



Open FAR Cases

as of May 18, 2012

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Case Number	Part Number	Title	Synopsis	Status
2012-028		(S) Contractor Comment Period, Past Performance Evaluations	Implements Governmentwide section 806(c) of Pub. L. 112-81 (NDAA for FY 2012), allowing contractors 14 calendar days to rebut past performance evaluations and requiring that past performance evaluations be included in the database within 14 days.	05/16/2012 DARC Director tasked Acquisition Implementation Team to draft proposed FAR rule. Report due 05/30/2012.
2012-027		Free Trade Agreement--Panama	Implements the United States--Panama Trade Promotion Agreement, enacted into U.S. law on October 21, 2011 (Pub. L. 112-43).	05/16/2012 DARC Director tasked staff to draft interim FAR rule. Report due 05/30/2012.
2012-026		Delete FAR Reference to DoD Industrial Preparedness Planning Program	Remove from the FAR outdated references to the DoD Industrial Preparedness Program at FAR 6.302-3(b)(iv). The DoD Industrial Preparedness Planning program is no longer in existence.	05/08/2012 CAAC Chair tasked staff to draft final FAR rule. Report due 06/13/2012.
2012-024		Commercial and Government Entity Code Identification	This case proposes the use of Commercial and Government Entity (CAGE) codes (NCAGE if foreign) for awards valued greater than the micropurchase threshold, and identification of the immediate corporate/organization parent and highest level corporate/organization parent during Central Contractor Registration (CCR). The goal is to provide for standardization across the Federal government, to facilitate data collection, and to support anti-counterfeiting efforts to uniquely identify vendors below the prime level.	05/02/2012 DARC Director tasked Acquisition Technology Team to draft proposed FAR rule. Report Due 6/13/2012.
2012-023		Uniform Procurement Identificaiton	This case proposes (1) the use of Activity Address Codes (AACs) as the unique identifier for contracting offices and other offices in standard procurement transactions and (2) a standard for unique Procurement Instrument Identification Numbers (PIINs) and Supplementary Procurement Instrument Identification Numbers (SPIINs). The goal is to provide for standardization across the Federal government and to facilitate data tracking and collection.	05/02/2012 DARC Director tasked Acquisition Technology Team to draft proposed FAR rule. Report Due 6/6/2012.
2012-022		Contracts under the SBA 8(a) Program	This rule revises and/or clarifies Subpart 19.8 - "Contracting with the Small Business Administration (The 8(a) Program)"	04/25/2012 DARC Director tasked Small Busines Team to draft proposed FAR rule. Report due 6/27/2012.

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2012-021		NAICS Size Standard	Indiate relationship between FAR NAICS Size Standards and IAE and SPE listserve notice	04/25/2012 DARC Director tasked _Small Busines Team to draft proposed FAR rule. Report due 5/9/2012. 5/9/2012, DARC received preliminary draft final FAR rule. Report due 5/23/2012 (2nd ext.)
2012-020		Further Implementation of Trafficking in Persons Policy	Implement violations of Trafficking in Persons in subpart 3.10, Contractor Code of Business Ethics and Conduct and associated clause.	04/04/2012 DARC Director tasked Ethics and Internatonal Law Team to draft proposed FAR rule. Report due 05/09/2012. Report Due 5/30/2012 (1st ext.)
2012-019	29.401-4(c)	DARPA-New Mexico Tax Agreement	To add the United States Defense Advanced Research Projects Agency (DARPA) to the list of agencies at FAR 29.401-4(c) that have entered into an agreement with the State of New Mexico to eliminate the double taxation of Government cost-reimbursement contracts when contractors and their subcontractors purchase tangible personal property to be used in performing services in whole or in part in the State of New Mexico and for which title to such property will pass to the United States upon delivery of the property to the contractor and its subcontractors by the vendor.	05/08/2012 Draft final FAR rule from FAR analyst to GSA Legal. GSA Legal reviewing.
2012-018		Price Analysis Techniques	Clarifies at FAR 15.404-1(b)(2)(i) the use of the price analysis technique at 15.403-1(c)(1)(i) in order to establish a fair and reasonable price.,	05/08/2012 Draft proposed FAR rule from FAR analyst to GSA Legal. GSA Legal reviewing.
2012-017		(S) Extension of Applicability of the Senior Executive Benchmark	Implements Section 803 of the National Defense Authorization Act for Fiscal Year 2012 (Pub L 112-81), which extends the limitation on allowability of compensation for certain contractor personnel from senior executives to all DoD, NASA and Coast Guard contractor employees.	05/02/2012 CAAC agreed to draft interim FAR rule. FAR staff processing.
2012-016	52.228-3	Defense Base Act	Revises FAR 52.228-3, Workers' Compensation Insurance (Defense Base Act), to ensure contractors are aware of their legal responsibilities to promptly report injuries to the Department of Labor, and pay injured employees in a timely manner.	05/09/2012 DARC received Acquisition Finance Team draft proposed FAR rule from DAR staff. Discuss on 5/23/2012.

