



## Open FAR Cases as of 6/2/2023

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## Open FAR Cases as of June 02, 2023

Case Number	Part Number	Title	Synopsis	Status
2023-011	1, 10, 19, 7	Small Business Participation on Certain Multiple Award Contracts	Updates and clarifies FAR direction pertaining to market research, acquisition planning, small business specialist coordination, and the use of set-asides in the placement of orders against certain multiple award contracts.	05/17/2023 DARC Director tasked Acquisition Small Business (FAR) Team to draft proposed FAR rule. Report due 07/12/2023.
2023-010	4, 13, 39, 52	(S) Prohibition on a ByteDance Covered Application	Implements OMB Memo M-23-13, No TikTok on Government Devices, and the No TikTok on Government Devices Act which prohibits covered software applications on Government Devices.	05/17/2023 Interim FAR rule to FARSEC for preparation of FAC.
2023-009	19, 42	(S) Credit for Lower-Tier Subcontracting	Implements section 1614 of the NDAA for FY 2014 (Pub. L. 113-66), as implemented in SBA's final rule published on December 23, 2016 (81 FR 94246), and section 870 of the NDAA for FY 2020 (Pub. L. 116-92) as implemented in SBA's proposed rule published on December 19, 2022 (87 FR 77529), which allows prime contractors to receive credit toward goals in their small business subcontracting plans for subcontracts awarded by their subcontractors.	03/08/2023 DARC Director tasked Acquisition Small Business (FAR) Team to draft proposed FAR rule. Report due 05/03/2023. Report due date extended to 06/28/2023.
2023-008	4, 52	(S) Prohibition on Certain Semiconductor Products and Services	Implements section 5949(a) of the NDAA for FY 2023 (Pub. L. 117-263) to prohibit executive agencies from: 1) procuring or obtaining, or extending or renewing a contract to procure or obtain, any electronic parts, products, or services that include covered semiconductor products or services; or from 2) entering into a contract, or extending or renewing a contract, with an entity to procure or obtain electronic parts or products that include covered semiconductor products or services.	03/01/2023 DARC Director tasked Acquisition Technology & Information Team to draft proposed FAR rule. Report due 04/05/2023. Report due date extended to 06/28/2023.
2023-007	50	(S) Limitation of Authority Regarding Extraordinary Contractual Actions	Implements part of section 822 of the NDAA for FY 2023 (Pub. L. 117-263) pertaining to updates to dollar limits reflected at 50 U.S.C. 1431.	04/26/2023 DARS staff notified FAR staff that DARC agreed to draft final FAR rule. Awaiting CAAC concurrence.

## Open FAR Cases as of June 02, 2023

Case Number	Part Number	Title	Synopsis	Status
2023-006	9	(S) Preventing Organizational Conflicts of Interest in Federal Acquisition	Implements the Preventing Organizational Conflicts of Interest in Federal Acquisition Act (Pub. L. 117-324) with the exception of paragraph (a)(4) , as it pertains to agency actions in accordance with their agency-specific procedures. The statute requires the FAR to provide and update definitions related to specific types of organizational conflicts of interest (OCI), including unequal access to information, impaired objectivity, and biased ground rules; and updates the procedures at 9.506 to permit contracting officers to take into consideration professional standards and procedures to prevent OCI to which an offeror or contractor is subject.	02/15/2023 DARC Director tasked Acquisition Law Team to draft proposed FAR rule. Report due 04/19/2023. Report due date extended to 06/14/2023.
2023-005	52	(S) Reference to Penalty Threshold	Amends Federal Acquisition Regulation (FAR) provision 52.203-11(e), Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions to align the penalties language with the equivalent penalties language at FAR clause 52.203-12(e), Limitation on Payments to Influence Certain Federal Transactions which cites to underlying authority at 31 U.S.C. 1352.	03/15/2023 DAR staff notified FAR staff that DARC agreed to draft final FAR rule. Awaiting CAAC concurrence.
2023-004	2, 52	Small Disadvantaged Business Threshold	Implements SBA's final rule published on November 17, 2022, at 87 FR 69118 which increased the net worth threshold that is used to determine eligibility for small disadvantaged businesses from \$750,000 to \$850,000 for inflation.	04/28/2023 Draft final FAR rule from FAR analyst to OFPP. OFPP reviewing.
2023-003	17, 36	(S) Prohibition on the Use of Reverse Auctions for Complex, Specialized, or Substantial Design and Construction Services	Implements section 402 of the Construction Consensus Procurement Improvement Act of 2020 (Pub. L. 116-260) as amended by section 2 of the Construction Consensus Procurement Improvement Act of 2021 (Pub. L. 117-28). The statute, as amended, prohibits the use of a reverse auction for the award of a contract for complex, specialized, or substantial design and construction services.	05/17/2023 DARC agreed to draft proposed FAR rule. DAR staff processing.

