



## Open FAR Cases as of 7/13/2018



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Case Number	Part Number	Title	Synopsis	Status
2018-012		Rights to Federally Funded Inventions and Licensing of Government Owned Inventions	Implements the change to 37 CFR Parts 401 and 404, Rights to Federally Funded Inventions and Licensing of Government Owned Inventions, dated 14 May 2018. The change reduces regulatory burdens, provides greater clarity to large businesses by codifying the applicability of Bayh-Dole as directed in Executive Order 12591, and provides 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 time frames.	07/11/2018 DARC Director tasked staff member to draft proposed FAR rule. Report due 07/25/2018.
2018-010		(S) Use of Products and Services of Kaspersky Lab	Implements section 1634 of the NDAA for FY 2018. Section 1634 prohibits the use of products and services developed or provided by Kaspersky Lab.	06/15/2018 Published interim FAR rule in Federal Register (83 FR 28141) (FAC 2005-99). Effective 30 days after publication. Public comment period ends 08/14/2018.
2018-009		(S) One Dollar Coins	Implements section 885 of the NDAA for FY 2018. Section 885 amends 31 U.S.C. 5112(p) to provide an exception for business operations from requirements to accept \$1 coins.	07/12/2018 Final rule to FARSEC for preparation of FAC.
2018-008		(S) Definition of "Commercial Item"	Implements section 847 of the NDAA for FY 2018. Section 847 amends the definition of "commercial item" at 41 U.S.C. 103(8), but does not affect the commercial items covered at 10 U.S.C. 2464(a)(5), core logistic capabilities.	05/25/2018 DAR staff notified FAR staff that DARC agreed to draft proposed FAR rule. Awaiting CAAC concurrence.
2018-007		(S) Applicability of Inflation Adjustments of Acquisition-Related Thresholds	Implements section 821 of the NDAA for FY 2018. Section 821 amends 41 U.S.C. 1908(d) to make inflation adjustments of statutory acquisition-related thresholds under 41 U.S.C. 1908(d) applicable to existing contracts and subcontracts in effect on the date of the adjustment.	05/30/2018 DARC received staff members draft proposed FAR rule from DAR staff. Discussed on 06/13/2018. Case manager making revisions.

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Case Number	Part Number	Title	Synopsis	Status
2018-006		(S) Provisions and Clauses for Commercial Items and Simplified Acquisitions	Implements section 820 of the NDAA for FY 2018. Section 820 amends 41 U.S.C. 1906(c)(1) to change the definition of "subcontract" in certain circumstances. Implements a new approach to the prescription and flowdown for provisions and clauses applicable to acquisitions of commercial items or acquisitions that do not exceed the simplified acquisition threshold.	01/10/2018 DARC Director tasked ad hoc Team to draft proposed FAR rule. Report due 02/14/2018. Combined with FAR Case 2015-004 and changed title. Report due date extended to 08/01/2018.
2018-005		(S) Modifications to Cost or Pricing Data and Reporting Requirements	Implements section 811 of the NDAA for FY 2018. Section 811 modifies 10 U.S.C. 2306a and 41 U.S.C. 3502 to increase the TINA threshold to \$2 million and require other than certified cost or pricing data.	06/22/2018 DAR staff notified FAR staff that DARC agreed to draft proposed FAR rule. Awaiting CAAC concurrence.
2018-004	13.003, 13.501, 16.206-2, 16.206-3, 16.207-3, 19.203, 19.502-1, 19.502-2, 19.508, 2.101, 25.703-2, 25.703-4, 52, 9.104-5, 9.406-2, 9.407-2	(S) Increased Micro-Purchase and Simplified Acquisition Thresholds	Implements sections 805, 806, and 1702(a) of the NDAA for FY 2018. Section 805 increases the MPT to \$10,000 and limits use of convenience checks to not more than 1/2 the MPT. Section 805 increases the 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." Also addresses nonstatutory thresholds that are equal to the MPT or SAT as a matter of policy.	05/02/2018 OFPP returned draft final FAR rule to convert to proposed rule and address both the statutory and nonstatutory FAR changes. DAR and FAR staff resolving draft proposed FAR rule open issues.
2018-003		(S) 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. Report due date extended to 07/25/2018.
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.