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Case Number	Part Number	Title	Synopsis	Status
2012-015		Small Business Set-Asides under Research and Development Solicitations	Removes restrictive language regarding the use of small business set asides for R&D solicitations.	05/09/2012 DAR staff notified FAR staff of DARC differences from Team report. DAR and FAR staff resolving draft proposed FAR rule open issues.
2012-014		Small Business Status Protests and Appeals	Amends the FAR to clarify procedures for initial appeal and eligibility decisions for all small business programs	02/15/2012 DARC Director tasked FAR Small Business Team to draft proposed FAR rule. Report due 4/4/2012...Report Due 6/6/2012 (3rd ext.)
2012-013	52.209-10, 52.212-5, 9.108	(S) Prohibition Against Contracting with Inverted Domestic Corporations	Implements section 738 of the Consolidated Appropriations Act 2012 (Pub. L. 112-74), Division C, Title VII. Section 738 prohibits use of FY 2012 funds for contracts with any foreign entity which is treated as an inverted domestic corporation under section 835(b) of the Homeland Security Act of 2002 (6 U.S.C. 395(b)) or any subsidiary of such entity.	05/10/2012 Published interim FAR rule in Federal Register (77 FR 27547) (FAC 2005-59). Effective upon publication. Public comment period ends 07/09/2012.
2012-012		Free Trade Agreement--Colombia	Implements the United States--Colombia Trade Promotion Agreement enacted into U.S. law on October 21, 2011 (Pub. L. 112-042). Effective May 15, 2012.	05/10/2012 Published interim FAR rule in Federal Register (77 FR 27548). Effective May 15, 2012. Public comment period ends 07/09/2012.
2012-010	17.5	(S) Compliance by Non-Defense Agencies with Defense Procurement Requirements	Implements section 817 of the FY12 NDAA (Pub. L. 112-81), which amends section 801(d) of the NDAA for FY 2008 (U.S.C. 2304 note), Compliance with Defense Procurement Requirements. The amendment clarifies compliance requirements by non-defense agencies when procuring property and services on behalf of DoD.	05/14/2012 Draft interim FAR rule from FAR analyst to OFPP. OFPP reviewing.
2012-009		(S) Documenting Contractor Performance	Implements parts of section 806 of NDAA for FY 2012 (Pub. L. 112-81).	05/17/2012 OFPP identified draft proposed FAR rule issues. OFPP, FAR and DAR staff resolving issues.

