

liability for Afghanistan taxes and similar charges (e.g. customs, duties, fees). These clauses were previously in the Defense Federal Acquisition Regulation Supplement and are now elevated to the FAR to eliminate the need for agency unique supplemental regulations and ensure unified guidance among the affected agencies consistent with the purpose of the FAR.

#### Item VII—Recreational Services on Federal Lands (FAR Case 2019–002)

This final rule amends FAR 22.1903(b)(2) and FAR clause 52.222–55(c)(2) to conform to a Department of Labor rule by adding seasonal recreational services or seasonal recreational equipment rental for the general public on Federal lands under contracts or contract-like instruments entered into with the Federal Government, to the list of exemptions from the requirements of Executive Order 13658, Establishing a Minimum Wage for Contractors. The current minimum wage is \$10.80 per hour. Lodging and food services are not exempted. Both rules implement Executive Order 13838, Exemption from Executive Order 13658 for Recreational Services on Federal Lands.

#### Item VIII—Technical Amendments

Editorial changes are made at FAR 4.2102, 52.213–4, 52.252–5, 52.252–6, and 53.228.

#### William F. Clark,

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

Federal Acquisition Circular (FAC) 2021–02 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 2021–02 is effective October 23, 2020 except for Items I through VIII, which are effective November 23, 2020.

Kim Herrington,  
*Acting Principal Director, Defense Pricing and Contracting, Department of Defense.*

Jeffrey A. Koses,  
*Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.*

William G. Roets, II,  
*Acting Assistant Administrator, Office of Procurement, National Aeronautics and Space Administration.*

[FR Doc. 2020–21694 Filed 10–22–20; 8:45 am]

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## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 1, 15, 28, 30, 42, and 44

[FAC 2021–02; FAR Case 2020–003; Item I; Docket No. FAR–2020–0003, Sequence 1]

RIN 9000–AO06

#### Federal Acquisition Regulation: Removal of FAR Appendix

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

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to remove references to the FAR appendix. The Cost Accounting Standards Board regulations remain available in the Code of Federal Regulations. This final rule also deletes the few additional references to the FAR “looseleaf”.

**DATES:** *Effective:* November 23, 2020.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bryon Boyer, Procurement Analyst, at 817–850–5580 or by email at [bryon.boyer@gsa.gov](mailto:bryon.boyer@gsa.gov) for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2021–02, FAR Case 2020–003.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The FAR appendix was created in 1988 (July 20, 1988, FAC 84–38) as “appendix A to part 30.” It was relabeled “appendix B” in 1992 (August 31, 1992, FAR Case 92–18), and eventually as just “the appendix” (July 25, 1997 technical amendment). The appendix does not appear in the Code of Federal Regulations other than as references to it. The appendix appears in the version of the FAR currently available online at <https://www.acquisition.gov/browse/index/far>. The original purpose of the appendix was to provide an easy way for readers to read the Cost Accounting Standards (CAS) Board regulations at 48 CFR chapter 99, that are heavily referenced in FAR part 30. That is no longer necessary. Users are able to access 48 CFR chapter 99 easily online at the electronic Code of Federal Regulation (eCFR) website (<https://www.ecfr.gov>). The CAS Board regulations no longer

appear in the appendix in full text. Therefore, references throughout the FAR to the CAS Board regulations being in the appendix are out of date. For all the regulation locations where “FAR appendix” is deleted, the citation to 48 CFR chapter 99 will be maintained to direct the workforce to the supporting regulation. To further help the workforce, [Acquisition.gov](https://www.acquisition.gov) is being updated to include hyperlinks for all “48 CFR chapter 99” citations.

This final rule also deletes the few additional references to the FAR “looseleaf”, because the FAR loose-leaf version is now published online at <https://www.acquisition.gov>. It is no longer published as a paper loose-leaf version.

##### II. Publication of This Final Rule for Public Comment Is Not Required by Statute

“Publication of proposed regulations”, 41 U.S.C. 1707, is the statutory provision in title 41 that applies to the publication of the Federal Acquisition Regulation. Subsection 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because the deletions of references to “the appendix” in the FAR “loose-leaf” are administrative and do not have a significant effect on the public or Government. As explained in the background section, users are directed to the eCFR to access the information that is at 48 CFR chapter 99, as it is no longer in “the appendix.”

##### III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-The-Shelf (COTS) Items

This rule amends the FAR to delete references to “the appendix” in the FAR “loose-leaf.” The amendments are administrative in nature and do not change the applicability or the text of any FAR solicitation provisions or contract clauses.

##### IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is

necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

#### V. Executive Order 13771

This rule is not subject to E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, because this rule is not a significant regulatory action under E.O. 12866.

#### VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1701(a)(1) (see section II of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

#### VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

#### List of Subjects in 48 CFR Parts 1, 15, 28, 30, 42, and 44

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 1, 15, 28, 30, 42, and 44 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 15, 28, 30, 42, and 44 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

#### PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 2. Amend section 1.105–1 by revising paragraph (a) to read as follows:

#### 1.105–1 Publication and code arrangement.

(a) The FAR is published in—

(1) The daily issue of the **Federal Register**;

(2) Cumulated form in the Code of Federal Regulations (CFR); and

(3) A separate edition available at <https://www.acquisition.gov/browse/index/far>.

\* \* \* \* \*

#### 1.201–1 [Amended]

■ 3. Amend section 1.201–1 in paragraph (e)(6) by removing “and printing for distribution”.

#### 1.201–2 [Amended]

■ 4. Amend section 1.201–2 in paragraph (a) by removing “print, publish,” and “loose-leaf” and adding “publish” and “separate online” in their places, respectively.

#### 1.402 [Amended]

■ 5. Amend section 1.402 by removing “Chapter 99 (FAR Appendix)” and adding “chapter 99” in its place.

#### PART 15—CONTRACTING BY NEGOTIATION

#### 15.404–1 [Amended]

■ 6. Amend section 15.404–1 in paragraph (c)(2)(iv) by removing “Chapter 99 (Appendix to the FAR looseleaf edition)” and adding “chapter 99” in its place.

#### PART 28—BONDS AND INSURANCE

#### 28.301 [Amended]

■ 7. Amend section 28.301 in paragraph (a)(1) by removing “48 CFR 9004.416 (appendix B, FAR loose-leaf edition)” and adding “48 CFR 9004.416” in its place.

#### PART 30—COST ACCOUNTING STANDARDS ADMINISTRATION

#### 30.000 [Amended]

■ 8. Amend section 30.000 by removing “(FAR appendix)” twice.

#### 30.101 [Amended]

■ 9. Amend section 30.101 by removing paragraphs (c) and (d).

#### 30.201 [Amended]

■ 10. Amend section 30.201 by removing “(FAR appendix)” twice.

#### 30.201–1 [Amended]

■ 11. Amend section 30.201–1 in paragraph (a) by removing “(FAR appendix)”.

#### 30.201–2 [Amended]

■ 12. Amend section 30.201–2 by removing “(FAR appendix)”.

#### 30.201–3 [Amended]

■ 13. Amend section 30.201–3 by—  
 ■ a. Removing from paragraph (a) “(FAR appendix)”;  
 ■ b. Removing from paragraph (b) “(FAR appendix)” twice; and  
 ■ c. Removing from paragraph (c) “(FAR Appendix)”.

#### 30.201–4 [Amended]

■ 14. Amend section 30.201–4 by—  
 ■ a. Removing from paragraph (a)(1) “(FAR appendix)” twice;  
 ■ b. Removing from paragraph (a)(2) “(FAR appendix)”;  
 ■ c. Removing from paragraph (b)(1) “(FAR Appendix)”;  
 ■ d. Removing from paragraph (b)(2) “(FAR appendix)”;  
 ■ e. Removing from paragraph (e)(1) “(FAR appendix)” three times; and  
 ■ f. Removing from paragraph (e)(2) “(FAR appendix)” twice.

#### 30.201–5 [Amended]

■ 15. Amend section 30.201–5 in paragraph (d) by removing “(FAR Appendix)”.

#### 30.201–6 [Amended]

■ 16. Amend section 30.201–6 by removing “(FAR appendix)”.

#### 30.201–7 [Amended]

■ 17. Amend section 30.201–7 by removing “(FAR appendix)”.

#### 30.202–1 [Amended]

■ 18. Amend section 30.202–1 by removing “(FAR appendix)”.

#### 30.202–2 [Amended]

■ 19. Amend section 30.202–2 by removing “(FAR appendix)”.

#### 30.202–3 [Amended]

■ 20. Amend section 30.202–3 by removing “(FAR appendix)”.

#### 30.202–4 [Amended]

■ 21. Amend section 30.202–4 by removing “(FAR appendix)”.

#### 30.202–5 [Amended]

■ 22. Amend section 30.202–5 by removing “(FAR appendix)”.

#### 30.202–6 [Amended]

■ 23. Amend section 30.202–6 in paragraph (a) by removing “(FAR appendix)”.

#### 30.202–7 [Amended]

■ 24. Amend section 30.202–7 in paragraph (a) introductory text by removing “(FAR Appendix)”.

**30.202–8 [Amended]**

■ 25. Amend section 30.202–8 in paragraph (b) by removing “(FAR appendix)”.

**Subpart 30.3 [Amended]**

■ 26. Amend subpart 30.3 by removing from the note “(FAR appendix)”.

