Panoptic Enterprises'

FEDERAL CONTRACTS PERSPECTIVE

Federal Acquisition Developments, Guidance, and Opinions

Vol. XXII, No. 2 **February 2021**

2021 NATIONAL DEFENSE AUTHORIZATION ACT PASSED OVER PRESIDENTIAL VETO

Despite being vetoed by President Trump, the Congress overrode the veto and enacted the $741 billion William M. (Mac) Thornberry National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021 (Public Law 116-283) on New Year's Day. Within the NDAA for FY 2021 are some provisions that address issues involving acquisition; most of those provisions are in Title VIII, Acquisition Policy, Acquisition Management, and Related Matters (Sections 801-891). However, Title XVIII, Transfer and Reorganization of Defense Acquisition Statutes (Sections 1801-1885), attempts to consolidate most of the provisions of the U.S. Code that apply to Department of Defense (DOD) acquisitions.

CONTENTS

2021 NDAA Passed Over Presidential Veto 1
Mileage Reimbursement Set at 56¢/Mile for Autos 3
FY 2020 Spending Up 13% To $665 Billion...................... 4
FAC 2021-03 Restricts Use of LPTA Source Selection 5
FAC 2021-04 Maximizes American-Made Products 9
Prompt Payment Interest Rate Set at 7/8% 13
DOD Prepares For Biden Administration......................... 14
OMB Issues PALT Guidance 17

In his message to Congress explaining his veto, President Trump stated that he was vetoing the bill because: (1) "the act fails to make any meaningful changes to Section 230 of the Communications Decency Act [Title 47 of the U.S. Code, Telecommunications, Section 230, Protection for Private Blocking and Screening of Offensive Material (47 USC 230)], despite bipartisan calls for repealing that provision. Section 230 facilitates the spread of foreign disinformation online, which is a serious threat to our national security and election integrity"; (2) "the act includes language that would require the renaming of certain military installations"; (3) "the act restricts the president's ability to preserve our nation's security by arbitrarily limiting the amount of military construction funds that can be used to respond to a national emergency"; and (4) "this act purports to restrict the president's ability to withdraw troops from Afghanistan, Germany, and South Korea". However, Congress decided that the president's objections did not outweigh the importance of funding the military, so both the House and Senate overrode the vote by more than a 2/3 majority.

The following are some of the more noteworthy acquisition-related provisions in the 1480-page NDAA for FY 2021:

■ **Section 817, Modification to Small Purchase Threshold Exception to Sourcing Requirements for Certain Articles:** 10 USC 2533a, Requirement to Buy Certain Articles from American Sources; Exceptions (popularly known as the "Berry Amendment" – see Defense Federal Acquisition Regulation Supplement [DFARS] 225.7002 Restrictions on Food, Clothing, Fabrics, Hand or Measuring Tools, and Flags), states that its provisions do not apply "to

purchases for amounts not greater than the simplified acquisition threshold". The simplified acquisition threshold is currently $250,000 (see Federal Acquisition Regulation [FAR] 2.101, Definitions). Section 817 reduces the exemption from "the simplified acquisition threshold" to "$150,000," and requires the Secretary of Defense to adjust this amount based on the Consumer Price Index "on October 1 of each year that is evenly divisible by five."

■ **Section 862, Transfer of Verification of Small Business Concerns Owned and Controlled by Veterans or Service-Disabled Veterans to the Small Business Administration:** This transfers the verification of small business concerns owned and controlled by veterans or service-disabled veterans from the Department of Veterans Affairs to the Small Business Administration.

■ **Section 864, Maximum Award Price For Sole Source Manufacturing Contracts:** This amends 15 USC 637, Additional Powers, to increase the limit on the award of sole source contracts for manufacturing to service-disabled veteran-owned businesses from $6,500,000 to $7,000,000 to reflect the latest 5-year adjustment of acquisition-related thresholds required by 41 USC 1908, Inflation Adjustment of Acquisition-Related Dollar Thresholds. FAR 19.1406, Sole Source Awards to Service-Disabled Veteran-Owned Small Business Concerns, was already amended by Federal Acquisition Circular (FAC) 2021-01, to reflect the increase to $7,000,000 (for more on FAC 2021-01, see the November 2020 ***Federal Contracts Perspective*** article "FAC 2021-01 Makes 5-Year Inflation Adjustment To Acquisition-Related Thresholds").

In addition, Section 864 amends 15 USC 657a, HUBZone [Historically Underutilized Business Zone] Program, to increase the limit on the award of sole source contracts for manufacturing to HUBZone businesses from $5,000,000 to $7,000,000. However, the statute has fallen behind FAC 2021-01, which amended FAR 19.1306, HUBZone Sole Source Awards, from $7,000,000 to $7,500,000.

■ **Section 869, Extension of Participation in 8(a) Program:** This requires the Small Business Administration (SBA) to extend the eligibility of concerns participating in the 8(a) business development program on or before September 9, 2020, for one year. This is in response to the COVID-19 pandemic. Within two weeks SBA amended its regulations to extend the eligibility of 8(a) concerns for one year (see Title 13 of the Code of Federal Regulations [CFR], Section 124.2 [13 CFR 124.2], What length of time may a business participate in the 8(a) BD program?, paragraph (b)).

■ **Section 883, Prohibition on Awarding of Contracts to Contractors That Require Nondisclosure Agreements Relating to Waste, Fraud, or Abuse:** This prohibits DOD contracting officers from awarding contracts to any contractor unless the contractor represents that: (1) it does not require its employees to sign internal confidentiality agreements or

Vivina McVay, Editor-in Chief

©2021 by Panoptic Enterprises. All rights reserved. Reproduction, photocopying, storage, or transmission by any means is prohibited by law without the express written permission of Panoptic Enterprises. Under no circumstances should the information contained in ***Federal Contracts Perspective*** be construed as legal or accounting advice. If a reader feels expert assistance is required, the services of a professional counselor should be retained.

The ***Federal Contracts Perspective*** is published monthly by Panoptic Enterprises, 6055 Ridge Ford Drive, Burke, VA 22015.

statements that would prohibit or otherwise restrict such employees from lawfully reporting waste, fraud, or abuse related to the performance of a DOD contract to a designated DOD investigative or law enforcement representative authorized to receive such information; and (2) it will inform its employees of these limitations on confidentiality agreements and statements. This is very similar to the final rule in FAC 2005-95 that added FAR 3.909, Prohibition on Contracting with Entities That Require Certain Internal Confidentiality Agreement, to implement Section 743 of the Consolidated and Further Continuing Appropriations Act for Fiscal Year 2015 (Public Law 113-235), which prohibits the use of funds for a contract "with an entity that requires employees or contractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contactors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information." For more on FAC 2005-95, see the February 2017 ***Federal Contracts Perspective*** article "FAC 2005-95 is Obama Administration's Last Hurrah."

