

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 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 website at <http://www.regulations.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: September 4, 2020.
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.
358	FAR Acquisition Regulation (FAR); FAR Case 2015–038, Reverse Auction Guidance	9000–AN31
359	Federal Acquisition Regulation (FAR); FAR Case 2017–014, Use of Acquisition 360 to Encourage Vendor Feedback.	9000–AN43
360	Federal Acquisition Regulation (FAR); FAR Case 2017–013, Breaches of Personally Identifiable Information.	9000–AN44
361	Federal Acquisition Regulation (FAR); FAR Case 2017–016, Controlled Unclassified Information (CUI)	9000–AN56
362	Federal Acquisition Regulation (FAR); FAR Case 2018–002, Protecting Life in Global Health Assistance ..	9000–AN62
363	Federal Acquisition Regulation (FAR); FAR Case 2018–006; Definition of Subcontract	9000–AN66
364	Federal Acquisition Regulation (FAR); FAR Case 2018–012, Rights to Federally Funded Inventions and Licensing of Government-Owned Inventions.	9000–AN71
365	Federal Acquisition Regulation (FAR); FAR Case 2018–013, Exemption of Commercial and COTS Item Contracts From Certain Laws and Regulations.	9000–AN72
366	Federal Acquisition Regulation (FAR); FAR Case 2018–014, Increasing Task-Order Level Competition	9000–AN73
367	Federal Acquisition Regulation (FAR); FAR Case 2019–007, Update of Historically Underutilized Business Zone Program.	9000–AN90
368	Federal Acquisition Regulation (FAR); FAR Case 2019–008, Small Business Program Amendments	9000–AN91
369	Federal Acquisition Regulation (FAR); FAR Case 2019–010, Efficient Federal Operations	9000–AN94
370	Federal Acquisition Regulation (FAR); FAR Case 2019–015, Improving Consistency Between Procurement & Non-Procurement Procedures on Suspension and Debarment.	9000–AN98
371	Federal Acquisition Regulation (FAR); FAR Case 2019–016, Maximizing Use of American-Made Goods, Products and Materials.	9000–AN99
372	Federal Acquisition Regulation (FAR); FAR Case 2020–004, Application of the MPT to Certain Task and Delivery Orders.	9000–AO04
373	Federal Acquisition Regulation (FAR); FAR Case 2020–005, Explanations to Unsuccessful Offerors on Certain Orders Under Task and Delivery Order Contracts.	9000–AO08
374	Federal Acquisition Regulation (FAR); FAR Case 2020–007, Accelerated Payments Applicable to Contracts With Certain Small Business Concerns.	9000–AO10
375	Federal Acquisition Regulation (FAR); FAR Case 2020–008, Prohibition on Criminal History Inquiries by Contractors Prior to Conditional Offer.	9000–AO11
376	Federal Acquisition Regulation (FAR); FAR Case 2020–010, Small Business Innovation Research and Technology Transfer Programs.	9000–AO12
377	Federal Acquisition Regulation (FAR); FAR Case 2020–013, Certification of Women-Owned Small Businesses.	9000–AO17

DOD/GSA/NASA (FAR)—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
378	Federal Acquisition Regulation: FAR Case 2016–005; Effective Communication Between Government and Industry.	9000–AN29
379	Federal Acquisition Regulation (FAR); FAR Case 2017–005, Whistleblower Protection for Contractor Employees.	9000–AN32
380	Federal Acquisition Regulation; FAR Case 2016–002, Applicability of Small Business Regulations Outside the United States.	9000–AN34

