	12/00/19	

Action	Date	FR Cite
NPRM Comment Period End.	02/00/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–7185, *Email:* marilyn.chambers@gsa.gov.
RIN: 9000–AN78

228. Federal Acquisition Regulation (FAR); FAR Case 2018–021, Reserve Officer Training Corps and Military Recruiting on Campus

E.O. 13771 Designation: Other.
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 at 10 U.S.C. 983, which prohibits the award of certain Federal contracts or grants to institutions of higher education that prohibit Senior Reserve Officer Training Corps units or military recruiting on campus.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	11/00/19 01/00/20	

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–AN79

229. Federal Acquisition Regulation (FAR); FAR Case 2018–022; Orders Issued Via Fax or Electronic Commerce

E.O. 13771 Designation: Other.
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 52.216–18, Ordering, to authorize issuance of orders via fax or email and clarify when an order is considered to be issued when utilizing these methods.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	11/00/19 01/00/20	

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-AN80

230. Federal Acquisition Regulation (FAR); FAR Case 2018-023, Taxes—Foreign Contracts in Afghanistan

E.O. 13771 Designation: Other.
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 provisions on taxes, duties, and fees contained in the Security and Defense Cooperation Agreement (dated 2014) and the North Atlantic Treaty Organization Status of Forces Agreement (dated 2014) with Afghanistan.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	11/00/19 01/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kevin Funk, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 357-5805, *Email:* kevin.funk@gsa.gov.
RIN: 9000-AN81

231. Federal Acquisition Regulation (FAR); FAR Case 2018-024; Use of Interagency Fleet Management System Vehicles and Related Services

E.O. 13771 Designation: Other.
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 52.251-1, Interagency Fleet Management System Vehicles and Related Services, to provide contractors that have been authorized to use fleet vehicles with additional information on how to request the vehicles from the Government.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	11/00/19 01/00/20	

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-AN82

232. • Federal Acquisition Regulation (FAR); FAR Case 2019-001, Analysis for Equipment Acquisitions

E.O. 13771 Designation: Other.
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 by implementing section 555 of the Federal Aviation Administration (FAA) Reauthorization Act for Fiscal Year (FY) 2018 (Pub. L. 115-254), which requires equipment to be acquired using the method of acquisition most advantageous to the Government based on a case-by-case analysis of costs and other factors. Section 555 requires the methods of acquisition to be compared in the analysis to include, at a minimum: (1) Purchase; (2) long-term lease or rental; (3) short-term lease or rental; (4) interagency acquisition; or, (5) acquisition agreements with a State or local government. Section 555 exempts certain acquisitions from this required analysis.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	10/00/19 12/00/19	

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-AN84

233. • Federal Acquisition Regulation (FAR); FAR Case 2019-003, Substantial Bundling and Consolidation

E.O. 13771 Designation: Other.
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 863 of the National Defense Authorization Acts (NDAA) for FY 2016 and the Small Business Administration (SBA) implementing regulations requiring publication of a notice of substantial bundling and a notice of consolidation of contract requirements.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	12/00/19	

Action	Date	FR Cite
NPRM Comment Period End.	02/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7185, *Email:* marilyn.chambers@gsa.gov.
RIN: 9000-AN86

234. • Federal Acquisition Regulation (FAR); FAR Case 2019-004, Good Faith in Small Business Subcontracting

E.O. 13771 Designation: Other.
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 1821 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 and the Small Business Administration regulatory changes relating to small business subcontracting plans. Section 1821 requires examples of activities that would be considered a failure to make a good faith effort to comply with small business subcontracting plan requirements.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	12/00/19 02/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7185, *Email:* marilyn.chambers@gsa.gov.
RIN: 9000-AN87

235. • Federal Acquisition Regulation (FAR); FAR Case 2019-007, Update of Historically Underutilized Business Zone Program

E.O. 13771 Designation: Other.
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 proposed by the Small Business Administration regarding the Historically Underutilized Business Zone (HUBZone) Program. The proposed regulatory changes are intended to reduce the regulatory burden associated with the HUBZone Program.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	02/00/20 04/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–7185, *Email:* marilyn.chambers@gsa.gov.
RIN: 9000–AN90

236. • Federal Acquisition Regulation (FAR); FAR Case 2019–008, Small Business Program Amendments

E.O. 13771 Designation: Other.
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 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 NPRM Comment Period End.	02/00/20 04/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–7185, *Email:* marilyn.chambers@gsa.gov.
RIN: 9000–AN91

237. • Federal Acquisition Regulation (FAR); FAR Case 2019–009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment

E.O. 13771 Designation: Other.
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 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, 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
NPRM NPRM Comment Period End.	12/00/19 02/00/20	

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–AN92

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

Final Rule Stage

238. Federal Acquisition Regulation (FAR); FAR Case 2013–002; Reporting of Nonconforming Items to the Government-Industry Data Exchange Program

E.O. 13771 Designation: Other.
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 expand Government and contractor requirements for the 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. This will allow the contracting officer to provide disposition instructions for counterfeit or suspect counterfeit items in accordance with agency policy. In some cases, agency policy may require the contracting officer to direct the contractor to retain such items for investigative or evidentiary purposes.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	06/10/14 08/11/14	79 FR 33164
Final Rule	07/00/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marilyn Chambers, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–7185, *Email:* marilyn.chambers@gsa.gov.
RIN: 9000–AM58

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

E.O. 13771 Designation: Deregulatory.
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 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 in section 1331 of the Small Business Jobs Act of 2010 (15 U.S.C. 644(r)) and regulatory requirements in the Small Business Administration’s final rule dated October 2, 2013.