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Case Number	Part Number	Title	Synopsis	Status
2012-008	33	(S) Appeals of Bid Protest Decisions	Implemets section 861 of NDAA for FY 2012 (Pub. L. 112-81), and adds coverage to FAR 33.1 on appeals of bid protest decisions.	04/25/2012 DAR staff notified FAR staff of DARC differences from Team report or CAAC suggested changes. DAR and FAR staff resolving draft final FAR rule open issues.
2012-007	16.5	(S) Extension of Sunset Date for Protests of Task and Delivery Orders	Implements section 813 of the NDAA for FY 2012 (Pub. L. 112-81), which extends the sunset date for protests against the award of task and delivery orders for Title 41 civilian agencies to September 30, 2016.	05/10/2012 Interim FAR rule to FARSEC for preparation of FAC.
2012-006	49, 52	Grounds for Termination for Default	Considers grounds for contract termination for default.	04/30/2012 DARC received Acquisition Ethics and International Law Team draft proposed FAR rule from DAR staff. Discuss on 05/16/2012. Discuss on 5/23/2012.
2012-005	52.209, 9.1	(S) Prohibition on Contracts with Corporations with Delinquent Taxes or Felony Convictions	Implements Consolidated Appropriations Act for Fiscal Year 2012 (Pub. L. 112-74): sections 8124 and 8125 of Division A (DoD) , sections 504 and 505 of Division B (Energy and Water Development), sections 630 and 631 of Division C (Financial Services...), sections 433 and 434 (Division E) (Interior), section 519 of Division F (Labor, HHS), section 514 of Division H (VA and MILCON); and the Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. 112-55: section 738 and 739 of Division A (Agriculture) and sections 543 and 544 of Division B Commerce, Justice, Scinece),	01/25/2012 DARC Director tasked FAR Acquisition Ethics and International Law Team to draft proposed FAR rule. Report Due 6/27/2012 (2nd ext.)
2012-004		United States--Korea Free Trade Agreement	Implements the United States--Korea Free Trade Agreement, which was renegotiated in early December 2010, and was enacted into U.S. law on October 21, 2011 (Pub. L. 112-041).	05/16/2012 DARC Director tasked staff to review public comments, draft final FAR rule. Report due 6/13/2012.
2012-001	10, 11, 12, 13, 16, 17, 2, 3, 35, 37, 4, 42, 7, 8	Performance of Inherently Governmental and Critical Functions	Implements OFPP Policy Letter 11-01, Performance on Inherently Governmental and Critical Functions (76 FR 56227), published on September 12, 2011.	05/02/2012 FAR staff notified DAR staff of CAAC differences from team report or DARC suggested changes. DAR and FAR staff resolving draft proposed FAR rule open issues.

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Case Number	Part Number	Title	Synopsis	Status
2011-029	25.3, 52.225	(S) Contractors Performing Private Security Functions	Implements section 862 of the NDAA for FY 2009 (Pub.L. 110-181), section 853 of the NDAA for FY 2009 (P.L. 110-417) and sections 831 and 832 of the NDAA for FY 2011 (Pub.L. 111-383), and MOU signed by DoD, State, and U.S. AID, to provide (1) regulations addressing selection, training, equipping, and conduct of personnel performing private security functions in areas of contingency operations; (2) a contract clause, and (3) remedies.	03/21/2012 CAAC Chair sent draft proposed FAR rule to OIRA. OIRA reviewing. Resolved OIRA 4/10 comments with responses sent on 4/13/2012.
2011-028	22.001, 22.1001, 22.12, 52.212-5, 52.222	Nondisplacement of Qualified Workers	Implements Department of Labor regulation (76 FR 53720, August 30, 2011) implementing Executive Order 13495, Nondisplacement of Qualified Workers Under Service Contracts (January 30, 2009), to provide for transition of qualified workers from predecessor contracts to successor contracts for services.	05/03/2012 Published proposed FAR rule in Federal Register (77 FR 26232). Public comment period ends 07/02/2012.
2011-025	12.207, 16.505, 16.601, 8.404	Changes to Time-and-Material and Labor-Hour Contracts and Orders	Provides additional guidance addressing the actions required when raising the ceiling price or otherwise changing the scope of work for a T&M/LH contract or order.	05/14/2012 Proposed FAR rule to FARSEC for preparation of FR notice.
2011-024	12.207, 16.505, 19.13, 19.14, 19.15, 19.5, 19.811-3, 38.101, 52.212-5, 52.219-14, 52.219-27, 52.219-29, 52.219-3, 52.219-30, 52.219-6, 8.405-5	(S) Set-Asides for Small Business	Provides initial implementation of section 1331 of the Small Business Jobs Act (PL 111-240) to provide authority to set-aside part or parts of multiple-award contracts, and task and delivery orders under multiple-award contracts. Further implementation will follow, pending issuance of SBA regulations.	04/27/2012 Case on hold at the direction of Director DARC, pending finalization of SBA regulations.
2011-023	28.204-3, 52.228-14	Irrevocable Letters of Credit	Removes FAR reference to OFPP Pamphlet No. 7, which implements OFPP Policy Ltr 91-4, and which was rescinded by 65 FR 16968 on Mar 30, 2000. Considers whether additional FAR guidance is necessary to replace the guidance in the rescinded OFPP pamphlet.	11/28/2011 FAR Staff Analyst resolving CAAC comments.
2011-022	53.105	Clarification of Standards for Computer Generation of Forms	Deletes the Federal Information Processing Standard (FIPS 161-2), which Department of Commerce, National Institute of Standards and Technology (NIST), withdrew. Replaces FIPS 161-2 with American National Standards Institute X.12 (ANSI X.12).	05/17/2012 Final rule to FARSEC for preparation of FAC.

