



Open FAR Cases as of 11/20/2017



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Case Number	Part Number	Title	Synopsis	Status
2018-003		Credit for Lower-Tier Small Business Subcontracting	Implements section 1614 of the NDAA for FY 2014, as implemented in the SBA regulations on 12/23/2016 (81 FR 94246), which allows prime contractors to receive credit toward goals in their small business subcontracting plans for subcontracts awarded by their subcontractors.	11/15/2017 DARC Director tasked Small Business Team to draft proposed FAR rule. Report due 01/10/2018.
2018-002		Protecting Life in Global Health Assistance	Implements Presidential memorandum of January 13, 2017, "The Mexico City Policy," in accordance with the interagency implementation plan, "Protecting Life in Global Health Assistance," prepared by the Secretary of State on May 9, 2017.	11/13/2017 FAR principals opened case (Acquisition Strategy Team), proposed FAR rule. FAR and DAR staff processing.
2018-001		Trade Agreements Thresholds	Implements the changes in trade agreements threshold, as published by the U.S. Trade Representative in the Federal Register, to be effective January 1, 2018. The thresholds are subject to revision every two years, according to a pre-determined formula established under the agreements.	11/13/2017 CAAC Legal concurrence with draft final FAR rule. FAR and DAR staff resolving issues.
2017-020		Ombudsman for Indefinite-Delivery Contracts	Provides new clause, with contact information for the agency task and delivery order ombudsman as required by FAR 16.504(a)(4)(v).	09/27/2017 DARC Director tasked Acquisition Strategy Team to draft proposed FAR rule. Report due 10/25/2017. Report due date extended to 12/06/2017.
2017-019		Policy on Joint Ventures	Implements regulatory changes regarding joint ventures made by the Small Business Administration (SBA) in their final rule published in the Federal Register on July 25, 2016 (81 FR 48558). Also clarifies that 8(a) joint ventures are not "certified" in the 8(a) Program and that 8(a) joint venture agreements must be approved by SBA prior to award of an 8(a) contract.	09/27/2017 DARC Director tasked Small Business Team to draft proposed FAR rule. Report due 11/8/2017. Report due date extended to 11/22/2017.

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Case Number	Part Number	Title	Synopsis	Status
2017-018		(S) Violation of Arms Control Treaties or Agreements with the United States	Implements 22 U.S.C. 2593e (as added by section 1290 of the NDAA for FY 2017), which requires certification by offerors that the offeror, or any of its subsidiaries, 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 to which the United States is a participating state.	10/25/2017 DARC discussed. DARC Director tasked case manager to report back to DARC on issues raised - due 11/22/2017.
2017-017		Rental Cost Analysis for Equipment Acquisitions	Implements language in the FAR to address the renting of equipment and the cost considerations to be made prior to an acquisition for equipment rental.	08/30/2017 DARC Director tasked Acquisition Strategy Team to draft proposed FAR rule. Report due 09/06/2017. Report due date extended to 11/29/2017.
2017-016	4	Controlled Unclassified Information	Implements the National Archives and Records Administration (NARA) Controlled Unclassified information (CUI) program of E.O. 13556. As the executive agent designated to oversee the Governmentwide CUI program, NARA issued implementing regulations in late 2016 to address agency policies for designating, safeguarding, disseminating, marking, decontrolling, and disposing of CUI.	05/03/2017 DARC Director tasked Technology Team to draft proposed FAR rule. Report due 06/14/2017. Report due date extended to 12/13/2017.
2017-015	1.106, 17.207, 22.0, 22.1, 22.20, 4.1202, 42.15, 52.204-8, 52.212-3, 52.213-4, 52.222-57, 52.222-58, 52.222-59, 52.222-60, 52.222-61, 52.244-6, 9.104, 9.105	(S) Removal of Fair Pay and Safe Workplaces Rule	Implements H.R.Res. 37 (Pub. L. 115-11), enacted on 3/27/2017, which disapproved the FAR rule issued under FAR Case 2014-025, Fair Pay and Safe Workplace. In addition, E. O. 13782 revoked the underlying E.Os - E.O. 13673, section 3 of E.O. 13683, and E.O. 13738.	11/06/2017 Published final FAR rule in Federal Register (82 FR 51527) (FAC 2005-96). Effective 11/06/2017. Republished in its entirety on 11/8/2017, to remove extraneous web address (82 FR 51773).

