

Senior Procurement Executive/Deputy GAO, Office of Acquisition Policy, U.S. General Services Administration.

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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 17 and 53**

[FAC 2023-01; Item IV; Docket No. FAR-2022-0052; Sequence No. 4]

**Federal Acquisition Regulation; Technical Amendments**

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

**ACTION:** Final rule.

**SUMMARY:** This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make needed editorial changes.

**DATES:** Effective: December 30, 2022.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lois Mandell, Regulatory Secretariat Division (MVCB), at 202-501-4755 or [GSARegSec@gsa.gov](mailto:GSARegSec@gsa.gov). Please cite FAC 2023-01, Technical Amendments.

**SUPPLEMENTARY INFORMATION:** This document makes editorial changes to 48 CFR parts 17 and 53.

**List of Subjects in 48 CFR Parts 17 and 53**

Government procurement.

**William F. Clark,**

Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 17 and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 17 and 53 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

**PART 17—SPECIAL CONTRACTING METHODS**

**17.701 [Amended]**

■ 2. Amend section 17.701 in the introductory text of the definition of “Nondefense agency that is an element of the intelligence community” by removing the phrase “50 U.S.C. 401a(4)” and adding the phrase “50 U.S.C. 3003(4)” in its place.

**PART 53—FORMS**

■ 3. Amend section 53.300, in Table 53-1 in paragraph (a), by revising the entry for “SF 273” to read as follows:

**53.300 Listing of Standard, Optional, and Agency forms.**

\* \* \* \* \*

(a) \* \* \*

**TABLE 53-1—FORMS IN THE GSA FORMS LIBRARY**

Form No.	Form title
* * * * *	
SF 273 .....	Reinsurance Agreement for a Bonds Statute Performance Bond.
* * * * *	

\* \* \* \* \*

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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Chapter 1**

[Docket No. FAR-2022-0051, Sequence No. 6]

**Federal Acquisition Regulation; Federal Acquisition Circular 2023-01; Small Entity Compliance Guide**

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

**ACTION:** Small Entity Compliance Guide (SECG).

**SUMMARY:** This document is issued under the joint authority of DoD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2023-01, which amends the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding these rules by referring to FAC 2023-01, which precedes this document.

**DATES:** December 1, 2022.

**ADDRESSES:** The FAC, including the SECG, is available at <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2023-01 and the FAR Case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or [GSARegSec@gsa.gov](mailto:GSARegSec@gsa.gov). An asterisk (\*) next to a rule indicates that a regulatory flexibility analysis has been prepared.

**RULES LISTED IN FAC 2023-01**

Item	Subject	FAR case	Analyst
I .....	Updates to Title 10 Citations .....	2022-005	Moore.
*II .....	Effective Communication Between Government and Industry .....	2016-005	Jackson.
*III .....	United States-Mexico-Canada Agreement .....	2020-014	Jackson.
IV .....	Technical Amendments.		

**SUPPLEMENTARY INFORMATION:** Summaries for each FAR rule follow.

For the actual revisions and/or amendments made by these FAR rules,

refer to the specific item numbers and subjects set forth in the documents

following these item summaries. FAC 2023–01 amends the FAR as follows:

**Item I—Update to Title 10 Citations (FAR Case 2022–005)**

This final rule amends the Federal Acquisition Regulation to update statutory references to Title 10 of the United States Code, which were revised by Title XVIII of the William M. (Mac) Thornberry National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021 (Pub. L. 116–283), Transfer and Reorganization of Defense Acquisition Statutes, and Title XVII of the NDAA for FY 2022 (Pub. L. 117–81), Technical Amendments Related to the Transfer and Reorganization of Defense Acquisition Statutes. The final rule will not have a significant economic impact on a substantial number of small entities because it simply updates statutory references in existing regulations.