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2011-020	12.301, 2.101, 4.16, 42.3, 52.204-XX, 7.105	Basic Safeguarding of Contractor Information Systems	Addresses safeguarding of unclassified information that does not meet the standard for National Security classification under Executive Order 12958, as amended. It addresses unclassified information that is pertinent to the national interests of the United States or originated by entities outside the U.S. Federal Government, and under law or policy requires protection from disclosure, special handling safeguards, and prescribed limits on exchange or dissemination.	03/17/2012 OIRA accepted 03/17/12. Resolving OIRA comments provided on 3/26/12.
2011-019	31.205	Updated Post Retirement Benefit References	Corrects inconsistencies in FAR 31.205-6(o)(2)(iii)(A) regarding references to Financial Accounting Standards (FAS) 106 to conform to the reorganization of the Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) of generally accepted accounting principles.	03/16/2012 Proposed FAR rule to FARSEC for preparation of FR notice.
2011-018	1, 19-28, 2-17, 30-33, 36-39, 41-44, 46-48, 50-53, multiple	(S) Positive Law Codification of Title 41	Updates references to Title 41 and conforming changes throughout the FAR. Public Law 111-350 (Jan 4, 2011) enacted a new positive law codification of Title 41 U.S.C. "Public Contracts".	04/14/2012 OIRA cleared proposed FAR rule. FAR staff processing.
2011-011	31.205-41	(S) Unallowability of Costs Associated with Foreign Contractor Excise Tax	Implements the requirements of Title III and Title IV of the James Zadroga 9/11 Health and Compensation Act of 2010 (H.R. 847), for the unallowability of costs associated with the excise tax on payments to certain foreign contractors.	05/16/2012 DARC Director tasked Finance Team to (review public comments, draft final FAR rule. Report due 6/20/2012.
2011-010	1.106, 12.301, 4.17, 42.302, 52.204, 52.212-4, 7.105	Sharing Cyber Threat Information	Establishes mechanisms for cleared contractors who have unclassified US Government information resident on or transiting through contractor information systems to share cyber threat information.	11/28/2011 Case on hold pending policy review.
2011-003	16.307, 52,212-4, 52.216-7, 52.232-7	Payment on T&M/LH Contracts	Provides clarifications for the appropriate payment provisions for use in time-and-materials and labor-hour contracts,	05/03/2012 Final rule to FARSEC for preparation of FAC.
2011-001	11.002, 12.301, 15.305, 15.604, 2.101, 3.000, 3.12, 3.603, 37.110, 42.1204, 50.205-1, 52.203, 7.105, 9.000, 9.5	(S) Organizational Conflict of Interest and Contractor Access to Nonpublic Information	Implements section 841 of the NDAA for FY 2009 (Pub. L. 110-147). Section 841 requires consideration of how to address the current needs of the acquisition community with regard to Organizational Conflict of Interest. Separately addresses the issues regarding unequal access to information.	09/01/2011 CAAC Chair tasked FAR Acquisition Ethics and International Law Team to review public comments and draft final FAR rule. Report due 10/26/2011... Report Due 6/20/2012 (4TH ext.)