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Case Number	Part Number	Title	Synopsis	Status
2023-002	1, 39, 52	Supply Chain Software Security	Implements section 4(n) of Executive Order (EO) 14028, which requires suppliers of software available for purchase by agencies to comply with, and attest to complying with, applicable secure software development requirements in accordance.	11/02/2022 DARC Director tasked FAR Acquisition Technology & Information Team to draft proposed FAR rule. Report due 04/05/2023. Report due date extended to 06/07/2023.
2023-001	19, 2, 42, 52	(S) Subcontracting to Puerto Rican and Covered Territory Small Businesses	Implements SBA's final rules 85 FR 66146 and 87 FR 50925 published on October 16, 2020 and August 19, 2022, which implement section 861 of the NDAA for FY 2019 (Pub. L. 115-232)) and section 866 of the NDAA for FY 2021 (Pub. L. 116-283), which define covered territory small business and provide contracting incentives to mentors that subcontract to protégé firms that are Puerto Rican and covered territory small businesses; provide for reliance on subcontractor representations; and exclude Alaska Native Corporations from the requirement for subcontracting plans.	03/22/2023 Councils agree. FAR staff preparing to send to CAAC Legal for review.
2022-011	22, 52	Nondisplacement of Qualified Workers Under Service Contracts	Implements Executive Order 14055, Nondisplacement of Qualified Workers Under Service Contracts, dated November 18, 2021 and Department of Labor regulations (29 CFR part 9). The Executive Order establishes a general policy of the Federal Government that service contracts which succeed contracts for the same or similar services, and solicitations for such contracts, shall include a non-displacement clause. The non-displacement clause requires the contractor and its subcontractors to offer qualified employees employed under the predecessor contract a right of first refusal of employment under the successor contract."	09/16/2022 Case on hold, pending DOL regulations.
2022-010	40	Establishing FAR Part 40	The purpose of this case is to amend the FAR to create a new FAR part, part 40, which will be the new location for cybersecurity supply chain requirements in the FAR. This new FAR part will provide contracting officers with a single, consolidated location in the FAR for cybersecurity supply chain risk management requirements.	09/01/2022 DARC Director tasked staff to draft final FAR rule. Report due 10/12/2022. Report due date extended to 06/14/2023.