■ **Section 888, Revision to Requirement to Use Firm Fixed-Price Contracts for Foreign Military Sales (FMS):** This repeals NDAA for FY 2017 (Public Law 114-328), Section 830, Requirement to Use Firm Fixed-Price Contracts for Foreign Military Sales, which required that FMS contracts be firm-fixed-price with certain exceptions.

■ **Section 891, Waivers of Certain Conditions for Progress Payments Under Certain Contracts During the COVID-19 National Emergency:** This permits DOD to waive the requirement that progress payments not be made for more than 80% of the work under an undefinitized contractual action (UCA) if the waiver is necessary because of the COVID-19 national emergency.

In addition, Title XVIII, Transfer and Reorganization of Defense Acquisition Statutes, consists of instructions for the reorganization and amendment of the DOD's acquisition-related statutes. However, "this title and the amendments made by this title shall take effect on January 1, 2022" (paragraph (d)(1) of Section 1801). This will give DOD time to "establish a process to engage interested parties and experts from the public and private sectors…in a comprehensive review of this title and the amendments made by this title…including an assessment of the effect of this title and the amendments made by this title on related Department of Defense activities, guidance, and interagency coordination." Then, by January 1, 2023, the DFARS is to be revised to comply with the finalized Title XVIII (paragraph (d)(2) of Section 1801).

MILEAGE REIMBURSEMENT SET AT 56¢ PER MILE FOR AUTOS

The General Services Administration (GSA) is reducing the mileage reimbursement rate for use of a privately owned automobile on official travel from 57.5¢ per mile to 56¢ per mile, and the rate for use of a motorcycle on official travel from 54.5¢ per mile to 54¢ per mile. The rate for use of a privately owned aircraft remains at $1.26 per mile.

These rates are effective for travel performed on or after January 1, 2021, through December 31, 2021.

FY 2020 CONTRACT SPENDING UP 13% TO $665 BILLION

Federal contracting spending in Fiscal Year (FY) 2020 increased to $665.5 billion, up 12.9% from the $589.3 billion spending level in FY 2019.

The big dollar increase winner was the Department of Defense (DOD), which saw its contract spending increase 9.8%, from $383.8 billion in FY 2019 to $421.5 billion in FY 2020. The biggest percentage increase winner was the Small Business Administration, which saw its spending increase nine-fold, from $155 million in FY 2019 to $1.5 billion in FY 2020! The biggest dollar decrease loser and percentage decrease loser was the Office of Personnel Management, which saw its spending decrease by $633 million, from $968 million in FY 2019 to $335 million in FY 2020, a 65.4% decrease.

The following are the largest agencies' FY 2020 spending versus their FY 2019 spending:

Department/Agency	FY 2020 Spending	FY 2019 Spending
Defense	$421,461,423,956	$383,835,264,897
Health and Human Services	40,688,230,412	26,530,826,471
Veterans Affairs	36,895,860,529	28,436,117,807
Energy	35,978,470,585	33,301,917,354
Homeland Security	19,547,473,312	17,628,251,773
National Aeronautics and Space Admin	18,898,391,552	18,152,949,028
General Services Administration	17,469,104,664	16,145,237,030
State	10,601,217,389	9,486,907,494
Agriculture	10,102,435,357	7,506,919,830
Justice	8,483,948,386	8,492,951,332
Transportation	7,780,326,282	6,797,527,737
Treasury	6,567,609,859	4,659,202,404
Agency for International Development	6,145,877,505	5,448,480,224
Commerce	5,791,666,832	5,501,181,203
Interior	4,513,149,869	3,934,300,049
Education	2,878,674,148	2,889,979,064
Labor	2,186,700,477	2,054,838,083
Social Security Administration	2,127,481,592	1,696,321,446
Small Business Administration	1,525,991,135	155,239,910
Environmental Protection Agency	1,161,816,957	1,215,702,736
Housing and Urban Development	737,950,358	1,124,979,369
Securities and Exchange Commission	521,488,832	458,536,704
National Science Foundation	503,338,621	515,480,058
Smithsonian Institution	393,575,015	605,070,370
Pension Benefit Guaranty Corporation	359,226,653	337,802,899
Office of Personnel Management	335,263,275	968,141,682
Others	1,827,995,271	$1,887,124,975
TOTAL	**$665,484,688,823**	**$589,767,251,929**

For more on FY 2019 spending, see the September 2020 ***Federal Contracts Perspective*** article "FY 2019 Spending Up 6% to $590 Billion."

FAC 2021-03 RESTRICTS USE OF LPTA SOURCE SELECTION

Federal Acquisition Circular (FAC) 2021-03 contains three final rules: (1) one that restricts the use of lowest price technically acceptable (LPTA) source selections to specific situations; (2) one that requires individual sureties to pledge assets that are "eligible obligations"; and (3) one that prohibits award to offerors that violate arms control treaties or agreements with the United States, or own or control entities that do so.

■ **Lowest Price Technically Acceptable Source Selection Process:** This finalizes, with editorial changes, the rule that proposed to amend FAR 15.101-2, Lowest Price Technically Acceptable Source Selection Process, to implement the FY 2019 (Public Law 115-232), Section 880, Use of Lowest Price Technically Acceptable Source Selection Process, which makes it "the policy of the United States government to avoid using lowest price technically acceptable source selection criteria in circumstances that would deny the government the benefits of cost and technical tradeoffs in the source selection process."

Section 880 specifies the criteria that must be met to include lowest price technically acceptable (LPTA) source selection criteria in a solicitation, and requires solicitations for the acquisition of certain services and supplies to avoid the use of LPTA source selection criteria to the maximum extent practicable. (**EDITOR'S NOTE:** The DOD is exempt from Section 880 because the NDAA for FY 2017 [Public Law 114-328], Section 813, Use of Lowest Price Technically Acceptable Source Selection Process, and the NDAA for FY 2018 [Public Law 115-91], Section 822, Use of Lowest Price Technically Acceptable Source Selection Process, establish a similar, but not the same, set of criteria for DOD procurements to meet in order to use LPTA source selection criteria in solicitations. For more on the DOD implementation of these NDAA sections, see "Restrictions on Use of Lowest Price Technically Acceptable Source Selection Process" in the October 2019 ***Federal Contracts Perspective*** article "DOD Unleashes Deluge of DFARS Changes.")