Due to their inherent flexibility, competitive nature, and administrative efficiency, multiple award contracts are commonly used in Federal procurement. They have proven to be an effective means of contracting for large quantities of supplies and services for which the quantity and delivery requirements cannot be definitively determined at contract award. However, prior to 2011, the FAR was largely silent on the use of acquisition strategies to promote small business participation in conjunction with multiple-award contracts. This rule increases small business participation in Federal prime contracts by ensuring that small businesses have greater access to multiple award contracts, clarifying the procedures for partially setting aside

and reserving multiple-award contracts for small business; and setting aside orders placed under multiple-award contracts for small business. This rule ensures that small businesses will have greater access to these commonly used vehicles.

Timetable:

Action	Date	FR Cite
NPRM	12/06/16	81 FR 88072
NPRM Comment Period End.	02/06/17	
Final Rule	07/00/19	

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 Case 2016-005; Effective Communication Between Government and Industry

E.O. 13771 Designation: Not subject to, not significant.

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	08/00/19	

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

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

E.O. 13771 Designation: Fully or Partially Exempt.

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	10/00/19	

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

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

E.O. 13771 Designation: Deregulatory.

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 revise and standardize the limitations on subcontracting, including the nonmanufacturer rule, that apply to small business concerns under FAR part 19 procurements. This proposed rule incorporates SBA’s final rule that implemented the statutory requirements of section 1651 of the National Defense Authorization Act (NDAA) 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. The rule will benefit both small businesses and Federal agencies. The rule will allow small businesses to take advantage of subcontracts with similarly situated entities. As a result, these small businesses will be able to compete for larger contracts, which would positively affect their potential for growth as well as that of their potential subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	12/04/18	83 FR 62540
NPRM Comment Period End.	02/04/19	
Final Rule	10/00/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kevin Funk, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 357-5805, *Email:* kevin.funk@gsa.gov.

RIN: 9000-AN35

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

E.O. 13771 Designation: Not subject to, not significant.

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 822 of the National Defense Authorization Act (NDAA) for FY 2017 (Pub. L. 114-328). This rule applies to DoD, NASA, and the Coast Guard, and implements exceptions for these agencies at FAR 15.403(c)(1) from certified cost or pricing data requirements when price is based on adequate price competition. This rule 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	06/12/18	83 FR 27303
NPRM Comment Period End.	08/13/18	
Final Rule	07/00/19	

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

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

E.O. 13771 Designation: Deregulatory. *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 825 of the National Defense Authorization Act (NDAA) for FY 17 (Pub. L. 114-328). Section 825 amends 10 U.S.C. 2305(a)(3) to change 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 awarded by DoD, NASA, or the Coast Guard. 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 rule will streamline the award of contracts for DoD, NASA, and the Coast Guard because they will not be required to consider cost or price in the evaluation of the award decision. Relieving the requirement to account for cost or price when evaluating proposals for these types of contracts, which feature competitive orders, will enable procurement officials to focus their energy on establishing and evaluating the non-price factors that will result in more meaningful distinctions among offerors.

Timetable:

Action	Date	FR Cite
NPRM	09/24/18	83 FR 48271
Correction	10/23/18	83 FR 53421
NPRM Comment Period End.	11/23/18	
Final Rule	09/00/19	

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

245. Federal Acquisition Regulation (FAR); FAR Case 2017-020, Ombudsman for Indefinite-Delivery Contracts

E.O. 13771 Designation: Not subject to, not significant.

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) by providing a new clause with contact information for the agency task and delivery order ombudsman as required by the FAR. Specifically, FAR 16.504(a)(4)(v) requires that the name, address, telephone number, facsimile number, and email address of the agency task and delivery order ombudsman be included in solicitations and contracts for an indefinite quantity requirement, if multiple awards may be made for uniformity and consistency.

Timetable:

Action	Date	FR Cite
NPRM	11/01/18	83 FR 54901
NPRM Comment Period End.	12/31/18	
Final Rule	09/00/19	

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-AN58

246. Federal Acquisition Regulation (FAR); FAR Case 2018-010, Use of Product and Services of Kaspersky Lab

E.O. 13771 Designation: Fully or Partially Exempt.