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Case Number	Part Number	Title	Synopsis	Status
2017-014		Use of Acquisition 360 to Encourage Vendor Feedback	Implements the OFPP memorandum "Acquisition 360-- Improving the Acquisition Process through Timely Feedback from External and Internal Stakeholders" (March 2015), which builds on OFPP efforts to increase communication between Government and industry. Acquisition 360 is a survey tool with a centralized survey portal on the OMB Survey platform, allowing for real time data access by OMB and agencies.	10/31/2017 CAAC Chair and DARC Director tasked Implementation Team to draft FAR advance notice of proposed rulemaking. Report due 11/22/2017.
2017-013	24, 52.224	Breaches of Personally Identifiable Information	Implements OMB Memorandum M-17-12, Preparing for and Responding to a Breach of Personally Identifiable Information (January 3, 2017). The guidance applies to PII breaches occurring in cyberspace or through physical acts. This case will provide for appropriate contract terms to apply when a contractor has access to, creates, collects, or maintains personally identifiable information on behalf of the agency or operates an information system on behalf of the agency that may have personally identifiable information residing in or transiting through the information system.	08/30/2017 DAR staff notified FAR staff that DARC agreed to draft proposed FAR rule. Awaiting CAAC concurrence.
2017-012		(S) Increased Micro-Purchase Threshold for Certain Procurement Activities	Implements section 217(b)(1) of the NDAA for FY 2017 (Pub. L. 114-328). Section 217(b) amends 41 U.S.C. 1902 to provide a threshold of \$10,000 for awards to institutions of higher education or related or affiliated nonprofit entities, or to nonprofit research organizations or independent research institutes, or a higher threshold, as determined appropriate by the head of the relevant executive agency.	07/20/2017 CAAC Legal concurrence with draft final FAR rule. FAR and DAR staff resolving issues.
2017-011	10.001, 11.002, 12.2, 2.101, 39, 7.103	Section 508-Based Standards in Information and Communication Technology	Implements the U.S. Access Board's final rule updating section 508-based standards, published in the Federal register on 1/18/2017 (82 FR 5790).	08/23/2017 DARC agreed to draft proposed FAR rule. DAR staff processing.
2017-010	13.106-1, 15.304, 16.505(b)(1), 16.505(b)(2)	(S) Evaluation Factors for Multiple-Award Contracts	Implements section 825 of the NDAA for FY 2017 (Pub. L. 114-328). Section 825 amends 10 U.S.C. 2305(a)(3) to address the requirement to include cost or price to the Government as a factor in the evaluation of proposals for certain multiple-award task- or delivery-order contracts and 2304c(b) to modify the exceptions to fair opportunity. Applicable to DoD, NASA, and Coast Guard.	07/10/2017 CAAC Legal concurrence with draft proposed FAR rule. FAR and DAR staff resolving issues.

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Case Number	Part Number	Title	Synopsis	Status
2017-009	10, 12, 13, 18, 2, 26.2	(S) Special Emergency Procurement Authority	Implements section 816 and 1641 of the NDAA for FY 2017 (Pub. L. 114-328). Section 816 amends 41 U.S.C. 1903(a) to add special emergency procurement authority to support requests to facilitate the provision of international disaster assistance pursuant to the Foreign Assistance Act of 1961 (22 U.S.C. 2292 et seq.) and to support emergency or major disaster under the Stafford Act (42 U.S.C. 5122). Section 1641 amends 41 U.S.C. 1903(a)(2) to add special emergency procurement authority to facilitate defense against or recovery from a cyber attack.	08/11/2017 CAAC Legal identified draft final FAR rule issues. CAAC Legal, FAR and DAR staff resolving issues.
2017-008	19.201	(S) Duties of Office of Small and Disadvantaged Business Utilization	Implements section 1812, paragraph (a) of section 1813, and paragraph (b) of section 1821 of the NDAA for FY 2017 (Pub. L. 114-328), which amend 15 U.S.C. 644(k) to provide additional duties of the Office of Small and Disadvantaged Business Utilization.	11/17/2017 CAAC Legal concurrence with draft final FAR rule. FAR and DAR staff resolving issues.
2017-007	16.505	(S) Task- and Delivery-Order Protests	Implements section 835 of the NDAA for FY 2017 (Pub. L. 114-328) and Public Law 114-260. Section 835(a) amends 10 U.S.C. 2304c(e)(1)(B) to raise the threshold for task- and delivery-order protests from \$10 million to \$25 million (applicable to DoD, NASA, and Coast Guard). Section 835(b) amends 41 U.S.C. 4106(f) to repeal the sunset date, which had already been repealed on 12/14/2016 by the GAO Civilian Task and Delivery Order Protest Authority Act of 2016 (Pub. L. 114-260).	02/28/2017 CAAC Legal concurrence with draft final FAR rule. FAR and DAR staff resolving issues.
2017-006	15.403-1, 15.404-1	(S) Exception from Certified Cost or Pricing Data Requirements-- Adequate Price Competition	Implements section 822 of the NDAA for FY 2017 (Pub. L. 114-328), which modifies 10 U.S.C. 2306a, which is applicable to DoD, NASA, and the Coast Guard. Section 822 limits the exception for prices based on adequate price competition to circumstances in which there is adequate competition that results in at least two or more responsive and viable competing bids.	04/05/2017 CAAC Legal concurrence with draft proposed FAR rule. FAR and DAR staff resolving issues.