To implement Section 880, a proposed rule was published that would amend FAR 15.101-2 by adding two paragraphs that almost duplicate the language in Section 880:

"(c) Except for DOD, in accordance with Section 880 of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232, 41 USC 3701 Note), the lowest price technically acceptable source selection process shall only be used when –

"(1) The agency can comprehensively and clearly describe the minimum requirements in terms of performance objectives, measures, and standards that will be used to determine the acceptability of offers;

"(2) The agency would realize no, or minimal, value from a proposal that exceeds the minimum technical or performance requirements;

"(3) The agency believes the technical proposals will require no, or minimal, subjective judgment by the source selection authority as to the desirability of one offeror's proposal versus a competing proposal;

"(4) The agency has a high degree of confidence that reviewing the technical proposals of all offerors would not result in the identification of characteristics that could provide value or benefit to the agency;

"(5) The agency determined that the lowest price reflects the total cost, including operation and support, of the product(s) or service(s) being acquired; and

“(6) The contracting officer documents the contract file describing the circumstances that justify the use of the lowest price technically acceptable source selection process.

“(d) Except for DOD, in accordance with Section 880 of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232, 41 USC 3701 Note), contracting officers shall avoid, to the maximum extent practicable, using the lowest price technically acceptable source selection process in the case of a procurement that is predominantly for the acquisition of –

“(1) Information technology services, cybersecurity services, systems engineering and technical assistance services, advanced electronic testing, audit or audit readiness services, health care services and records, telecommunications devices and services, or other knowledge-based professional services;
“(2) Personal protective equipment; or
“(3) Knowledge-based training or logistics services in contingency operations or other operations outside the United States, including in Afghanistan or Iraq.”

Nine respondents submitted comments on the proposed rule, but no changes were made to the final rule in response to those comments. However, the full name of the NDAA for FY 2019 was used in the final rule: “Section 880 of the *John S. McCain* National Defense Authorization Act for Fiscal Year 2019” (*emphasis* indicates added text).

For more on the proposed rule, see “Lowest Price Technically Acceptable (LPTA) Source Selection Process” in the November 2019 ***Federal Contracts Perspective*** article “Four FAR Rules Proposed.”

■ **Individual Sureties:** This finalizes, with an editorial change, the rule that proposed to amend FAR part 28, Bonds and Insurance, FAR 52.228-11, Individual Surety – Pledges of Assets, and add FAR 52.228-17, Individual Surety – Pledge of Assets (Bid Guarantee), to implement the NDAA for FY 2016 (Public Law 114-92), Section 874, Surety Bond Requirements and Amount of Guarantee, which provides that when federal law permits acceptance of a surety bond from a surety that is not a corporate surety, the individual surety must pledge assets that are “eligible obligations” (that is, public debt obligations of the U. S. government with principal and interest unconditionally guaranteed by the U. S. government).

FAR subpart 28.2, Sureties and Other Security for Bonds, requires agencies to obtain adequate security for bonds when bonds are used with a contract. A corporate or individual surety is an acceptable form of security for a bond. Corporate sureties are vetted by the Department of the Treasury to ensure they are sufficiently capitalized and are listed on Department of the Treasury's Listing of Approved Sureties (Treasury Department Circular 570). Individual sureties are not listed on Treasury Department Circular 570.

To implement Section 874, a proposed rule was published that would reorganize and revise FAR 28.203, Acceptability of Individual Sureties, as follows:

– Redesignate FAR 28.203 as FAR 28.203-1, and make “Individual Sureties” the new section heading for FAR 28.203.

– Delete FAR 28.203-1, Security Interests by an Individual Surety; FAR 28.203-2, Acceptability of Assets, because the acceptability of assets is governed under Department of the Treasury regulations and instructions; and FAR 28.203-3, Acceptance of Real Property, because real property is no longer an acceptable form of collateral.

- Redesignate FAR 28.203-4, Substitution of Assets, as FAR 28.203-2; FAR 28.203-5, Release of Lien, as FAR 28.203-3, Release of Security Interest; FAR 28.203-6, Contract Clause, as FAR 28.203-4; and FAR 28.203-7, Exclusion of Individual Sureties, as FAR 28.203-5.

- Divide redesignated FAR 28.203-1(b) into four subparagraphs:

  - Subparagraph (b)(1) would identify the three types of bonds: bid bond (Standard Form 24), performance bond (Standard Form 25), and payment bond (Standard Form 25A).

  - Subparagraph (b)(2) would state "the net adjusted value of unencumbered assets is their market value minus the margin. The margin tables are available at **www.treasurydirect.gov**. The net adjusted value of unencumbered assets pledged by the individual surety must equal or exceed the penal amount (*i.e.*, face value) of each bond." This would clarify the intent and context of the valuation requirement. The phrase "market value minus the margin" would clarify that pledged assets are subject to a percentage reduction ("margin") from the market value to account for a risk premium.

  - Subparagraph (b)(3) would be amended to add the name of the Standard Form 28, Affidavit of Individual Surety.

  - Subparagraph (b)(4) would be revised to read "An offeror *or contractor* may submit up to three individual sureties for each bond, in which case the *net adjusted value of the* pledged *unencumbered* assets, when combined, must equal or exceed the penal amount of the bond" (*emphasis* indicates added language). The addition of "or contractor" would clarify when bonds are submitted postaward, and the addition of "net adjusted value" and "unencumbered" would clarify what is to equal or exceed the penal amount of the bond.

- New paragraph (c) would clarify that the pledge of assets by an individual surety shall be submitted to the contracting officer, who will then notify the Department of the Treasury of the existence of the individual surety, the assets to be pledged, and the amount necessary to cover the individual surety bond. In addition, new paragraph (c) would require contracting officers to determine whether the individual surety bond is acceptable as to the amount necessary to cover the individual surety bond, based on the asset eligibility and valuation assessment from the Department of the Treasury, and notify both the offeror or contractor and the individual surety of this determination.

- New paragraph (d) would require the contracting officer to request that the Department of the Treasury operations support team set up the individual surety asset collateral account for each contract.

- FAR 28.203(c) and (d) would be redesignated at FAR 28.203-1(e) and (f), and FAR 28.203(e) and (f) would be deleted.