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2010-014	1.106, 19.708, 4.1102, 4.1103, 4.1105, 4.1402, 4.603, 4.604, 4.605, 4.606, 4.607, 52.204-5, 52.204-6, 52.204-7, 52.204-XX, 52.204-YY, 52.212-1, 52.212-4	Updates to Contract Reporting and Central Contractor Registration	Restricts the use of the generic Data Universal Numbering System numbers for contract reporting to the Federal Procurement Data System and the Central Contractor Registration.	04/26/2012 DAR staff notified FAR staff that DARC agreed to draft final FAR rule. Awaiting CAAC concurrence.
2010-013	24, 52	Privacy Training	Creates a FAR clause to require contractors that (1) need access to a system of records, (2) handle personally identifiable information, or (3) design, develop, maintain, or operate a system of records on behalf of the Government, have their personnel complete privacy training. This addition complies with subsections (e) (agency requirements) and (m) (Government contractors) of the Privacy Act (5 U.S.C. 552a).	03/23/2012 Draft final FAR rule from FAR analyst to OFPP. OFPP reviewing.
2010-010	17.504, 37.103, 4.17, 52.204, 8.404	(S) Service Contracts Reporting Requirements	Implements section 743 of Division C of FY 2010 Consolidated Appropriations Act (P.L. 111-117), which requires agencies to develop inventories of their service contracts, including number and work location of contractor employees.	04/19/2012 Draft final FAR rule from FAR analyst to OFPP. OFPP reviewing.
2010-008	4.1502, 52.204-11	Recovery Act Subcontract Reporting Procedures	Revises implementation of section 1512 of the American Recovery and Reinvestment Act (ARRA) to update requirements for reporting first-tier subcontracting data for new contracts using Recovery Act funds.	06/09/2011 OFPP identified draft final FAR rule issues. OFPP, FAR and DAR staff resolving issues.
2010-001	23, 52.223	(EO) Sustainable Acquisition	Implements Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance (10/5/2009), and Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management (1/24/2007), requiring agencies to leverage acquisitions to foster markets for sustainable technologies, products, and services.	03/22/2012 OFPP concurrence with draft final FAR rule. 03/23: OFPP withdrew concurrence, posed additional questions. 04/11 DoD/GSA responded to last of OFPP questions. 04/26: OFPP re-concurred.

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Case Number	Part Number	Title	Synopsis	Status
2009-024	52.208-9, 8.0, 8.402, 9.405	Priorities for the Use of Supply Sources	Clarifies the order of priority of sources at FAR Part 8.002 for agencies to consider when acquiring goods and services.	08/24/2011 DARC Director tasked Acquisition Planning and Methods Team Team to review public comments. Report Due 10/5/2011. Report Due 2/28/2012 (4th ext.) Report Due 3/28/2012 (5th ext.) Report Due 4/25/2012 (6th ext.) Report Due 5/30/2012 (7th ext.)
2009-016	1.106, 12.3, 14.5, 15.304, 15.305, 15.503, 19.000, 19.11, 19.12, 19.1307, 19.201, 19.202-6, 19.3, 19.7, 2.101, 22.1006, 26.304, 4.1202, 52.204-8, 52.212-3, 52.212-5, 52.219-1, 52.219-10, 52.219-22, 52.219-24, 52.219-25, 52.219-26, 52.219-3, 52.219-4, 52.219-8, 52.226-2, 53.219	Constitutionality of Federal Contracting Programs for Minority-Owned and other Small Businesses	Implements the decision of the Rothe case in which the U.S. Court of Appeals for the Federal Circuit found 10 USC 2323 unconstitutional and a District Court decision mandated by the US Court of Appeals to enjoin all application of 10 USC 2323. This case deletes FAR text based on 10 USC 2323. This includes deletion of--(1) the Price Evaluation Adjustment (PEA) for small disadvantaged businesses (19.11); (2) the use of an evaluation factor at the prime contractor level to give credit to offerors qualified as a Small Disadvantaged Business (portions of 19.12); and (3) related contract clauses.	05/03/2012 Councils agree. FAR staff preparing to send draft final FAR rule to CAAC Legal for review.
2009-009	4.15, 52.204-11, 52.212-5	(S) American Recovery and Reinvestment Act of 2009 (the Recovery Act) - Reporting Requirements	Implements section 1512 of the American Recovery and Reinvestment Act (Pub. L. 111-5). Section 1512 requires contractors to report on their use of Recovery Act funds.	06/09/2011 OFPP identified draft interim FAR rule issues. OFPP, FAR and DAR staff resolving issues.

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2008-039	1.106, 2.1, 4.1400, 4.1401, 4.1402 , 4.1403 , 52.204-10 , 52.204-7 , 52.212-5 , 52.213-4	(S) Reporting Executive Compensation and First-Tier Subcontract Awards	Implements section 2 of the Federal Funding Accountability and Transparency Act (FFATA) of 2006, as amended by section 6202 of the Government Funding Transparency Act of 2008, which requires the Office of Management and Budget to establish a free, public, website containing full disclosure of all Federal contract award information.	05/08/2012 Final rule to FARSEC for preparation of FAC.