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Case Number	Part Number	Title	Synopsis	Status
2017-005	3.9, 31.205-47, 31.6, 52.203-17, 52.212-5, 52.244-6	(S) Whistleblower Protection for Contractor Employees	Implements Public Law 114-261, which enhances makes permanent the pilot program to enhance whistleblower protection for contractor employees..	11/01/2017 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.
2017-004	22.3, 22.302, 52.222	(S) Rate Adjustment of Liquidated Damages	Implements Department of Labor rule (81 FR 43430) for section 701 of Pub. L. 114-74. Agencies are required to adjust civil monetary penalties for inflation. Updates the liquidated damages rate listed under FAR 52.222-4(b) and FAR 22.302(a) in accordance with 29 CFR 5.8(a), 29 CFR 5.5(b)(2) and 41 CFR 50-201.3(e).	02/15/2017 CAAC Legal concurrence with draft final FAR rule. FAR and DAR staff resolving issues.
2017-003		(S) Individual Sureties	Addresses section 874 of the NDAA for FY 2016 (Pub. L. 114-92), which adds 31 U.S.C. 9310, Individual sureties, by changing the kinds of assets that individual sureties may use as collateral. This is consistent with 31 USC 9303.	11/08/2017 DARC agreed to draft proposed FAR rule. DAR staff processing.
2017-001	1.106, 22.21, 22.403, 52.212-5, 52.213-4, 52.222-62	(EO) Paid Sick Leave for Federal Contractors	Implements E.O. 13706, Establishing Paid Sick Leave for Federal Contractors, as implemented by DoL final rule, published September 30, 2016 (81 FR 67598).	02/27/2017 Received public comments from FAR Sec. FAR and DAR staff processing.
2016-013		(S) Tax on Certain Foreign Procurement	Implements the final regulations (81 FR 55133) under section 5000C of the Internal Revenue Code relating to the 2 percent tax on payments made by the U.S. Government to foreign entities pursuant to certain contracts. Section 5000C was added pursuant to section 301 of the James Zagdroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111-347).	11/08/2017 DARC agreed to draft interim FAR rule. DAR staff processing.
2016-012		Incremental Funding of Fixed-Price Contracting Actions	Provides coverage for the incremental funding of certain fixed-price contracting actions.	09/09/2016 DARC Director tasked FAR Acquisition Finance Team to draft proposed FAR rule. Report due 10/26/2016. Report due date extended to 11/29/2017.