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Case Number	Part Number	Title	Synopsis	Status
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).	06/13/2018 CAAC agreed to draft proposed rule. DAR and FAR staff resolving draft proposed FAR rule open issues.
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.	03/20/2018 DAR staff notified FAR staff that DARC agreed to draft proposed FAR rule. Awaiting CAAC concurrence.
2017-018	1.106, 12.503, 13.005, 13.006, 4.1202, 52.204-8, 52.209, 9.109	(S) Violations 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.	06/15/2018 Published interim FAR rule in Federal Register (83 FR 28145) (FAC 2005-99). Effective upon publication. Public comment period ends 08/14/2018.
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.	07/06/2018 OFPP identified draft proposed FAR rule issues. OFPP, FAR and DAR staff resolving issues.
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 07/25/2018.

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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.	06/29/2018 Proposed FAR rule to FARSEC for preparation of FR notice. 7/13/2018, received DoD ATP.
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.
2017-011	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).	10/11/2017 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.
2017-010	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.	07/10/2018 OIRA cleared proposed FAR rule. FAR staff processing.

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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.	06/26/2018 Published proposed FAR rule in Federal Register (83 FR 29736). Public comment period ends 08/27/2018.
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.	06/12/2018 Published proposed FAR rule in Federal Register (83 FR 27303). Public comment period ends 08/13/2018.
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 makes permanent the pilot program to enhance whistleblower protection for contractor employees..	07/12/2018 CAAC Chair sent draft proposed FAR rule to OIRA. OIRA reviewing.
2017-003	19.602, 28.1, 28.2, 32.202-4, 52.228, 52.228-11, 53.228, 53.301-28	(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.	04/24/2018 CAAC Legal concurrence with draft proposed FAR rule. FAR staff preparing to send to OFPP, pending GSA Administrator approval..
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).	04/30/2018 Final rule to FARSEC for preparation of FAC.

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Case Number	Part Number	Title	Synopsis	Status
2016-013	1.106, 25.1003, 29.204, 29.402-3, 52.212-5, 52.229	(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).	12/06/2017 DAR staff notified FAR staff that DARC agreed to draft proposed FAR rule. Awaiting CAAC concurrence.
2016-012		Incremental Funding of Fixed-Price Contracting Actions	Provides coverage for the incremental funding of certain fixed-price contracting actions.	06/20/2018 FAR Principals received memo from Team chair. FAR principals will discuss.
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.	04/20/2018 CAAC Chair sent draft interim FAR rule to OIRA. Converted to proposed rule. OIRA reviewing.
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.	04/30/2018 Final rule to FARSEC for preparation of FAC.
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.	02/12/2018 DAR staff notified FAR staff that DARC agreed to draft final FAR rule. Awaiting CAAC concurrence.
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.	01/17/2018 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
2015-038	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).	05/31/2018 CAAC Legal concurrence with draft proposed FAR rule. FAR staff preparing to send to OFPP, pending GSA Administrator approval.
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.	02/09/2018 Case on hold, pending further guidance.
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.	03/14/2017 CAAC Legal identified draft proposed FAR rule issues. CAAC legal, FAR and DAR staff resolving issues.
2015-017	22.1702, 52.222-50	Combating Trafficking in Persons--Definition of "Recruitment Fees"	Considers a definition for the term "recruitment fees" at the request of the Senior Policy Operating Group (SPOG) for Combating Trafficking in Persons.	07/12/2018 CAAC Chair sent draft final FAR rule to OIRA. OIRA reviewing.
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.	02/16/2018 Case on hold pending further guidance.



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Case Number	Part Number	Title	Synopsis	Status
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.	07/03/2018 Draft final FAR rule from FAR analyst to OFPP. OFPP reviewing.
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.	07/09/2018 Draft proposed FAR rule from FAR analyst to OFPP. OFPP reviewing.
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.	06/20/2018 DARC agreed to draft final FAR rule. DAR staff processing.
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.	11/15/2017 FAR staff notified DAR staff of CAAC differences from team report or DARC suggested changes. DAR and FAR staff resolving open issues.
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.