## Open FAR Cases as of June 02, 2023

Case Number	Part Number	Title	Synopsis	Status
2022-009	19, 52	(S) Certification of Service-Disabled Veteran-Owned Small Businesses	Implements the Small Business Administration's (SBA) proposed rule published on July 6, 2022 at 87 FR 40141 to implement Section 862 of the National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116-283), which amended the Small Business Act (15 U.S.C. 632) to require certification of service-disabled veteran-owned small business concerns (SDVOSB) seeking award under the SDVOSB program. The statute includes a one-year grace period for certification from the transfer date. The statute transfers certification responsibility from the Department of Veterans Affairs to SBA, with an effective date of 2 years after the date of the enactment, which is January 1, 2023.	12/07/2022 DARC Director tasked FAR Acquisition Small Business Team to draft proposed FAR rule. Report due 03/01/2023. Report due date extended to 06/28/2023.
2022-008	11, 52	Update to ASSIST Database References	Replaces obsolete references to the ASSIST Shopping Wizard and the Department of Defense Single Stock Point with current titles and contact information.	04/28/2023 Draft final FAR rule from FAR analyst to OFPP. OFPP reviewing.
2022-007	8, 52	Removal of FAR Subpart 8.5, Acquisition of Helium	Implements the Helium Stewardship Act of 2013, which requires the disposal of the Federal Helium System and cessation of the In-Kind Program by September 30, 2022.	04/26/2023 Published final FAR rule in Federal Register (88 FR 25474) (FAC 2023-03). Effective 05/26/2023.
2022-006	1, 2, 4, 5, 7, 11, 12, 13, 21, 23, 37, 39, 42, 52	Sustainable Procurement	Implements Executive Order 14057, Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability, and OMB Memorandum M-22-06 for the procurement of sustainable products and services. Updates the definition of "biobased product" (7 U.S.C 8101 and 8102) for the purposes of agency affirmative procurement programs and reorganizes FAR Part 23 for consistency and clarity.	05/26/2023 Proposed FAR rule to FARSEC for preparation of FR notice.
2022-004	25	Enhanced Price Preferences for Critical Components and Critical Items	Implements Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers to address the identification of critical products and use of enhanced price preferences.	03/09/2022 DARC Director tasked Staff to draft proposed FAR rule. Report due 07/20/2022. Report due date extended to 06/07/2023.

## Open FAR Cases as of June 02, 2023

Case Number	Part Number	Title	Synopsis	Status
2022-003	1, 7, 22, 36, 52	(EO) Use of Project Labor Agreements For Federal Construction Projects	Implements Executive Order 14063 on the use of project labor agreements in connection with large-scale construction projects to promote economy and efficiency in Federal procurement.	11/09/2022 DARC Director tasked Ad Hoc Team to review public comments, draft final FAR rule. Report due 04/05/2023. Report due date extended to 06/14/2023.
2022-002	1	(S) Exemption of Certain Contracts from the Periodic Inflation Adjustments to the Acquisition-Related Thresholds	Implements section 861 of the NDAA for FY 2022 (Pub. L. 117-81), which provides additional exceptions to the periodic inflation adjustments of acquisition-related thresholds at FAR 1.109.	04/26/2023 Published final FAR rule in Federal Register (88 FR 25476) (FAC 2023-03). Effective 05/26/2023.
2021-021	23, 52	Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors	Implements section Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, dated September 9, 2021 (86 FR 50985), which requires a clause to be included in certain contracts to ensure contractors are adequately protected from COVID-19.	05/17/2023 Case closed. No FAR revisions needed.
2021-020	19, 52	(S) Limitations on Subcontracting Revisions	Implements the requirements of SBA's final rule published on May 31, 2016 (81 FR 34243) to implement, in part, section 1651 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239), which amended 15 U.S.C. to standardize the limitations on subcontracting and nonmanufacturer rule across the socioeconomic programs. Also implements SBA's final rules published on November 29, 2019 (84 FR 65647) and October 16, 2020 (85 FR 66146) regarding: additional exclusions of certain costs from the limitations on subcontracting for services; similarly situated entity subcontractor requirements, application of the multiple item rule to kit assemblers; and the applicability of the limitations on subcontracting to a "mixed construction type contract."	02/07/2023 CAAC Legal concurrence with draft proposed FAR rule. FAR staff preparing to send to OFPP, pending GSA Administrator approval.
2021-019	2, 37, 39, 4, 52, 7	Standardizing Cybersecurity Requirements for Unclassified Federal Information Systems	Implements sections 2(i) and 8(b) of Executive Order 14028, Improving the Nation's Cybersecurity, relating to standardizing common cybersecurity contractual requirements across Federal agencies for unclassified Federal information systems, pursuant to Department of Homeland Security recommendations.	05/11/2023 CAAC Chair sent draft proposed FAR rule to OIRA. OIRA reviewing.