**Item II—Effective Communication between Government and Industry (FAR Case 2016–005)**

This final rule amends the FAR to implement section 887 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016 (Pub. L. 114–92). This rule clarifies that agency acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry, so long as those exchanges are consistent with existing laws and regulations, and do not promote an unfair competitive advantage to particular firms.

DoD, GSA, and NASA do not expect this final rule to have a significant economic impact on a substantial number of small entities. Any effect to small businesses should be positive. Small businesses will benefit from better communication with the Government.

**Item III—United States-Mexico-Canada Agreement (FAR Case 2020–014)**

This final rule implements the United States-Mexico-Canada Agreement Implementation Act (Pub. L. 116–113). The rule makes changes in the FAR to conform to Chapter 13 of the United States-Mexico-Canada Agreement (USMCA), which sets forth certain obligations between the United States and Mexico with respect to Government procurement of goods and services, as specified in Annex 13–A of the USMCA. Chapter 13 of the USMCA applies only between Mexico and the United States and does not cover Canada. Although Canada is still a designated country under the World Trade Organization Government Procurement Agreement,

Canada is no longer a Free Trade Agreement country. Therefore, references to Canada as a Free Trade Agreement country in the FAR are deleted, including the \$25,000 threshold. DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities. The effect on contracting officers is expected to be minimal as they will continue to apply the rule implementing the USMCA to contracts to which the North American Free Trade Agreement (NAFTA) applied, at the higher threshold for Mexico.

**Item IV—Technical Amendments**

Administrative changes are made at FAR 17.701, and 53.300.

**William F. Clark,**

*Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.*

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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 4, 13, 18, 22, 25, 27, and 52**

[FAC 2023–01; FAR Case 2020–014; Item III; Docket No. FAR–2020–0014; Sequence No. 1]

**RIN 9000–AO14**

**Federal Acquisition Regulation: United States-Mexico-Canada Agreement**

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

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement the United States-Mexico-Canada Agreement Implementation Act.

**DATES:** Effective December 30, 2022.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael O. Jackson, Procurement Analyst, at 202–208–4949 or by email at [michaelo.jackson@gsa.gov](mailto:michaelo.jackson@gsa.gov), for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or

[GSARegSec@gsa.gov](mailto:GSARegSec@gsa.gov). Please cite FAC 2023–01, FAR Case 2020–014.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD, GSA, and NASA published a proposed rule at 86 FR 70808 on December 13, 2021, to implement the United States-Mexico-Canada Agreement Implementation Act (Pub. L. 116–113). On June 12, 2017, the President announced his intention to commence negotiations with Canada and Mexico to modernize the North American Free Trade Agreement (NAFTA). On November 30, 2018, the Governments of the United States, Mexico, and Canada (the Parties) signed the protocol replacing NAFTA with the United States-Mexico-Canada Agreement (USMCA). On December 10, 2019, the Parties signed the protocol of amendment to the USMCA. On January 29, 2020, the President signed into law the United States-Mexico-Canada Agreement Implementation Act, through which Congress approved the USMCA. On July 1, 2020, the USMCA entered into full force. (See U.S. Trade Representative Determination published June 29, 2020, 85 FR 39037.) Although Canada is still a designated country under the World Trade Organization Government Procurement Agreement, Canada is no longer a Free Trade Agreement country, because chapter 13 of the USMCA (government procurement) applies only to the United States and Mexico. Therefore, references to Canada as a Free Trade Agreement country are deleted, including the \$25,000 threshold. Mexico thresholds remain unchanged.

There were no comments submitted on the proposed rule.

**II. Discussion and Analysis**

There were no public comments for the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) to review. Therefore, there are no changes in the final rule from the proposed, except for baseline updates. The baseline updates include changes made in FAC 2022–03, FAR case 2022–001, Trade Agreements Thresholds, to incorporate the revised thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements, as determined by the United States Trade Representative, effective on January 1, 2022. The final rule also includes baseline updates published in FAC 2022–05 for FAR case 2021–008, effective on October 25, 2022.