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Case Number	Part Number	Title	Synopsis	Status
2016-011	19, 52	(S) Revision of Limitations on Subcontracting	Implements SBA's final rule (81 FR 34243) for section 1651 of the NDAA for FY 2013 (Pub. L. 112-239), which revised the limitations on subcontracting and the nonmanufacturer rule. Also implements SBA's regulatory clarifications concerning application of the limitations on subcontracting, nonmanufacturer rule, and size determination of joint ventures.	06/05/2017 CAAC Legal concurrence with draft interim FAR rule. FAR and DAR staff resolving issues.
2016-007	1, 22, 52	(EO) Non-Retaliation for Disclosure of Compensation Information	Implements E.O. 13665, Non-Retaliation for Disclosure of Compensation Information, and associated DOL final rule. E.O. 13665 amends E.O. 11246 to provide for a uniform policy for the Federal Government to prohibit Federal contractors from discriminating against employees and job applicants who inquire about, discuss, or disclose their own compensation or the compensation of other employees or applicants.	12/27/2016 Final rule to FARSEC for preparation of FAC 2005-96. 1/9/2017, Case submitted in FAC 2005-96 to Federal Register. 1/23/2017, Case withdrawn from the Federal Register.
2016-005	1.102-2, 10.001, 10.002	(S) Effective Communication between Government and Industry.	Implements section 887 of the NDAA for FY 2016 (Pub. L. 114-92), which provides that agency acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry.	08/02/2017 DARC agreed to draft final FAR rule. DAR staff processing.
2016-002	19	Applicability of Small Business Regulations Outside the United States	Considers applicability of small business regulations to contracts performed outside the United States.	09/20/2017 CAAC Chair tasked Small Business Team to draft/revise proposed FAR rule. Report due 11/15/2017. Report due date extended to 12/06/2017.
2015-039	49.1	Audit of Settlement Proposals	Raises the threshold for audit of settlement proposals from \$100,000 up to the TINA threshold of \$750,000.	01/10/2017 CAAC Legal concurrence with draft final FAR rule. FAR and DAR staff resolving issues.
2015-038	12, 13, 17.8, 2.101, 52.217, 8.4	Reverse Auction Guidance	Implements OFPP memorandum, "Effective Use of Reverse Auctions." The memorandum provides guidance on the usage of reverse auctions, and was issued in response to recommendations within GAO report (Reverse Auctions: Guidance is Needed to Maximize Competition and Achieve Cost Savings, GAO-14-108).	07/19/2016 CAAC Legal concurrence with draft proposed FAR rule. FAR staff preparing to send to OFPP after DoD approval to publish.

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2015-037	2.101	Definition of "Information Technology"	Revises the definition of "information technology" in the FAR, as directed in the Office of Management and Budget Memo, M-15-14 titled Management Oversight of Federal Information Technology.	04/17/2017 Case on hold, pending direction from OFPP.
2015-033	23	(EO) Sustainable Acquisition	Implements E.O. 13693, Planning for Federal Sustainability in the Next Decade, March 19, 2015. E.O. 13693 supersedes E.O.s 13423 and 13514. This rule will amend the FAR to provide a new definition for sustainable products and services; updates several existing definitions in the FAR germane to sustainable acquisition; and provides two new websites to help contractors understand the requirements for sustainable acquisitions and access to a listing of products and services that are deemed by the Federal Government to be sustainable.	04/12/2017 DARC Director tasked Acquisition Environmental and Labor Law team to review public comments, draft final FAR rule. Report due date of 05/31/2017. Report due date extended to 12/13/2017.
2015-028	32.504	Performance-Based Payments	Harmonizes the policy on flowdown requirements at FAR 32.504 with the requirements at FAR clause 52.232-32 for the financing of subcontracts through performance-based payments. Clarifies when the substance of 52.232-32 is required to flow down to the subcontractor.	03/23/2017 DARC Director tasked Finance Team to draft proposed FAR rule. Report due 05/10/2017. Report due date extended to 12/06/2017.
2015-021	8.404	Determination of Fair and Reasonable Prices on Orders under Multiple-Award Contracts	Clarifies the responsibilities for ordering activity contracting officers to determine fair and reasonable prices when using Federal Supply Schedules.	08/21/2015 CAAC Legal concurrence with draft proposed FAR rule. FAR and DAR staff resolving issues.
2015-017	22.1702, 52.222-50	Combating Trafficking in Persons--Definition of "Recruitment Fees"	Considers a new definition for the term "recruitment fees" at the request of the Senior Policy Operating Group (SPOG) for Combating Trafficking in Persons.	08/28/2017 CAAC Legal identified draft final FAR rule issues. CAAC Legal, FAR and DAR staff resolving issues.

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Case Number	Part Number	Title	Synopsis	Status
2015-015	8	(S) Strategic Sourcing Documentation	Implements section 836 of the NDAA for FY 2015 (Pub. L. 113-291). Section 836 requires that when purchasing services and supplies that are offered under the Federal Strategic Sourcing Initiative but the Initiative is not used, the contract file shall include an analysis of comparative value, including price and nonprice factors, between the services and supplies offered under such Initiative and services and supplies offered under the source or sources used for the purchase.	10/28/2016 CAAC received DARC revisions to draft final FAR rule and FRN.
2015-014	25.303, 3.7, 42.1503, 52.225	(S) Prohibition on Providing Funds to the Enemy	Implements sections 841 - 843 of the NDAA for FY 2015 (Pub. L. 113-291). Section 841 prohibits providing funds to the enemy. Section 842 provides additional access to records. Section 843 provides definitions.	04/15/2015 DAR staff notified FAR staff that DARC agreed to draft proposed FAR rule. Awaiting CAAC concurrence.
2015-005	4.11, 52.204-13, 52.204-7, 52.204-8, 52.212-4	System for Award Management Registration	Updates instructions for System for Award Management (SAM) registration requirements to correct an inconsistency with offeror representation and certification requirements.	11/16/2016 DARC agreed to draft final FAR rule. DAR staff processing.