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Case Number	Part Number	Title	Synopsis	Status
2021-017	12, 2, 39, 4, 52	Cyber Threat and Incident Reporting and Information Sharing	Implements sections 2(b)-(c), 2(g)(i), 8(b) of Executive Order 14028, Improving the Nation's Cybersecurity, relating to sharing of information about cyber threats and incident information and reporting cyber incidents	05/11/2023 CAAC Chair sent draft proposed FAR rule to OIRA. OIRA reviewing.
2021-016	23	Minimizing the Risk of Climate Change in Federal Acquisitions	Implements section 5(b)(ii) of Executive Order 14030, Climate-Related Financial Risk, which directs the FAR Council to consider amending the FAR to ensure that major agency procurements minimize the risk of climate change.	01/26/2022 DARC Director tasked the Acquisition Environmental and Contract Management Team to review public comments, draft proposed FAR rule. Report due 03/09/2022. Report due date extended to 06/14/2023.
2021-015	1, 4, 9, 23, 52	Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk	Implements section 5(b)(i) of Executive Order 14030, Climate-Related Financial Risk, which directs the FAR Council to consider amending the FAR to require major Federal suppliers to publicly disclose greenhouse gas emissions and climate-related financial risk and to set science-based reduction targets.	02/24/2023 DARC Director tasked Acquisition Environmental and Contract Management Team Team to review public comments, draft final FAR rule. Report due 04/19/2023. Report due date extended to 06/21/2023.
2021-014	2, 22, 52	Increasing the Minimum Wage for Contractors	Implements Executive Order 14026, Increasing the Minimum Wage for Federal Contractors, dated April 27, 2021, and Department of Labor regulations. The E.O. seeks to increase efficiency and cost savings in the work performed by parties who contract with the Federal Government by increasing to \$15.00 the hourly minimum wage paid those contractors.	01/11/2023 OFPP concurrence with draft final FAR rule. FAR staff preparing to send to OIRA.
2021-013	42	Access to Past Performance Information	Amends FAR 42.1503 to clarify that the Government may provide Contractor Performance Assessment Reporting System access to a third-party contractor, with appropriate safeguards, for the purposes of performing value-added services for the government.	05/19/2021 DARC Director tasked Acquisition environmental and Contract Management Team to draft proposed FAR rule. Report due 07/14/2021. Report due date extended to 06/28/2023.



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Case Number	Part Number	Title	Synopsis	Status
2021-012	19	8(a) Program	Implements the requirements of SBA's final rule published October 16, 2020 (85 FR 66146) regarding offer and acceptance in the 8(a) program for blanket purchase agreements; the offer of a procurement to the 8(a) program prior to solicitation issuance; SBA's concurrence to release follow-on procurements from the 8(a) program; the processing of certain agency waiver requests; and the exception to certificate of competency procedures for 8(a) sole-source contracts.	04/20/2023 CAAC Legal concurrence with draft final FAR rule. FAR staff preparing to send to OFPP, pending GSA Administrator approval.
2021-011	15	Past Performance Ratings for Small Business Joint Venture Members and Small Business First-Tier Subcontractors	Implements certain requirements in 2 SBA final rules, one published October 16, 2020 (85 FR 66146) and another on July 22, 2022 (87 FR 43731). The rule provides for consideration of the past performance and experience of joint venture partners and joint ventures when awarding a set-aside contract and for first-tier subcontractors when awarding bundled or consolidated contracts, certain multiple-award contracts, and other procurements, as appropriate.	05/12/2021 DARC Director tasked Acquisition Small Business Team to draft proposed FAR rule. Rule transferred to the Acquisition Strategy Team. Report due 07/14/2021. Report due date extended to 06/07/2023.
2021-009	19	Protests of Orders Set Aside for Small Business	Implements the requirements in SBA's final rule October 16, 2020 (85 FR 66146) regarding size protests on set-aside orders under multiple-award contracts that were not set aside; socioeconomic status protests on set-aside orders where the required status differs from that of the underlying multiple-award contract; and the authority for SBA's Associate General Counsel for Procurement Law to initiate a size protest.	03/03/2023 Draft proposed FAR rule from FAR analyst to OFPP. OFPP reviewing.
2021-006	3	(S) Prohibition on Requiring Disclosure of Political Contributions	Implements section 735 of Division E of Title VII of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), and similar sections in prior appropriations acts, which prohibit the Government from requiring an offeror to disclose, as a condition of its offer, any payments the offeror has made to a candidate for election for Federal office or to a political committee.	03/03/2021 DARC Director tasked Acquisition Strategy Team to draft proposed FAR rule. Report due 04/21/2021. Report due date extended to 06/14/2023.