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

Sequence No.	Title	Regulation Identifier No.
381	Federal Acquisition Regulation (FAR); FAR Case 2016–011, Revision of Limitations on Subcontracting	9000–AN35
382	Federal Acquisition Regulation (FAR); FAR Case 2017–003; Individual Sureties	9000–AN39
383	Federal Acquisition Regulation (FAR); FAR Case 2017–011, Section 508-Based Standards in Information and Communication Technology.	9000–AN46
384	Federal Acquisition Regulation (FAR); FAR Case 2017–018, Violation of Arms Control Treaties or Agreements With the United States.	9000–AN57
385	Federal Regulation Acquisition (FAR); FAR Case 2017–019, Policy on Joint Ventures	9000–AN59
386	Federal Acquisition Regulation (FAR); FAR Case 2018–016, Lowest Price Technically Acceptable Source Selection Process.	9000–AN75
387	Federal Acquisition Regulation (FAR); FAR Case 2018–020, Construction Contract Administration	9000–AN78
388	Federal Acquisition Regulation (FAR); FAR Case 2018–021, Reserve Officer Training Corps and Military Recruiting on Campus.	9000–AN79
389	Federal Acquisition Regulation (FAR); FAR Case 2018–023, Taxes-Foreign Contracts in Afghanistan	9000–AN81
390	Federal Acquisition Regulation (FAR); FAR Case 2018–017, Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.	9000–AN83
391	Federal Acquisition Regulation (FAR); FAR Case 2019–001, Analysis for Equipment Acquisitions	9000–AN84
392	Federal Acquisition Regulation (FAR); FAR Case 2019–002, Recreational Services on Federal Lands	9000–AN85
393	Federal Acquisition Regulation (FAR); FAR Case 2019–003, Substantial Bundling and Consolidation	9000–AN86
394	Federal Acquisition Regulation (FAR); FAR Case 2019–004, Good Faith in Small Business Subcontracting.	9000–AN87
395	Federal Acquisition Regulation (FAR); FAR Case 2019–009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment.	9000–AN92
396	Federal Acquisition Regulation (FAR); FAR Case 2020–006, Documentation of Market Research	9000–AO09
397	Federal Acquisition Regulation (FAR); FAR Case 2020–011, Implementation of Issued Exclusion and Removal Orders.	9000–AO13
398	Federal Acquisition Regulation (FAR); FAR Case 2020–012, Scope of Review by Procurement Center Representatives.	9000–AO16

DOD/GSA/NASA (FAR)—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
399	Federal Acquisition Regulation (FAR); FAR Case 2014–002; Set-Asides Under Multiple Award Contracts	9000–AM93
400	Federal Acquisition Regulation (FAR); FAR Case 2016–013, Tax on Certain Foreign Procurement	9000–AN38
401	Federal Acquisition Regulations (FAR); FAR Case 2015–002, Requirements for DD Form 254, Contract Security Classification Specification.	9000–AN40
402	Federal Acquisition Regulation (FAR); FAR Case 2017–010, Evaluation Factors for Multiple-Award Contracts.	9000–AN54
403	Federal Acquisition Regulation (FAR); FAR Case 2018–004; Increased Micro-Purchase and Simplified Acquisition Thresholds.	9000–AN65
404	Federal Acquisition Regulation (FAR); FAR Case 2018–005, Modifications to Cost or Pricing Data and Reporting Requirements.	9000–AN69
405	Federal Acquisition Regulation (FAR); FAR Case 2018–022; Orders Issued Via Fax or Electronic Commerce.	9000–AN80
406	Federal Acquisition Regulation (FAR); FAR Case 2019–013, Inflation Adjustment of Acquisition-Related Thresholds.	9000–AN96

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

Proposed Rule Stage

358. Far Acquisition Regulation (FAR); FAR Case 2015–038, Reverse Auction Guidance

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 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.	06/00/21	

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

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

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 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 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	04/00/21	

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

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

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 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	01/00/21	
NPRM Comment Period End.	03/00/21	

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

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

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 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	03/00/21	
NPRM Comment Period End.	05/00/21	

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

362. 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, "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	09/14/20	85 FR 56549
NPRM Comment Period End.	11/13/20	
Final Rule	05/00/21	

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-AN62

363. Federal Acquisition Regulation (FAR); FAR CASE 2018-006; Definition of Subcontract

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 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 NPRM Comment Period End.	03/00/21 05/00/21	

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

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

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 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 on the public, but increase burdens on the Government, 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 timeframes.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	03/00/21 04/00/21	

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–AN71

365. 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 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 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). 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 (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 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 makes a determination not to eliminate a regulation.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	04/00/21 06/00/21	

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

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

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 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.	05/00/21 07/00/21	

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

367. 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 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.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	03/00/21 05/00/21	

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-AN90

368. 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	03/00/21	
NPRM Comment Period End.	05/00/21	

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

369. Federal Acquisition Regulation (FAR); FAR Case 2019-010, Efficient Federal Operations

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 Executive Order 13834, "Efficient Federal Operations." Executive Order 13834 directs Federal agencies to comply with statutory requirements related to energy and environmental performance in a manner that increases efficiency, maximizes performance, eliminates unnecessary use of resources, and protects the environment. This rule promotes the efficient acquisition of sustainable products, services, and construction methods in order to reduce energy and water consumption, reliance on natural resources, and enhance pollution

prevention, within the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	01/00/21	
NPRM Comment Period End.	03/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kevin Funk, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357-5805, *Email:* kevin.funk@gsa.gov.
RIN: 9000-AN94