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 1634 of the National Defense Authorization Act (NDAA) of Fiscal Year 2018 to prohibit any department, agency, organization, or other element of the Federal government from using products and services developed or provided by Kaspersky Lab or any entity in which Kaspersky Lab has a majority ownership.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/18	83 FR 28141
Interim Final Rule Comment Period End.	08/14/18	
Final Rule	09/00/19	

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-AN64

247. Federal Acquisition Regulation (FAR); FAR Case 2018-017, Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

E.O. 13771 Designation: Other. *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 889 of the National Defense Authorization Act (NDAA) for FY 19 (Pub. L. 115-232). Section 889 prohibits the procurement or use of 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.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/19	
Interim Final Rule Comment Period End.	10/00/19	

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-AN83

248. Federal Acquisition Regulation (FAR); FAR Case 2019-002, Recreational Services on Federal Lands

E.O. 13771 Designation: Other. *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 exempt contracts for seasonal recreational services and seasonal recreational equipment rental on Federal lands from the Executive Order 13658 minimum wage requirements. This rule implements Executive Order 13838 that was issued on May 25, 2018 and associated Department of Labor final rule published on September 26, 2018. In accordance with Executive Order 13838, this proposed rule will not limit Executive Order 13658's coverage of lodging and food services associated with seasonal recreational services, even when seasonal recreational services or seasonal recreational equipment rental are also provided under the same contract.

Timetable:

Action	Date	FR Cite
Final Rule	01/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kevin Funk, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 357-5805, *Email:* kevin.funk@gsa.gov.

RIN: 9000-AN85

249. • Federal Acquisition Regulation (FAR); FAR Case 2019-005, Update to Contract Performance Assessment Reporting System (CPARS)

E.O. 13771 Designation: Not subject to, not significant.

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 changes regarding the Past Performance Information Retrieval System (PPIRS). This rule establishes that the Contract Performance Assessment Reporting System (CPARS) is the official system for past performance information.

Effective January 15, 2019, PPIRS was officially retired to conclude its merger with the CPARS. Data from PPIRS has been merged into CPARS.gov, making CPARS the official system for past performance information. This merge simplifies functions such as creating and editing performance and integrity records, changes to administering users and running reports, generating performance records, and viewing/managing performance records. Users will now have one location and one account to perform all functionality.

Timetable:

Action	Date	FR Cite
Final Rule	10/00/19	

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-AN88

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

Completed Actions

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

E.O. 13771 Designation: Other.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113
Abstract: This case is being withdrawn so that the FAR Council may take a fresh look at the current data regarding prices paid and price variances. Additionally the Council will revisit the regulatory coverage on fair and reasonable pricing for Schedule contracts, and other government-wide vehicles, in light of policy developments that have taken place since the case was opened. One such development is the recent issuance of OMB Memorandum M-19-13, Making Smarter Use of Common Contract Solutions and Practices, which includes steps for improving price competitiveness on best-in-class and other government-wide solutions.

Completed:

Reason	Date	FR Cite
Withdrawn	04/09/19	

Regulatory Flexibility Analysis Required: Yes.

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

RIN: 9000-AM94

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

E.O. 13771 Designation: Regulatory.
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 Executive Order 13627, Strengthening Protections Against Trafficking in Persons in Federal Contracts, and title XVII of the National Defense Authorization Act for Fiscal Year 2013. The rule adds a definition of “recruitment fees” to FAR subpart 22.17, Combating Trafficking in Persons, and the associated clauses to provide a standardized definition that clarifies what prohibited recruitment fees are in order to help prevent human trafficking.

Completed:

Reason	Date	FR Cite
Final Rule	12/20/18	83 FR 65466
Final Rule Effective.	01/22/19	

Regulatory Flexibility Analysis Required: Yes.

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

RIN: 9000-AN02

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

E.O. 13771 Designation: Deregulatory.
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 sections of the National Defense Authorization Act (NDAA) for Fiscal Year 2017 to expand special emergency procurement authorities for acquisitions of supplies or services that facilitate defense against or recovery from a cyber attack, provide international disaster assistance under the Foreign Assistance Act of 1961, or support response to an emergency or major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Completed:

Reason	Date	FR Cite
Final Rule	05/06/19	84 FR 19835
Final Rule Effective.	06/05/19	

Regulatory Flexibility Analysis Required: Yes.

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

RIN: 9000-AN45

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

E.O. 13771 Designation: Other.

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

Abstract: This case is withdrawn and may be resubmitted after further research and deliberation of the alternatives for implementation.

Completed:

Reason	Date	FR Cite
Withdrawn	04/09/19	

Regulatory Flexibility Analysis Required: Yes.

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

RIN: 9000-AN47

254. Federal Acquisition Regulation (FAR); FAR Case 2017-017, Rental Cost Analysis in Equipment Acquisitions

E.O. 13771 Designation: Fully or Partially Exempt.

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

Abstract: This final rule is being withdrawn and merged into FAR Case 2019-001.

DoD, GSA, and NASA is issuing a final rule to ensure short-term rental agreements are considered as part of the decision whether to lease or purchase equipment. This rule proposes to amend the FAR to add a factor to consider the cost-effectiveness of short-term versus long-term agreements (e.g., leases and

rentals) to the list of minimum factors to be considered when an agency is deciding whether to lease or purchase equipment.

Completed:

Reason	Date	FR Cite
Withdrawn	02/26/19	

Regulatory Flexibility Analysis Required: Yes.

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

RIN: 9000-AN63

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