

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

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

Federal Acquisition Regulation; Federal Acquisition Circular 2023–01; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2023–01. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC.

DATES: For effective dates see the separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or GSARegSec@gsa.gov.

RULES LISTED IN FAC 2023–01

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

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

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2023–01 amends the FAR as follows:

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

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

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

This final rule amends the FAR to implement section 887 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016 (Pub. L. 114–92).

This rule clarifies that agency acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry, so long as those exchanges are consistent with existing laws and regulations, and do not promote an unfair competitive advantage to particular firms.

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

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

This final rule implements the United States-Mexico-Canada Agreement Implementation Act (Pub. L. 116–113). The rule makes changes in the FAR to conform to Chapter 13 of the United States-Mexico-Canada Agreement (USMCA), which sets forth certain obligations between the United States and Mexico with respect to Government procurement of goods and services, as specified in Annex 13–A of the USMCA. Chapter 13 of the USMCA applies only between Mexico and the United States and does not cover Canada. Although Canada is still a designated country under the World Trade Organization Government Procurement Agreement, Canada is no longer a Free Trade Agreement country. Therefore, references to Canada as a Free Trade

Agreement country in the FAR are deleted, including the \$25,000 threshold. DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities. The effect on contracting officers is expected to be minimal as they will continue to apply the rule implementing the USMCA to contracts to which the North American Free Trade Agreement (NAFTA) applied, at the higher threshold for Mexico.

Item IV—Technical Amendments

Administrative changes are made at FAR 17.701, and 53.300.

William F. Clark,

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

Federal Acquisition Circular (FAC) 2023–01 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2023–01 is effective December 1, 2022 except for Items I through IV, which are effective December 30, 2022.

John M. Tenaglia,
Principal Director, Defense Pricing and Contracting, Department of Defense.
Jeffrey A. Koses,

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

Karla Smith Jackson, Assistant Administrator for Procurement, Senior Procurement Executive, National Aeronautics and Space Administration.

[FR Doc. 2022-25957 Filed 11-30-22; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 17 and 53

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

Federal Acquisition Regulation; Technical Amendments

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

ACTION: Final rule.

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

DATES: Effective: December 30, 2022.

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

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

List of Subjects in 48 CFR Parts 17 and 53

Government procurement.

William F. Clark,

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

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

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

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

PART 17—SPECIAL CONTRACTING METHODS

17.701 [Amended]

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

PART 53—FORMS

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

53.300 Listing of Standard, Optional, and Agency forms.

* * * * *

(a) * * *

TABLE 53-1—FORMS IN THE GSA FORMS LIBRARY

Form No.	Form title
* * * * *	
SF 273	Reinsurance Agreement for a Bonds Statute Performance Bond.
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[FR Doc. 2022-25961 Filed 11-30-22; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

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

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

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

ACTION: Small Entity Compliance Guide (SECG).

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

DATES: December 1, 2022.

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

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

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