In addition, the proposed rule would add FAR 52.228-17, Individual Surety – Pledge of Assets (Bid Guarantee), to distinguish instructions to offerors from instructions to a contractor,

by relocating the "offeror" language from FAR 52.228-11; and amend FAR 52.228-11, Individual Surety – Pledges of Assets, to remove instructions to offerors (which would be moved to FAR 52.228-17) and address contractor requirements for using an individual surety for a performance or payment bond consistent with redesignated FAR 28.203-1.

Six respondents submitted comments on the proposed rule but no changes were made to the final rule in response to the comments. However, in the proposed paragraph (a) of FAR 28.203-1, Security Interests by an Individual Surety, the link to the Department of the Treasury's website for the list of acceptable assets was inoperable and has been corrected to **https://www.treasurydirect.gov/instit/statreg/collateral/collateral.htm**.

For more on the proposed rule, see the March 2020 ***Federal Contracts Perspective*** article "Changes Proposed to Assets Sureties Must Pledge."

■ **Violations of Arms Control Treaties or Agreements with the United States:** This finalizes, with changes, the interim rule that added FAR 9.109, Prohibition on Contracting with an Entity Involved in Activities that Violate Arms Control Treaties or Agreements with the United States, and FAR 52.209-13, Violation of Arms Control Treaties or Agreements – Certification, to prohibit award to offerors that violate arms control treaties or agreements with the United States, or own or control entities that do so; and to terminate contractors, and suspend or debar offerors and contractors, that have provided false certifications regarding such violations.

The NDAA for FY 2017 (Public Law 114-328), Section 1290, Measures Against Persons Involved in Activities that Violate Arms Control Treaties or Agreements with the United States, prohibits award to offerors that violate arms control treaties or agreements with the United States, or own or control entities that do so; and requires the termination of contractors, and the suspension or debarment of offerors and contractors that have provided false certifications regarding such violations.

To implement Section 1290, the interim rule added FAR 9.109, which consists of five subsections that cite the statutory authority, explain the prohibition, specify the statutory exception ("the prohibition…does not apply to contracts for the procurement of products or services along a major route of supply to a zone of active combat or a major contingency operation…As of May 10, 2018, countries along the major route of supply to support operations in Afghanistan are Afghanistan, Georgia, the Kyrgyz Republic, Pakistan, the Republic of Armenia, the Republic of Azerbaijan, the Republic of Kazakhstan, the Republic of Tajikistan, the Republic of Uzbekistan, and Turkmenistan"), describe the offeror certification and the remedies for submission of a false certification, and prescribe the use of FAR 52.209-13 in each solicitation for the acquisition of products or services (including construction) that exceeds the simplified acquisition threshold (currently $250,000), other than solicitations for the acquisition of commercial items. FAR 52.209-13 requires that each offeror certify that it, and any entity owned or controlled by it, has not engaged in any activity that contributed to or is a significant factor in the president's or the secretary of state's determination that such 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.

FAR 52.209-13 provides that the government will not consider the offer of an offeror that has not provided a certification unless the offeror provides with its offer information that the president of the United States has waived the prohibition or determined that the entity has ceased all activities for which measures were imposed.

One respondent submitted comments on the interim rule, and several editorial changes are made to the final rule. The most significant change is revising FAR 52.209-13(a), which in the interim rule read "This provision does not apply to acquisitions below the simplified acquisition threshold or to acquisitions of commercial items…" to read "This provision does not apply to acquisitions *at or* below the simplified acquisition threshold or to acquisitions of commercial items…" (*emphasis* indicates added words).

For more on the interim rule, see "Violations of Arms Control Treaties or Agreements With the United States" in the July 2018 ***Federal Contracts Perspective*** article "FAC 2005-99 Prohibits Contracts with Kaspersky Lab, Entities Violating Arms Control Treaties."

FAC 2021-04 MAXIMIZES USE OF AMERICAN-MADE PRODUCTS

The last FAC of the Trump Administration is FAC 2021-04, which consists of a single final rule that implements Executive Order (EO) 13881, Maximizing Use of American-Made Goods, Products, and Materials (see the August 2019 ***Federal Contracts Perspective*** article "EO Promotes American-Made Goods, Products, Materials)."

EO 13881 directed the FAR Council to "consider" proposing a FAR amendment that would provide that materials are considered to be of foreign origin if:

1. "For iron and steel end products, the cost of foreign iron and steel used in such iron and steel end products constitutes 5% or more of the cost of all the products used in such iron and steel end products" (the 5% limitation on foreign content in iron and steel end products is new);

2. "For all other end products, the cost of the foreign products used in such end products constitutes 45% or more of the cost of all the products used in such end products" (down from 50%); and

3. In determining whether the bid or offered price of materials of domestic origin is unreasonable or inconsistent with the public interest, the executive agencies shall add 20% to the total bid or offered price of materials of foreign origin (up from 6%); the executive agencies shall add 30% to the total bid or offered price of materials of foreign origin if the lowest domestic offer is from a small business (up from 12%).

To implement EO 13881, a rule was proposed to make the following amendments:

– The definitions of "domestic construction material" and "domestic end product" in FAR 25.003, Definitions; FAR 52.225-1, Buy American – Supplies; FAR 52.225-3, Buy American – Free Trade Agreements – Israeli Trade Act; FAR 52.225-9, Buy American – Construction Materials; and FAR 52.225-11, Buy American – Construction Materials Under Trade Agreements, would be revised to state that the cost of its components mined, produced, or manufactured in the United States must exceed 55% of the cost of all its components. In addition, the rule proposed to add to each of these definitions, "For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of iron and steel not

produced in the United States (excluding fasteners) as estimated in good faith by the contractor, constitutes less than 5% of the cost of all the components used in the end product (produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, except metallurgical processes involving refinement of steel additives)."

- In paragraph (b) of FAR 25.105, Determining Reasonableness of Cost [for supplies]; paragraph (b) of FAR 25.204, Evaluating Offers of Foreign Construction Material; paragraph (b)(3)(i) of FAR 52.225-9, Buy American – Construction Materials; and paragraph (b)(4)(i) of FAR 52.225-11, Buy American – Construction Materials Under Trade Agreements, the evaluation factors to be applied to offers of foreign end products or foreign construction material when determining whether the cost of offered domestic end products or domestic construction material is unreasonable would be increased for acquisitions of end products from 6% to 20% to a foreign offer if the potential domestic awardee is other than a small business, and from 12% to 30% if the potential awardee would be a small business.