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Case Number	Part Number	Title	Synopsis	Status
2021-005	4, 52	(S) Disclosure of Beneficial Owner in Federal Contracting	Implement sections 885 and 6403 of the NDAA for FY 2021 (Pub. L. 116-283). Section 885 amends 41 U.S.C. 2313 to require the Federal Awardee Performance and Integrity Information System include identifying information on the beneficial owner of certain corporations. Paragraph (c) of section 6403 requires certain offerors to disclose beneficial ownership information in their offers for contracts over the simplified acquisition threshold.	04/19/2021 DARC Director tasked Ad hoc Team to draft proposed FAR rule. Report due 04/14/2021. Report due date extended to 06/07/2023.
2021-001	2, 3, 5, 11, 14, 19, 27, 28, 32, 33, 42, 47, 49, 52, 53	Increased Efficiencies with Regard to Certified Mail, In-person Business, Mail, Notarization, Original Documents, Seals, and Signatures	Considers amendments to the Federal Acquisition Regulation to increase flexibilities and efficiencies with regard to certified mail, notarization, original documents, seals, in-person business, mail, and signatures through use of digital and virtual technology.	06/25/2021 DAR staff notified FAR staff that DARC agreed to draft proposed FAR rule. Awaiting CAAC concurrence.
2020-016	19, 52	Rerepresentation of Size and Socioeconomic Status	Implements the requirement in SBA's proposed rule (84 FR 60846, November 8, 2019) for rerepresentation of size and socioeconomic status for orders under multiple-award contracts.	07/27/2022 CAAC Legal concurrence with draft proposed FAR rule. FAR staff preparing to send to OFPP, pending GSA Administrator approval.
2020-015	17	Business-case Analysis Requirements for Multi-Agency Contracts	Implements OMB Memo M-19-13, Category Management: Making Smarter Use of Common Contract Solutions and Practices, March 20, 2019.	09/16/2021 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.
2020-011	4, 52	(S) Implementation of FASC Exclusion Orders	Implements section 1323 of the SECURE Technology Act (Pub. L. 115-390)(FY19), which created the Federal Acquisition Security Council (FASC) and authorized 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.	05/26/2023 CAAC Chair sent draft interim FAR rule to OIRA. OIRA reviewing.

