

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Regulatory Agenda

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

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in

compliance with Executive Order 12866 “Regulatory Planning and Review.” This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process.

The Regulatory Secretariat Division has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

Published proposed rules may be reviewed in their entirety at the Government’s rulemaking Web site at <http://www.regulations.gov>.

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

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of changes published in the **Federal Register** and produced electronically as Federal Acquisition Circulars (FACs). The electronic version of the FAR, including changes, can be accessed on the FAR Web site at <http://www.acquisition.gov/far>.

Dated: September 9, 2011.

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

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

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

DOD/GSA/NASA (FAR)—COMPLETED ACTIONS

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

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

Proposed Rule Stage

480. FAR Case 2010-013, Privacy Training

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

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

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

Timetable:

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

Regulatory Flexibility Analysis Required: Yes.

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

RIN: 9000-AM02

481. • Basic Safeguarding of Contractor Information Systems

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

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

Timetable:

Action	Date	FR Cite
NPRM	05/00/12	

Regulatory Flexibility Analysis

Required: Yes.

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RIN: 9000-AM10

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

Final Rule Stage

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

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

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

Timetable:

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

Regulatory Flexibility Analysis

Required: Yes.

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RIN: 9000-AL21

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

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

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

Timetable:

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

Regulatory Flexibility Analysis

Required: Yes.

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RIN: 9000-AL63

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

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

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

Timetable:

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

Regulatory Flexibility Analysis

Required: Yes.

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RIN: 9000-AL66

485. FAR Case 2011-004, Socioeconomic Program Parity

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

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

Timetable:

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

Regulatory Flexibility Analysis

Required: Yes.

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RIN: 9000-AL88

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

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

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

Timetable:

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

Regulatory Flexibility Analysis

Required: Yes.

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487. FAR Case 2010-004, Biobased Procurements

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

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

Timetable:

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

Regulatory Flexibility Analysis

Required: Yes.

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

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

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

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

Timetable:

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

Regulatory Flexibility Analysis

Required: Yes.

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

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

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

Timetable:

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

Regulatory Flexibility Analysis

Required: Yes.

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

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

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

Timetable:

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

Regulatory Flexibility Analysis

Required: Yes.

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

Completed Actions

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

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

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

Completed:

Agency Contact: Curtis Glover, *Phone:*
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Reason	Date	FR Cite
Withdrawn by Agency Request.	10/26/11	

RIN: 9000-AM04
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*Regulatory Flexibility Analysis
Required: Yes.*