Thirty-five respondents submitted comments on the proposed rule, and the following are the significant changes made by to the final rule in response:

- In FAR 25.003, Definitions:
  - The definitions of "domestic construction material" and "domestic end product" are revised to specify that "the cost of foreign iron and steel includes but is not limited to the cost of foreign iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the end product and a good faith estimate of the cost of all foreign iron or steel components excluding COTS [commercially available off-the-shelf] fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the definition of 'cost of components' in this section [FAR 25.003]."
  - The following definition of "foreign iron and steel" is added: "'Foreign iron and steel' means iron or steel products not produced in the United States. 'Produced in the United States' means that all manufacturing processes of the iron or steel must take place in the United States, from the initial melting stage through the application of coatings, except metallurgical processes involving refinement of steel additives. The origin of the elements of the iron or steel is not relevant to the determination of whether it is domestic or foreign."
  - The definition of "predominantly of iron or steel or a combination of both" is revised to clarify that the phrase "the cost of iron and steel" means "the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners."

– Revisions are made to FAR 25.001, General [explanation of Buy American Act], FAR 25.003, FAR 25.101, General [Buy American Act provisions applicable to supplies], FAR 25.201, Policy [on acquiring domestic construction materials], FAR 52.225-1, FAR 52.225-3, FAR 52.225-9, and FAR 52.225-11 to clarify that the domestic content test does not apply to COTS fasteners. The FAR Council determined that requiring offerors to keep track of the origin of all fasteners could have a significant negative impact by creating an administrative burden on offerors that would outweigh any benefit to the American iron and steel industrial base.

For more on the proposed rule, see "Maximizing Use of American-Made Goods, Products, and Materials" in the October 2020 ***Federal Contracts Perspective*** article "Three Rule Changes Proposed for the FAR."

In a related development, President Joseph Biden signed Executive Order (EO) 14005, Ensuring the Future is Made in All of America by All of America's Workers, five days into his term. The EO directs government agencies to "maximize the use of goods, products, and materials produced in, and services offered in, the United States. The United States government should, whenever possible, procure goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive."

The EO directs the Office of Management and Budget (OMB) to establish a Made in America Office, which will oversee compliance with the Buy American Act of 1933 (Title 41 of the U.S. Code, chapter 83 [41 USC chapter 83], Buy American; see FAR subpart 25.1, Buy American – Supplies, and FAR subpart 25.2, Buy American – Construction Materials); the Buy America Act of 1982 (Section 165 of the Surface Transportation Assistance Act of 1982 [23 USC 313, Buy America], which applies to state and local mass-transit contracts funded in part by the federal government); and Section 27 of the Merchant Marine Act of 1920 (46 USC 55102, Transportation of Merchandise, otherwise known as the "Jones Act," which requires goods shipped between U.S. ports to be transported on ships built, owned, and operated by U.S. citizens).

One of the primary functions of the Made in America Office will be the evaluation and approval of proposed waivers of these statutes. Agencies seeking waivers will have to submit to the office a description of its proposed waiver and a detailed justification for the use of goods, products, or materials that have not been mined, produced, or manufactured in the U.S. The OMB director will either approve the waiver or return it to the agency "for further consideration."

Before an agency issues a waiver, it "shall assess whether a significant portion of the cost advantage of a foreign-sourced product is the result of the use of dumped steel, iron, or manufactured goods or the use of injuriously subsidized steel, iron, or manufactured goods…the agency shall integrate any findings from the assessment into its waiver determination as appropriate."

A public website will be developed that will include information on all proposed waivers and whether those waivers have been granted. In addition, agencies will be required to "conduct supplier scouting in order to identify American companies, including small- and medium-sized companies, that are able to produce goods, products, and materials in the United States that meet federal procurement needs."

Regarding changes to the FAR, the EO directs the FAR Council to "consider proposing amendments" to the FAR that would:

"(i) replace the 'component test' in Part 25 of the FAR that is used to identify domestic end products and domestic construction materials with a test under which domestic content is measured by the value that is added to the product through U.S.-based production or U.S. job-supporting economic activity;

"(ii) increase the numerical threshold for domestic content requirements for end products and construction materials; and

"(iii) increase the price preferences for domestic end products and domestic construction materials."

In addition, the FAR Council is to update the list of domestically nonavailable articles in paragraph (a) of FAR 25.104, Nonavailable Articles, "paying particular attention to economic analyses of relevant markets and available market research, to determine whether there is a reasonable basis to conclude that the article, material, or supply is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality."

Finally, the EO revokes the following: (1) EO 13788, Buy American and Hire American (see the May 2017 ***Federal Contracts Perspective*** article "Trump Issues "Buy American and Hire American"); (2) EO 13975, Encouraging Buy American Policies for the United States Postal Service; and (3) to the extent they are inconsistent with the EO, EO 10582, Prescribing Uniform Procedures for Certain Determinations Under the Buy-America Act, and EO 13881, Maximizing Use of American-Made Goods, Products, and Materials (the EO implemented by FAC 2021-04 – that's what happens when a new administration takes over, particularly one operated by the other party!).

EDITOR'S NOTE: Neither of these actions – FAC 2021-04 nor EO 14005 – is going to amount to much because the Buy American Act has been waived for signatories of the World Trade Organization Government Procurement Agreement and the various Free Trade Agreements, those designated as "least developed countries," and countries covered by the Caribbean Basin Trade Initiative. And what are those countries?

World Trade Organization Government Procurement Agreement countries: Armenia, Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, South Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, Ukraine, and the United Kingdom.

Free Trade Agreement countries: Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Singapore, and South Korea.

Least Developed countries: Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic

of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, and Zambia.

Caribbean Basin countries: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, and Trinidad and Tobago.

See FAR part 25, Foreign Acquisitions, particularly FAR subpart 25.4, Trade Agreements.

In addition, transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea (see FAR subpart 25.7, Prohibited Sources).

