

Federal Acquisition Regulations (FAR)

<https://www.acquisition.gov/far/index.html>

<http://farsite.hill.af.mil/>

The United States government procurement process is a complex undertaking. Procurement is accomplished and contracts are awarded, administered, and enforced by a variety of military and civilian agencies subject to a multitude of rules and regulations. Government procurement is essentially procurement by regulation. The basic set of regulations relating to federal procurement is the FAR.

Under Article I of the U.S. Constitution, congress is the ultimate source of funds for federal government contracts. No money can be paid out of the United States Treasury unless the funds have been appropriated by an act of Congress. (FAR 2.101). In addition to controlling federal expenditures, Congress enacts the laws that directly govern federal procurements.

The FAR establishes uniform policies and procedures for the procurement of supplies and services (including construction). It applies to all such purchases by and for the use of the federal government made within or outside the United States for procurements that obligate appropriated funds. (FAR 1.104) The vision for the Federal Acquisition System is to deliver on a timely basis the best value product or service to the customer, while maintaining the public's trust and fulfilling public policy objectives. (FAR 1.102)

The FAR, which went into effect on April 1, 1984, is the primary set of regulations for all federal executive agencies unless otherwise excluded. It is prepared, issued, and maintained by the Secretary of Defense, the Administrator of General Services, and the Administrator of the National Aeronautics and Space Administration. (FAR 1.103(b)) Applicable provisions of the FAR are incorporated into every federal government procurement contract and have the same effect as if they were set forth in the contract itself. A FAR-prescribed contract clause can be deemed included in a validly awarded contract as a matter of law, even if physically absent, where the clause expresses a significant or deeply ingrained strand of public procurement policy. *S. J. Amoroso Const. Co., Inc. v. U.S.*, 12 F.3d 1072, <http://law.justia.com/cases/federal/appellate-courts/F3/12/1072/528863/>

The Federal Acquisition Regulations System consists of the Federal Acquisition Regulation (FAR), which is the primary document, and agency acquisition regulations that implement or supplement the FAR. For example: DFARS is a well known example of an agency supplement of FAR. (www.acq.ods.mil) DFARS is used by the Department of Defense. The DFARS contains requirements of law, DoD-wide policies, and delegations of FAR authorities, and policies/procedures that have a significant effect on the public. Another example of an agency supplement is GSAM. The GSAM consolidates GSA agency acquisition rules and guidance. The GSAM incorporates the General Service Administration Acquisition Regulation (GSAR) as well as internal acquisition policy (www.acquisition.gov/gsam/gsam.html). The DIAR is the Department of Interior's Acquisition Regulation (<http://www.doi.gov/pam/programs/acquisition/pamareg.cfm>) and the U.S Department of Health & Human Services uses the HHSAR to supplement the FAR (<http://www.hhs.gov/policies/hhsar/>). These

are just a few examples of FAR supplements used by individual agencies. Each government agency may have a supplement for internal guidance as well as for use by the general public. The full set up regulations is available at <http://farsite.hill.af.mil/>

The FAR not only sets out regulations to be used by all federal agencies but also prescribes policies, standards, and procedures pertaining to a prospective contractors' responsibilities when conducting business with the government. It is very important for a contractor to become familiar with FAR, Part 9-Contractor Responsibilities- in order to verify what the scopes of these responsibilities are. <http://www.acquisition.gov/far/html/FARTOCP09.html>

Prospective government contractors are advised to familiarize themselves not only with the Federal Acquisition Regulation (FAR) but any applicable government agency supplement to the FAR prior to entering into a binding contract with a government agency.