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2015-004	12.3, 13.006, 13.3, 19.1309, 19.1407, 19.1506, 19.309, 19.508, 19.708, 19.811-3, 22.1006, 22.1207, 22.1310, 22.1408, 22.1505, 22.1605, 22.1705, 22.1803, 22.1906, 22.202, 22.810, 23.1105, 23.206, 23.406, 23.705, 25.1101, 25.1103, 25.301- 4, 25.302-6, 26.206, 26.404, 3.1004, 3.503-2, 3.907-7, 32.009- 2, 32.1110, 32.206, 33.106, 33.215, 37.116-2, 39.107, 4.1403, 4.1705, 4.1804, 44.402, 44.403, 47.507, 52.203- 15, 52.212-5, 52.213-4, 52.219 -8, 52.222, 52.226-6, 52.244 -6, 9.104-7, 9.108-5, 9.409	Provisions and Clauses for Acquisitions of Commercial Items and Acquisitions That Do Not Exceed the Simplified Acquisition Threshold	Implements a new approach to the prescription and flowdown for provisions and clauses applicable to the acquisition of commercial items or acquisitions that do not exceed the simplified acquisition threshold. Each clause prescription and each clause flowdown for commercial items is specified within the prescription/clause itself, without having to cross-check another clause or list. The rule supports the use of automated contract writing systems and reduced necessary FAR maintenance when clauses are updated.	04/15/2015 DAR staff notified FAR staff that DARC agreed to draft proposed FAR rule. Awaiting CAAC concurrence.

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Case Number	Part Number	Title	Synopsis	Status
2015-002	2.101, 4.1801, 4.403, 52.204-16, 52.204-17, 52.204-18, 52.204-2, 53.204-1	Requirements for DD Form 254, Contract Security Classification Specification	Updates FAR 4.403 to require the use of Wide Area Workflow for the submission of the DD Form 254, Contract Security Classification Specification. Also clarifies that a unique CAGE code is required for each location of performance listed on a DD Form 254 and that SAM registration is only required for the business location listed on the contract.	04/24/2017 CAAC agreed to draft proposed FAR rule.
2014-002	10, 13, 15, 16, 19, 2, 4, 42, 52, 7, 8, 9	(S) Set-Asides Under Multiple-Award Contracts	Implements SBA's final rule (78 FR 61114) for sections 1311 and 1331 of the Small Business Jobs Act of 2010 (Pub. L. 111-240), which provides Governmentwide policy for partial set-asides and reserves, and setting aside orders for small business concerns under multiple-award contracts.	02/15/2017 DARC Director tasked Small Business Team to review public comments, draft final FAR rule. Report due 04/12/2017. Report due date extended to 12/13/2017.
2013-018	19, 5, 6	Clarification of Requirement for Justifications for 8(a) Sole-Source Contracts	Clarifies justification for 8(a) sole-source contracts, in response to GAO Report to the Chairman, Subcommittee on Contracting Oversight, Committee on Homeland Security and Governmental Affairs, U.S. Senate, entitled Federal Contracting: Slow Start to Implementation of Justifications for 8(a) Sole-Source Contracts (GAO-13-118 dtd December 2012).	06/05/2017 CAAC Legal concurrence with draft final FAR rule. FAR and DAR staff resolving issues.
2013-002	1.108, 2.101, 46.101, 46.317, 46.407, 52.213-4, 52.244-6, 52.246-XX	(S) Reporting of Nonconforming Items to the Government-Industry Data Exchange Program	Implements section 818(c)(4) and (5) of the NDAA for FY 2012 for DoD, as well as reporting of additional nonconforming items Governmentwide.	09/14/2017 DAR staff notified FAR staff that DARC agreed to draft final FAR rule. Awaiting CAAC concurrence.
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 Conflicts of Interest and Unequal Access to Information	Implements section 841 of the NDAA for FY 2009 (Pub. L. 110-417). Section 841 requires consideration of how to address the current needs of the acquisition community with regard to organizational conflicts of interest. Separately addresses issues regarding unequal access to information.	03/16/2017 Case on hold pending review under E.O.13777.