So what countries are left? The big ones are China, India, Russia, Iraq, Afghanistan, and countries in the Middle East (such as Saudi Arabia and United Arab Emirates). A significant portion of Chinese telecommunications and video surveillance equipment has been banned (see the September 2019 ***Federal Contracts Perspective*** article "FAR 2019-05 Prohibits Acquisition of Chinese Telecommunications and Surveillance Equipment," and "Covered Defense Telecommunications Equipment or Services" in the article "DOD Prepares for Biden Administration" below); the U.S. government doesn't buy much from Russia or India; Iraq and Afghanistan are special cases; and the U.S. is not as dependent on Middle Eastern oil as it once was. So, unless the Biden administration wants to renege on some trade agreements and produce diplomatic uproar, *these actions consist of a lot of noise but signify very little.*

PROMPT PAYMENT INTEREST RATE SET AT 7/8%

The Treasury Department has established 7/8% (0.875%) as the interest rate for the computation of payments made between January 1, 2021, through June 30, 2021, under the Prompt Payment Act and the Contracts Disputes Act. This rate is also used in facilities capital cost of money calculations.

The interest rate for the prior six-month period (July 1, 2020, through December 31, 2020) was 1 1/8% (1.125%). The interest rate for January 1, 2020, through June 30, 2020, was 2 1/8% (2.125%).

All prompt payment interest rates since 1980 (in six-month increments) are available at **https://www.fiscal.treasury.gov/prompt-payment/rates.html**.

FAR subpart 32.9, Prompt Payment; FAR subpart 33.2, Disputes and Appeals; FAR 31.205-10, Cost of Money; and Cost Accounting Standard (CAS) 9904.414, Cost of Money as an Element of the Cost of Facilities Capital, are affected by this interest rate.

Visit http://www.FedGovContracts.com

DOD PREPARES FOR BIDEN ADMINISTRATION

The Department of Defense (DOD) decided to clean house for the new Biden Administration by issuing three final rules amending the Defense FAR Supplement (DFARS), one proposed DFARS rule, revised two DFARS deviation, and rescinded one DFARS deviation.

■ **Covered Defense Telecommunications Equipment or Services:** This finalizes, with changes, the interim rule that added DFARS subpart 204.21, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment, to implement: (1) the NDAA for FY 2018 (Public Law 115-91), Section 1656, Security of Nuclear Command, Control, and Communications System from Commercial Dependencies; and (2) the NDAA for FY 2019 (Public Law 115-232), Section 889, Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment, paragraph (a)(1)(A).

Section 1656 prohibits DOD from procuring or obtaining (or extending or renewing a contract to procure or obtain) any equipment, system, or service to carry out the DOD nuclear deterrence or homeland defense missions that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as a part of any system. Covered telecommunications equipment or services includes telecommunications equipment or services from certain Chinese entities (Huawei Technologies Company and ZTE Corporation or any of their subsidiaries or affiliates) and from any other entities that the Secretary of Defense reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of the People's Republic of China or the Russian Federation.

Section 889(a)(1)(A) establishes a governmentwide prohibition on procuring or obtaining (or extending or renewing a contract to procure or obtain) any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as a part of any system. Covered telecommunications equipment or services includes certain video surveillance and telecommunications equipment or services from certain Chinese entities (Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, and Dahua Technology Company or any of their subsidiaries or affiliates for video surveillance and telecommunications equipment used for public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes; and Huawei Technologies Company and ZTE Corporation or any of their subsidiaries or affiliates for telecommunications equipment), and from any other entities that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of the People's Republic of China.

The governmentwide prohibition in Section 889(a)(1)(A) was incorporated into the FAR as FAR subpart 4.21, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment by FAC 2019-05 (see the September 2019 ***Federal Contracts Perspective*** article "FAR 2019-05 Prohibits Acquisition of Chinese Telecommunications and Surveillance Equipment") and modified by FAC 2020-03 (see the January 2020 ***Federal Contracts Perspective*** article "FAC 2020-03 Modifies Prohibition on Telecommunications").

DOD implemented the DOD-specific prohibition in Section 1656 and the governmentwide prohibition in Section 889(a)(1)(A) with the issuance of the interim rule that added DFARS subpart 204.21, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment; DFARS 252.204-7016, Covered Defense Telecommunications Equipment or Services – Representation; DFARS 252.204-7017, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services – Representation; and DFARS 252.204-7018, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services (see "Covered Defense Telecommunications Equipment or Services" in the January 2020 ***Federal Contracts Perspective*** article "DOD Performs a Little Year-End Cleanup").

Three respondents submitted comments on the interim rule, and the final rule revises DFARS 252.204-7018 to extend the reporting timeframe for the discovery of covered defense telecommunications equipment or services from one day to three days, and to extend the reporting timeframe to submit information about mitigation actions undertaken from 10 days to 30 days.

■ **Property Loss Reporting in the Procurement Integrated Enterprise Environment (PIEE):** This finalizes, without changes, the rule that proposed to amend DFARS 252.245-7002, Reporting Loss of Government Property. to replace a reference to a legacy software application used to report the loss of government property – the Defense Contract Management Agency (DCMA) eTool – with the DOD enterprise-wide eBusiness platform, Procurement Integrated Enterprise Environment (PIEE) (**https://piee.eb.mil/piee-landing/**).

The DCMA eTool application is a self-contained, legacy application that has numerous limitations, to include its inability to share data with other internal or external DOD business systems or to respond to changes in regulation, policies, and procedures. DOD developed the government-furnished property (GFP) module within the PIEE to house the GFP lifecycle to address these limitations and to provide end-to-end accountability for all GFP transactions within a secure, single, integrated system.

DFARS 252.245-7002 is required to be included in solicitations and contracts that include FAR 52.245-1, Government Property. DFARS 252.245-7002(b)(1) requires the reporting of lost government property to the DCMA eTool. The proposed rule would amend DFARS 252.245-7002(b)(1) to direct contractors to use the PIEE instead of the DCMA eTool when reporting loss of GFP.

No comments were submitted in response to the proposed rule, so the rule is finalized without changes. For more on the proposed rule, see "Property Loss Reporting in the Procurement Integrated Enterprise Environment (PIEE)" in the September 2020 ***Federal Contracts Perspective*** article "DOD Cranks Up the DFARS Changes."

■ **Repeal of the "Tariff Information" Clause:** This finalizes, without changes, the rule that proposed to remove DFARS 252.239-7006, Tariff Information, and its prescription in paragraph (a)(3) of DFARS 239.7411, Contract Clauses [for telecommunications services], because it is no longer necessary.