**Subpart 30.4 [Amended]**

■ 27. Amend subpart 30.4 by removing from the note “(FAR appendix)”.

**Subpart 30.5 [Amended]**

■ 28. Amend subpart 30.5 by removing from the note “(FAR appendix)”.

**30.602 [Amended]**

■ 29. Amend section 30.602 in paragraph (a) by removing “(FAR Appendix)”.

## **PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES**

**42.302 [Amended]**

■ 30. Amend section 42.302 in paragraph (a)(11) by removing “Chapter 99 (FAR Appendix)” and adding “chapter 99” in its place.

## **PART 44—SUBCONTRACTING POLICIES AND PROCEDURES**

**44.305–3 [Amended]**

■ 31. Amend section 44.305–3 in paragraph (a)(2) by removing “(Appendix B, FAR loose-leaf edition”.

[FR Doc. 2020–21695 Filed 10–22–20; 8:45 am]

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## **DEPARTMENT OF DEFENSE**

### **GENERAL SERVICES ADMINISTRATION**

### **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

#### **48 CFR Parts 2, 9, 19, and 52**

[FAC 2021–02; FAR Case 2020–002; Item II; Docket No. FAR–2020–0002; Sequence No. 1]

RIN 9000–AO05

### **Federal Acquisition Regulation: Removal of Obsolete Definitions**

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

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to remove the definitions of the terms “annual receipts” and “number of employees” in the regulations regarding small business programs and to move the definition of “affiliates,” as used with regard to small business size determination, to appropriate locations in the FAR.

**DATES:** *Effective:* November 23, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mahruha Uddowla, Procurement Analyst, at 703–605–2868 or by email at [mahruha.uddowla@gsa.gov](mailto:mahruha.uddowla@gsa.gov) for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2021–02, FAR Case 2020–002.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

DoD, GSA, and NASA are amending the FAR to remove the definitions of “annual receipts” and “number of employees” at FAR 19.101. These definitions unnecessarily duplicate the Small Business Administration (SBA) regulation at 13 CFR part 121. In addition, these definitions in the FAR are outdated, following the publication of SBA’s final rule at 84 FR 66561 on December 5, 2019.

SBA’s final rule amended 13 CFR part 121 to implement Public Law 115–324 (the “Small Business Runway Extension Act of 2018”), which amended section 3(a)(2)(C)(ii)(II) of the Small Business Act (15 U.S.C. 632(a)(2)(C)(ii)(II)) to modify the requirements for proposed small business size standards. SBA’s final rule modifies its method for calculating average annual receipts used to prescribe size standards for small businesses by changing the calculation of average annual receipts for all of SBA’s receipts-based size standards, and for other agencies’ proposed receipts-based size standards, from a 3-year averaging period to a 5-year averaging period. SBA has independent statutory authority to issue size standards.

While the definitions of “annual receipts” and “number of employees” are listed in part 19 of the FAR, they are not necessary for contracting officers, as SBA has sole responsibility for prescribing how these terms are used to determine small business size. The contracting officer’s responsibility is to select the applicable North American Industry Classification Standards (NAICS) code and size standard for a given acquisition and to verify that a business concern has represented its business size for the acquisition.

Therefore, DoD, GSA, and NASA are removing these redundant, obsolete definitions from the FAR.

Currently, the term “affiliates” only appears in the definitions of “annual receipts” and “number of employees” in FAR 19.101; it is not used anywhere else in part 19. Upon the removal of those definitions from FAR 19.101, “affiliates” will no longer be used in FAR part 19. As such, the definition is no longer required in section 19.101. However, since the term is used in multiple other locations in the FAR, the definition for “affiliates,” as used with regard to small business size determination, will be moved to these locations.

##### **II. Discussion and Analysis**

Subpart 19.1, Size Standards, is amended to remove the definitions of “annual receipts” and “number of employees.” As explained in section I of this preamble, these definitions are not necessary for contracting officers since SBA determines small business size standards, as well as whether a specific business is small under those standards. Subpart 19.1 is also amended to remove the definition of “affiliates” since the term will no longer be used in the subpart.

Instead, the definition of “affiliates” is being incorporated into the definitions of “small business concern” at FAR part 2, FAR provisions 52.212–3 and 52.219–1, and FAR clauses 52.219–6, 52.219–7, and 52.219–28, which is where the term “affiliates” is used with regard to small business size determination.

##### **III. Publication of This Final Rule for Public Comment Is Not Required by Statute**

The statute that applies to the publication of the FAR is the Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. While this final rule relates to the expenditure of appropriated funds, it is not required to be published for public comment, because it does not have a significant effect or impose any requirements on contractors or offerors. The rule removes