## Open FAR Cases as of June 02, 2023

Case Number	Part Number	Title	Synopsis	Status
2020-010	27, 52, 6	Small Business Innovation Research and Technology Transfer Programs	Implements changes related to data rights in the Small Business Administration's Policy Directive for the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs, published in the Federal Register on April 2, 2019 (84 FR 12794). Implements competition requirements unique to Phase III awards under the SBIR and STTR Programs.	04/07/2023 Published proposed FAR rule in Federal Register (67 FR 20822). Public comment period ends 06/06/2023.
2020-009	25.104	List of Domestically Nonavailable Articles	Implements the requirement at FAR 25.104(b) to publish the list of Domestically Nonavailable Articles in the Federal Register for public comment no less frequently than once every five years.	07/29/2020 DARC Director tasked Staff Level (FAR) Team to consider revisions to draft proposed FAR rule. Report due 11/25/2020. Report due date extended to 06/07/2023.
2020-008	22, 42, 52	(S) Prohibition on Criminal History Inquiries by Contractors Prior to Conditional Offer	Implements section 1123 of the NDAA for FY 2020. Section 1123 amends 41 U.S.C. 4714 and 10 U.S.C. 2338 adding a new section 10 U.S.C. 2339, prohibiting criminal history inquiries by contractors prior to conditional offer.	01/23/2020 DARC Director tasked Acquisition Law Team to draft proposed FAR rule. Report due 04/01/2020. Report due date extended to 06/21/2023.
2020-005	16	(S) Explanations to Unsuccessful Offerors on Certain Orders Under Task- and Delivery-Order Contracts	Implements section 874 of the NDAA for FY 2020 (Pub. L. 116-92), which requires, when awarding a task or delivery order in an amount greater than the simplified acquisition threshold, 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.	03/08/2023 Draft proposed FAR rule from FAR analyst to OFPP. OFPP reviewing.
2019-018	11, 17, 39, 4, 52, 7, 9	(S) Federal Acquisition Supply Chain Security Act of 2018	Implements the Federal Acquisition Supply Chain Security Act of 2018, which was part of the SECURE Technology Act, Pub. L 115-390(FY19).	08/30/2021 FAR staff notified DAR staff that CAAC agreed with draft rule as submitted by Team or as modified by DARC.
2019-017	1, 12, 47, 52	(S) Training to Prevent Human Trafficking for Certain Air Carriers	Implements section 111 of the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018 (Pub. L. 115-425)(FY19).	05/01/2023 Draft proposed FAR rule from FAR analyst to OFPP. OFPP reviewing.

## Open FAR Cases as of June 02, 2023

Case Number	Part Number	Title	Synopsis	Status
2019-015	2, 22, 23, 25, 3, 33, 52, 9	Improving Consistency Between Procurement & Non-Procurement Procedures on Suspension and Debarment	Revisions to improve consistency between the procurement and non-procurement procedures on suspension and debarment, based on recommendations of the Interagency Suspension and Debarment Committee.	11/07/2022 Draft proposed FAR rule from FAR analyst to OFPP. OFPP reviewing.
2019-014	12, 2, 39, 52	(EO) Strengthening America's Cybersecurity Workforce	Implements Executive Order 13870 of May 2, 2019, America's Cybersecurity Workforce, which directs agencies to incorporate the NICE Framework lexicon, taxonomy and reporting requirements into contracts for information technology and cybersecurity services.	04/23/2020 DAR staff notified FAR staff of DARC differences from Team report or CAAC suggested changes. DAR and FAR staff resolving draft proposed FAR rule open issues.
2019-009	1, 13, 39, 4, 52	(S) Prohibition on Contracting with Entities Using Certain Telecommunications and Video Surveillance Services or Equipment	Implements paragraph (a)(1)(B) of section 889 of the National Defense Authorization Act for Fiscal Year 2019 which prohibits procurement from entities using covered 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.	10/26/2020 DARC Director tasked Acquisition Technology & Information FAR Team to review public comments, draft final FAR rule. Report due on 05/12/2021. Report due date extended to 06/21/2023.
2018-024	52.251-2	Use of Interagency Fleet Management System Vehicles and Related Services	Amends FAR clause 52.251-1, Interagency Fleet Management System Vehicles and Related Services, to provide contractors that have been authorized to use fleet vehicles with additional information on how to request the vehicles from the Government.	09/23/2019 Case on hold, pending update of 41 CFR 101-39.
2018-017	1, 12, 13, 39, 4, 52	(S) Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment	Implements paragraph (a)(1)(A) of section 889 of the National Defense Authorization Act for Fiscal Year 2019 which prohibits the procurement of covered 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.	04/20/2020 DARC Director tasked FAR Technology Team to review public comments, draft final FAR rule. Report due 07/01/2020. Report due date extended to 06/28/2023.

## Open FAR Cases as of June 02, 2023

Case Number	Part Number	Title	Synopsis	Status
2018-014	8, 13, 15, 38	(S) Increasing Task-order Level Competition	Implements section 876 of the NDAA for FY 2019 (Pub. L. 115-232). Section 876 amends 41 U.S.C. 3306(c) by providing an exception to the requirement to consider price as an evaluation factor for the award of certain indefinite-delivery, indefinite-quantity contracts and Federal Supply Schedule contracts.	08/22/2018 DARC Director tasked Acquisition Strategy Team to draft proposed FAR rule. Report due 10/17/2018. Case transferred to FAR Acquisition Environmental and Contract Management Team. Report due date extended to 06/28/2023.