DFARS 252.239-7006 was added to the DFARS in 1991 to implement a standardized approach across DOD for addressing critical issues associated with the acquisition of telecommunication services. Since its implementation, online databases and tools have been created to track and monitor changes in telecommunications tariffs, prices, and services. In

addition, Title 47 of the Code of Federal Regulations (CFR), Section 42.10 (47 CFR 42.10), Public Availability of Information Concerning Interexchange Services, requires telecommunications carriers to make tariff and non-tariff information available to the public online at the carrier's internet website and to update the information regularly. Therefore, this clause was considered unnecessary and proposed for removal (along with its prescription at DFARS 239.7411(a)(3)).

No comments were submitted in response to the proposed rule, so the rule is finalized without changes. For more on the proposed rule, see "Repeal of the "Tariff Information" Clause" in the July 2020 ***Federal Contracts Perspective*** article "DOD Revs Up the Regulation Changes."

■ **Improved Energy Security for Main Operating Bases in Europe:** This proposed rule would implement the NDAA for FY 2020 (Public Law 116-92), Section 2821, Improved Energy Security for Main Operating Bases in Europe, which requires that "each contract for the acquisition of furnished energy for a covered military installation in Europe does not use any energy sourced from inside the Russian Federation as a means of generating the furnished energy for the covered military installation." The prohibition applies to all forms of energy furnished in any form and for any purpose, including heating, cooling, and electricity "to a covered military installation", which is defined as "a military installation in Europe identified by the Department of Defense as a main operating base." This means the energy itself must be furnished to the military installation, not to a third party that uses it to create some other form of energy. The prohibition applies only to Europe, not to Asia, so those parts of Turkey located in Asia would not be affected by the rule.

To implement Section 2821, this rule proposes to add DFARS 225.70XX, Prohibition on Use of Energy Sourced from Inside the Russian Federation, which would provide definitions for "covered military installation," "furnished energy," and "main operating base" (DFARS 225.70XX-1, Definitions); address the prohibition (DFARS 225.70XX-2, Prohibition); authorize waivers of the prohibition under certain circumstances (DFARS 225.70XX-3, Waiver); require the inclusion of DFARS 252.225-70XX, Representation Regarding Prohibition on Use of Certain Energy Sourced from Inside the Russian Federation, in solicitations that are for the acquisition of furnished energy for a covered military installation, including solicitations using procedures in FAR part 12, Acquisition of Commercial Items, and solicitations at or below the simplified acquisition threshold ($250,000); and require the inclusion of DFARS 252.225-70YY, Prohibition on Use of Certain Energy Sourced from Inside the Russian Federation, in solicitations and contracts solicitations that are for the acquisition of furnished energy for a covered military installation, including solicitations and contracts using procedures in FAR part 12, and solicitations and contracts at or below the simplified acquisition threshold.

Comments on this proposed rule must be submitted by March 16, 2021, identified as "DFARS Case 2020-D030," by any of the following methods: (1) through the Federal eRulemaking Portal: **http://www.regulations.gov**; (2) email to: **osd.dfars@mail.mil**; or (3) mail to: Defense Acquisition Regulations System, Attn: Kimberly Bass, OUSD(A&S)DPC/DARS, Room 3B938, 3060 Defense Pentagon, Washington, DC 20301-3060.

■ **Rescission of Class Deviation on Combating Race and Sex Stereotyping:** Class Deviation 2021-O0001, Combating Race and Sex Stereotyping, which implemented Executive Order (EO) 13950, Combating Race and Sex Stereotyping, is rescinded.

EO 13950 directed federal agencies to "cease and desist from using taxpayer dollars to fund these divisive, un-American propaganda training sessions," and to "identify all contracts or other agency spending related to any training on 'critical race theory,' 'white privilege,' or any other training or propaganda effort that teaches or suggests either (1) that the United States is an inherently racist or evil country or (2) that any race or ethnicity is inherently racist or evil. In addition, all agencies should begin to identify all available avenues within the law to cancel any such contracts and/or to divert federal dollars away from these un-American propaganda training sessions" (see the October 2020 ***Federal Contracts Perspective*** article "President Orders 'Divisive, Anti-American' Training Cease"). To implement EO 13950, DOD issued Class Deviation 2021-O0001 (see "Deviation on Combating Race and Sex Stereotyping" in the December 2020 ***Federal Contracts Perspective*** article "DOD Tidies Things Up a Bit").

One of Joseph Biden's first acts upon becoming president was to sign EO 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. Section 10 of the EO states, "Executive Order 13950 of September 22, 2020 (Combating Race and Sex Stereotyping), is hereby revoked." Because EO 13950 has been revoked, Class Deviation 2021-O0001 is rescinded.

■ **Revision 3 to Deviation on CARES Act Section 3610 Implementation** and **Revision 2 to Deviation on CARES Act Section 3610 Reimbursement Requests:** These two deviation revisions extend the date through which paid leave may be taken to be eligible for reimbursement under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116-136), Section 3610, Federal Contractor Authority, from March 27, 2020, through December 11, 2020, to March 27, 2020, through March 31, 2021. (**EDITOR'S NOTE:** Section 3610 allows agencies to reimburse, at the minimum applicable contract billing rates [not to exceed an average of 40 hours per week], any paid leave, including sick leave, a contractor provides to keep its employees or subcontractors in a ready state, including to protect the life and safety of government and contractor personnel, during the public health emergency declared for COVID-19.)

For more on the Section 3610 implementation deviation, see "DOD Deviation 2020-O0013 on CARES Act Section 3610 Implementation" in the May 2020 ***Federal Contracts Perspective*** article "Acquisition Community Fighting COVID-19 On a Multitude of Fronts", and see "Revision 1 to Deviation 2020-O0013 on CARES Act Section 3610 Implementation" in the September 2020 ***Federal Contracts Perspective*** article "More COVID-19 Guidance Issued." For more on the Section 3610 reimbursement requests deviation, see "Deviation 2020-O0021 on Section 3610 Reimbursement Requests" in the September 2020 ***Federal Contracts Perspective*** article "More COVID-19 Guidance Issued."

OMB ISSUES PALT GUIDANCE

In one of the last actions of the Trump Administration, the Office of Management and Budget (OMB) issued a memorandum that "takes an important step toward measuring the timeliness of federal procurements by establishing a common definition of 'procurement administrative lead time' (PALT) and providing guidance on steps agencies should take to reduce PALT in their acquisition activities through modern business practices that shorten the time from the identification of need to delivery of value."

The Office of Federal Procurement Policy (OFPP), an office within OMB, issued a request for comments on a proposed definition of "PALT" and a plan for measuring and publicly reporting governmentwide data on PALT for contracts and orders above the simplified acquisition threshold (SAT – currently $250,000). This action was undertaken in accordance with the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Public Law 115-232), Section 878, Procurement Administrative Lead Time Definition and Plan.