370. Federal Acquisition Regulation (FAR); FAR Case 2019-015, Improving Consistency Between Procurement & Non-Procurement Procedures on Suspension and Debarment

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 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	05/00/21	
NPRM Comment Period End.	07/00/21	

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

371. Federal Acquisition Regulation (FAR); FAR Case 2019-016, Maximizing Use of American-Made Goods, Products and Materials

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 proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13881, Maximizing Use of American-Made Goods, Products, and Materials, which would provide that materials shall be considered to be of foreign origin if: (A) for iron and steel end products, the cost of foreign iron and steel used in such iron and steel end products constitutes 5 percent or more of the cost of all the products used in such iron and steel end products; or (B) for all other end products, the cost of the foreign products used in such end products constitutes 45 percent or more of the cost of all the components. In addition, the E.O. provides that in determining price reasonableness or public interest, the evaluation factors of 20 percent (for other than small businesses), or 30 percent (for small businesses) shall be applied to offers of materials of foreign origin.

Timetable:

Action	Date	FR Cite
NPRM	09/14/20	85 FR 56558
NPRM Comment Period End.	11/13/20	
Final Rule	01/00/21	

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-AN99

372. Federal Acquisition Regulation (FAR); FAR Case 2020-004, Application of the MPT To Certain Task and Delivery Orders

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 FAR by implementing section 826 of the NDAA for FY 2020 (Pub. L. 116-92) which increases the threshold for requiring fair opportunity on orders under multiple-award contracts from \$3,500 to the micro-purchase threshold, unless an exception applies. This change applies the word-based threshold to ensure continued alignment with any future changes to the thresholds.

Timetable:

Action	Date	FR Cite
NPRM	10/22/20	85 FR 67327
NPRM Comment Period End.	12/21/20	
Final Rule	05/00/21	

*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-AO04

373. Federal Acquisition Regulation (FAR); FAR Case 2020-005, Explanations to Unsuccessful Offerors on Certain Orders Under Task and Delivery Order 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: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 874 of the NDAA for FY 2020, which requires, when awarding a task or delivery order in an amount greater than the simplified acquisition threshold, but not greater than \$5.5 million, contracting officers, upon written request from an unsuccessful offeror, to provide a brief explanation as to why the offeror was unsuccessful, 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	04/00/21	
NPRM Comment Period End.	06/00/21	

*Regulatory Flexibility Analysis**Required: Yes.*

Agency Contact: Dana L. Bowman, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357-9652, *Email:* dana.bowman@gsa.gov.

RIN: 9000-AO08

374. Federal Acquisition Regulation (FAR); FAR Case 2020-007, Accelerated Payments Applicable to Contracts With Certain Small Business Concerns

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 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 proposed 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	01/00/21	
NPRM Comment Period End.	03/00/21	

*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

375. Federal Acquisition Regulation (FAR); FAR Case 2020-008, Prohibition on Criminal History Inquiries by Contractors Prior to Conditional Offer

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 1123 of the NDAA for FY 2020 (Pub. L. 116-92) for the prohibition on criminal history inquiries by contractors prior to conditional offer to an individual or sole proprietor.

Timetable:

Action	Date	FR Cite
NPRM	05/00/21	
NPRM Comment Period End.	07/00/21	

*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-AO11

376. Federal Acquisition Regulation (FAR); FAR Case 2020-010, Small Business Innovation Research and Technology Transfer Programs

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 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	04/00/21	
NPRM Comment Period End.	06/00/21	

*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

377. • Federal Acquisition Regulation (FAR); FAR CASE 2020-013, Certification of Women-Owned Small Businesses

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: The purpose of this new 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.

Timetable:

Action	Date	FR Cite
NPRM	05/00/21	
NPRM Comment Period End.	07/00/21	

*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

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

Final Rule Stage

**378. 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	01/00/21	

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

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

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 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	03/00/21	

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

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

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 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.