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Case Number	Part Number	Title	Synopsis	Status
2018-013	12, 52	(S) Exemption of Commercial and COTS Item Contracts from Certain Laws and Regulations	Implements section 839(a) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 and section 849(a) of the NDAA for FY 2018. Section 839(a) of the NDAA for FY 2019 requires a review of FAR Council determinations not to exempt contracts and subcontracts for commercial products, commercial services, and commercially available off-the-shelf items from certain laws and propose revisions to the FAR to provide an exemption from each law subject to such determination unless the FAR Council determines that there is a specific reason not to provide the exemption pursuant to 41 U.S.C. 1906 or the Administrator for Federal procurement Policy makes the comparable determination pursuant to 41 U.S.C. 1907. Section 849 (a) of the NDAA for FY 2018 required the same review by the Department of Defense. Also implements paragraphs (b) and (c) of section 839 of the NDAA for FY 2019. 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 assessment of every regulation that requires a prime contractor to include 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. Paragraphs (b) and (c) require these revisions to be proposed within one year of the date of the enactment of section 839. FAR case 2018-019 was rolled into this case.	02/19/2020 DAR staff notified FAR staff that DARC agreed to draft proposed FAR rule. Awaiting CAAC concurrence.

## Open FAR Cases as of June 02, 2023

Case Number	Part Number	Title	Synopsis	Status
2018-012	27, 52	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.	03/21/2022 Case on hold, pending publication of related NIST regulations at 37 CFR 401 and 404 pertaining to rights to Federally funded inventions and licensing of Government owned inventions.
2018-006	12, 52	(S) Definition of "Subcontract"	Implements section 820 of the National Defense Authorization Act for Fiscal Year 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 flow-down for provisions and clauses applicable to acquisitions of commercial items or acquisitions that do not exceed the simplified acquisition threshold.	11/05/2019 DAR staff notified FAR staff that DARC agreed to draft proposed FAR rule. Awaiting CAAC concurrence.
2017-016	11, 12, 2.1, 27, 35, 4, 52, 7	Controlled Unclassified Information	Implements 1) the National Archives and Records Administration (NARA) Controlled Unclassified information (CUI) program of E.O. 13556, which provides implementing regulations to address agency policies for designating, safeguarding, disseminating, marking, decontrolling, and disposing of CUI; and 2) OMB Memorandum M-17-12, Preparing for and Responding to a Breach of Personally Identifiable Information (January 3, 2017) which provides guidance on PII breaches occurring in cyberspace or through physical acts.	08/04/2022 FAR and DARS Staffs resolving open issues identified during OIRA review.
2017-014	1, 52	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.	05/26/2023 OIRA cleared final FAR rule. FAR staff processing. Confirm any required systems changes.

## Open FAR Cases as of June 02, 2023

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(FY17), which makes permanent the pilot program to enhance whistleblower protection for contractor employees.	09/27/2019 DoD, GSA, NASA, and OFPP resolving issues, final rule.
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).	04/14/2023 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.
2015-014	25.303, 3.7, 42.1503, 52.225	(S) Prohibition on Providing Funds to the Enemy	Implements sections 841, 842, and 843 of the NDAA for FY 2015 (Pub. L. 113-291, as amended by section 822 of the NDAA for FY 2020 (Pub. L. 116-92)) and section 820 of the NDAA for FY 2023 (Pub. L. 117-263). Section 841 prohibits providing funds to the enemy. Section 842 provides additional access to records. Section 843 provides definitions. Section 820 extends the expiration date through December 31, 2025.	04/15/2015 DAR staff notified FAR staff that DARC agreed to draft proposed FAR rule. Awaiting CAAC concurrence.