OFPP proposed to define PALT as "the time between the date on which an initial solicitation for a contract or order is issued by a federal department or agency and the date of the award of the contract or order." This language is very similar to the suggested definition in Section 878: "the amount of time from the date on which a solicitation for a contract or task order is issued to the date of an initial award of the contract or task order." In addition, OFPP proposed to collect data centrally in the Federal Procurement Data System – Next Generation (FPDS-NG – **https://www.fpds.gov**). (For more on the OFPP request for comments, see the February 2020 ***Federal Contracts Perspective*** article "OFPP Seeks Comments on Proposed Definition of 'Procurement Administrative Lead Time'.")

OFPP received comments from three respondents in response to the request for comments, and all the comments were generally supportive of the definition and approach to public reporting. There were no specific recommendations for an alternative definition or reporting approach.

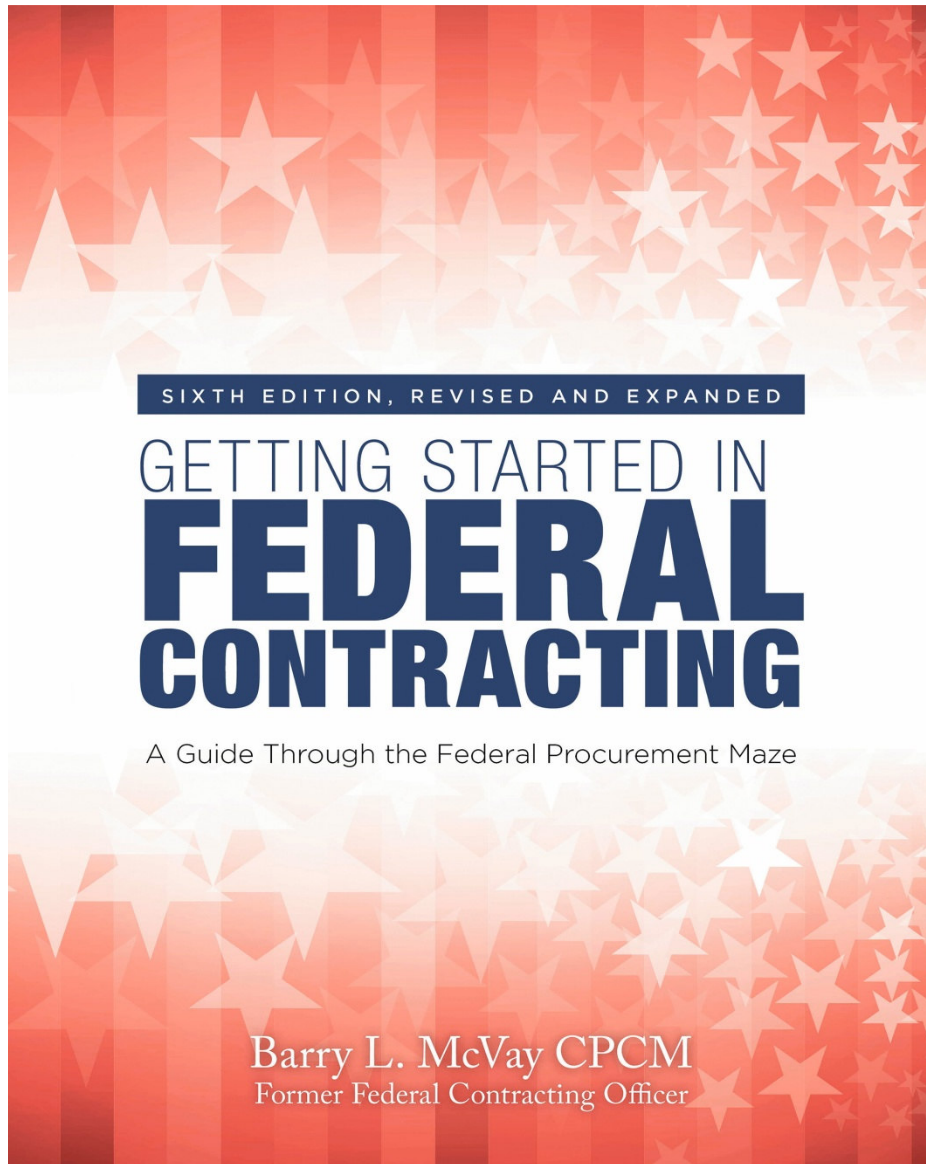
The following clarifications are made to the PALT for specific types of solicitations:

- In instances where draft solicitations are issued for the purpose of seeking input from interested parties to assist the government in finalizing its solicitation, the issuance date for the "initial solicitation" for purposes of the PALT is the date on which the final solicitation seeking offers, bids, or proposals is issued by the government.

- For orders placed against indefinite-delivery contracts where pricing is based on pre-priced line items included in the indefinite-delivery contract and no elements of the order's delivery or performance require negotiation, "the date on which an initial solicitation is issued" is the date of the award of the order.

- For the award of a contract under a Broad Agency Announcement (BAA), "the date on which an initial solicitation is issued" is the date when a final combined synopsis/solicitation is issued (with some exceptions).

"As agencies evaluate PALT, they should consider the growing list of proven business practices and technologies that agency acquisition innovation advocates (AIAs) and industry liaisons have been promoting to reduce friction across the acquisition lifecycle. This includes using more innovative and less burdensome processes for conducting acquisitions, leveraging technology to modernize operations and help the workforce move from low to high value activities, and taking advantage of modern 'high definition' data analytics to support smarter buying decisions." To help agencies become more innovative, OMB has included an attachment that describes proven agency strategies organized around different phases of pre-award acquisition, and another attachment consisting of agency examples of applying PALT-reducing strategies in various priority programs to improve the responsiveness of the acquisition process.



468 pages, 2017, ISBN: 978-0-912481-27-2, $39.95
from Panoptic Enterprises (http://www.FedGovContracts.com) and
from Amazon.com

To see: Table of Contents, go to http://www.FedGovContracts.com/Contents.pdf
Index, go to http://www.FedGovContracts.com/Index.pdf

Sample Chapters:
Chapter 11, Small Business Programs, go to
http://www.FedGovContracts.com/Chap11.pdf
Chapter 13, Federal Supply Schedules, go to
http://www.FedGovContracts.com/Chap13.pdf