Timetable:

Action	Date	FR Cite
NPRM	08/12/19	84 FR 39793
NPRM Comment Period End.	10/11/19	
Final Rule	01/00/21	

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–AN34

381. 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 rule incorporates the Small Business Administration’s (SBA) 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	01/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605–2868, *Email:* mahruba.uddowla@gsa.gov.
RIN: 9000–AN35

382. Federal Acquisition Regulation (FAR); FAR Case 2017–003; Individual Sureties

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

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

Abstract: DoD, GSA, and NASA are issuing a final rule 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	02/12/20	85 FR 7910
NPRM Comment Period End.	04/13/20	
Final Rule	01/00/21	

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

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

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 incorporate recent revisions and updates to accessibility standards issued by the U.S. Access Board pursuant to section 508 of the Rehabilitation Act of 1973. This FAR change incorporates the U.S. Access Board's final rule, "Information and Communication Technology (ICT) Standards and Guidelines," which published on January 18, 2017. This rule updates the

FAR to ensure that the updated accessibility standards are appropriately considered in Federal ICT acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	03/31/20	85 FR 17831
Correction	04/16/20	85 FR 21139
NPRM Comment Period End.	06/01/20	
Final Rule	01/00/21	

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

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

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 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	
Final Rule	11/00/20	

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–AN57

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

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 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	06/00/21	

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–AN59

386. 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 issuing a final rule 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	10/02/19	84 FR 52425
NPRM Comment Period End.	12/02/19	
Final Rule	11/00/20	

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

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

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 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	04/00/21	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Dana L. Bowman, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357–9652, *Email:* dana.bowman@gsa.gov.
RIN: 9000–AN78

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

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 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	09/24/19	84 FR 49974
NPRM Comment Period End.	11/25/19	

Action	Date	FR Cite
Final Rule	10/23/20	85 FR 67619
Final Rule Effective.	11/23/20	

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–AN79

389. Federal Acquisition Regulation (FAR); Far Case 2018–023, Taxes-Foreign Contracts in Afghanistan

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 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 the Islamic Republic of Afghanistan. Both Agreements exempt the United States Government, and its contractors and subcontractors (other than those who are Afghan legal entities or residents), from paying any tax or similar charge assessed on activities associated with contracts performed within Afghanistan. The Agreements also exempt the acquisition, importation, exportation, reexportation, transportation, and use of supplies and services in Afghanistan, by or on behalf of the United States Government, from any taxes, customs, duties, fees, or similar charges in Afghanistan.
Timetable:

Action	Date	FR Cite
NPRM	09/20/19	84 FR 49502
Correction	10/15/19	84 FR 55109
NPRM Comment Period End.	11/19/19	
Final Rule	10/23/20	85 FR 67623
Final Rule Effective.	11/23/20	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Kevin Funk, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357–5805, *Email:* kevin.funk@gsa.gov.
RIN: 9000–AN81

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

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 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	03/00/21	

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–AN83

391. 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 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	08/24/20	85 FR 52081
NPRM Comment Period End.	10/23/20	
Final Rule	04/00/21	

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

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

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 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 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
NPRM	10/21/19	84 FR 56157
NPRM Comment Period End.	12/20/19	
Final Rule	10/23/20	85 FR 67626
Final Rule Effective.	11/23/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kevin Funk, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357–5805, *Email:* kevin.funk@gsa.gov. *RIN:* 9000–AN85

393. Federal Acquisition Regulation (FAR); FAR Case 2019–003, Substantial Bundling and Consolidation

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 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 publication of a notice of substantial bundling and a notice of consolidation of contract requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/27/20	85 FR 23299
NPRM Comment Period End.	06/26/20	
Final Rule	04/00/21	

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:* 202 208–4949, *Email:* dana.bowman@gsa.gov. *RIN:* 9000–AN86

394. Federal Acquisition Regulation (FAR); FAR Case 2019–004, Good Faith in Small Business Subcontracting

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 1821 of the National Defense Authorization Act (NDAA) for 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	06/03/20	85 FR 34155
NPRM Comment Period End.	08/03/20	
Final Rule	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dana L. Bowman, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357–9652, *Email:* dana.bowman@gsa.gov. *RIN:* 9000–AN87

395. 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 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	
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	

Action	Date	FR Cite
Interim Final Rule Effective.	10/26/20	
Final Rule	05/00/21	

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

396. Federal Acquisition Regulation (FAR); FAR Case 2020-006, Documentation of Market Research

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 opened this case to implement section 818 of the NDAA for FY 2020. Section 818 amends 10 U.S.C. 2377(c) and 41 U.S.C. 3307(d) to require the head of the agency document the results of market research in a manner appropriate to the size and complexity of the acquisition.
Timetable:

Action	Date	FR Cite
Final Rule	10/23/20	85 FR 67623
Final Rule Effective.	11/23/20	

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-AO09

397. Federal Acquisition Regulation (FAR); FAR Case 2020-011, Implementation of Issued Exclusion and Removal Orders

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 rule will amend the Federal Acquisition Regulation (FAR) to address implementation of issued exclusion and removal 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 and removal 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	01/00/21	
Interim Final Rule Comment Period End.	03/00/21	

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-AO13

398. Federal Acquisition Regulation (FAR); FAR Case 2020-012, Scope of Review by Procurement Center Representatives

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: The purpose of this new FAR case is to implement section 1811 of the National Defense Authorization Act for Fiscal Year 2017 (15 U.S.C. 644(l)(9)(A)), as implemented by the Small Business Administration's final rule published November 29, 2019 (84 FR 65647). 15 U.S.C. 644(l)(9)(A) allows procurement center representatives to review solicitations without regard to whether the contract or order is set aside for small business, or reserved in the case of a multiple-award contract, or whether the solicitation would result in a bundled or consolidated contract or order.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/21	
Direct Final Rule Comment Period End.	06/00/21	

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-AO16

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

Completed Actions

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

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 amending the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration, which provide Governmentwide policy for partial set-asides and reserves and for set-asides of orders for small business concerns under multiple-award contracts.
Completed:

Reason	Date	FR Cite
Final Rule Effective.	03/30/20	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Mahruba Uddowla, *Phone:* 703 605-2868, *Email:* mahruba.uddowla@gsa.gov.
RIN: 9000-AM93

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

E.O. 13771 Designation: Not subject to, not significant.
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 issuing a final rule 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 111-347. 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.
completed:

Reason	Date	FR Cite
Final Rule	05/06/20	85 FR 27098
Final Rule Effective.	06/05/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Zenaida Delgado,
Phone: 202 969-7207, Email:
zenaida.delgado@gsa.gov.
RIN: 9000-AN38

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

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 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.

Completed:

Reason	Date	FR Cite
Final Rule	07/02/20	85 FR 40061
Final Rule Effective.	08/03/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Curtis E. Glover,
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RIN: 9000-AN40

402. 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.

Completed:

Reason	Date	FR Cite
Final Rule	07/02/20	85 FR 40068
Final Rule Effective.	08/03/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael O. Jackson,
Phone: 202 208-4949, Email:
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RIN: 9000-AN54

403. 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 final 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."

Completed:

Reason	Date	FR Cite
Final Rule	07/02/20	85 FR 40064

Reason	Date	FR Cite
Final Rule Effective.	08/31/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael O. Jackson,
Phone: 202 208-4949, Email:
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RIN: 9000-AN65

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

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 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.

Completed:

Reason	Date	FR Cite
Final Rule	07/02/20	85 FR 40071
Final Rule Effective.	08/03/20	
Correction	08/28/20	85 FR 53247
Final Rule Effective.	08/28/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Zenaida Delgado,
Phone: 202 969-7207, Email:
zenaida.delgado@gsa.gov.
RIN: 9000-AN69

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

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 a Federal Acquisition Regulation (FAR) clause to permit the issuance of task or delivery orders via facsimile or electronic commerce and clarify when an order is considered "issued" when using these methods.

Completed:

Reason	Date	FR Cite
Final Rule	07/02/20	85 FR 40075
Final Rule Effective.	08/03/20	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Curtis E. Glover, Phone: 202 501-1448, Email: curtis.glover@gsa.gov. RIN: 9000-AN80

406. Federal Acquisition Regulation (FAR); FAR Case 2019-013, Inflation Adjustment of Acquisition-Related Thresholds

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 implement the inflation adjustment of acquisition-related dollar thresholds. A statute (41 U.S.C. 1908) requires an adjustment every 5 years of acquisition-related thresholds for inflation using the Consumer Price Index for all urban consumers, except for the Construction Wage Rate Requirements statute (formerly Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds.

Completed:

Reason	Date	FR Cite
NPRM	06/30/20	85 FR 39146
Final Rule	10/02/20	85 FR 62485
Final Rule Effective.	10/01/20	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Michael O. Jackson, Phone: 202 208-4949, Email: michaelo.jackson@gsa.gov. RIN: 9000-AN96

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