

# WHAT WILL WE COVER TODAY

- Why learn about the FAR
- What is the FAR
- Where to find the FAR
- How to use the FAR

# WHY LEARN ABOUT THE FAR

# WHY DO WE NEED TO KNOW THE FAR?

- Companies that are or are planning to do business with the United States Federal Government providing goods or services via bidding and acceptance of contracts, should know HOW the Federal Government agencies are able to acquire their requirements
  - Acquisitions are required to follow the Federal Acquisition Regulation (FAR) which are the regulations that implement Federal Statutes, Executive Orders, and Federal Government determinations on how procurements made with public dollars can be performed
  - Unlike commercial contacting, the Federal Government has specific requirements to follow based on the use of 'appropriated' dollars – taxes that are designated through the US Federal budgeting process

# WHY DO WE NEED TO KNOW THE FAR?

- Understanding the FAR is essential to know what contractors are agreeing and committing to when they sign a Federal Government contract
- MOST FAR Clauses are non-negotiable. However, having an understanding of FAR clauses, what they are and when they should be applied, can assist in preparing for negotiations with the Federal Government
- Understanding the FAR clauses can provide a better understanding both of contractor responsibilities as well as contractor rights when working on federally funded procurement programs
- Knowledge is power

# SUBCONTRACTORS NEED TO KNOW THE FAR

- Even subcontractors to a separate company that is doing business with a Federal dollar stream that eventually supports a Federal Government procurement need knowledge of the FAR
- The contractors upstream in the supply chain are signing contract requirements to only work with subcontractors that will follow specific FAR regulations
- Some FAR clauses are required to flow down to subcontracts

# WHAT IS THE FAR

# WHAT IS THE FAR?

- The Federal Acquisition Regulation (FAR) is issued as Chapter 1 of Title 48, CFR (Code of Federal Regulations)
- The FAR is the primary regulation used by all Federal executive agencies in the acquisition of supplies and services with appropriated funds
- The FAR was established to codify uniform policies for acquisition of supplies and services by Federal executive agencies. Currently using the Fiscal Year 2019 version

# UPDATES TO THE FAR

- The FAR is routinely updated to implement new laws and executive orders. Updates are called Federal Acquisition Circulars (FAC). Latest change is FAC 2023-01, Effective December 30, 2022. Changes are published in the Federal Register

# FAR SUPPLEMENTS

- There are many different Federal Agencies – All of them must follow the regulations laid out in the FAR.
- It is recognized however, that Agencies have different missions and therefore, are allowed to issue agency specific Supplemental Regulations:
  - FAR provides that Supplemental regulations shall be limited to those necessary to implement FAR policy and procedure within an agency or satisfy specific agency needs, but cannot contradict the FAR.
    - Example: “DFARS” = Defense Federal Acquisition Regulation Supplement

# FAR SUPPLEMENTS



FAR



Chapter 99 (CAS)



DFARS



DFARSPGI



AFARS



AFFARS



DARS



DLAD



NMCARS



SOFARS



TRANSFARS



AGAR



AIDAR



CAR



DEAR



DIAR



DOLAR



DOSAR



DTAR



EDAR



EPAAR



FEHBAR



GSAM/R



HHSAR



HSAR



HUDAR



IAAR



JAR



LIFAR



NFS



NRCAR



TAR



VAAR

# FAR ORGANIZATION

- FAR is organized in 8 Subchapters, 53 Parts plus a Matrix of application for regulations
- The Subchapters are organized as follow:
  - Subchapter A – General: Includes Parts 1 – 4
  - Subchapter B – Acquisition Planning: Includes Parts 5 – 12
  - Subchapter C – Contracting Methods/Contracting Types: Includes Parts 13-18
  - Subchapter D – Socioeconomic Programs: Includes Parts 19 – 26
  - Subchapter E – General Contracting Requirements: Includes Parts 27 – 33
  - Subchapter F – Special Categories of Contracting: Includes Parts 34-41
  - Subchapter G – Contract Management: Includes Parts 42 – 51
  - Subchapter H – Clauses and Forms: Includes Parts 52 - 53

# FAR ORGANIZATION

- Parts 1-51 are the Regulations
  - Often, these are instructions and requirements agencies are required to follow and maintain compliance with and how they may make acquisitions. Contractors need to understand them to know what the Government must do.
- Part 52 is the Solicitation Provisions and Contract Clauses,
- Part 53 contains Standard Forms that are called out in the FAR and instructions for their use
- Matrix – this provides guidance to Contracting Officers when creating solicitations & contracts as to what is required based on the type of acquisition and the type of contract being utilized.
- Appendix – in 2020, the FAR was officially modified to remove the Cost Accounting Standards documentation as an official Appendix to the FAR. CAS is still a requirement, but that is a stand alone set of requirements maintained by a CAS directorate, and can just be referenced by the FAR – not needed as an attached Appendix.

- ▶ **Subchapter A: General**
  - Part 1. Federal Acquisition Regulations System
  - Part 2. Definitions of Words and Terms
  - Part 3. Improper Business Practices and Personal Conflicts of Interest
  - Part 4. Administrative Matters
- ▶ **Subchapter B: Acquisition Planning**
  - Part 5. Publicizing Contract Actions
  - Part 6. Competition Requirements
  - Part 7. Acquisition Planning
  - Part 8. Required Sources of Supplies and Services
  - Part 9. Contractor Qualifications
  - Part 10. Market Research
  - Part 11. Describing Agency Needs
  - Part 12. Acquisition of Commercial Items
- ▶ **Subchapter C: Contracting Methods/Contract Types**
  - Part 13. Simplified Acquisition Procedures
  - Part 14. Sealed Bidding
  - Part 15. Contracting by Negotiation
  - Part 16. Types of Contracts
  - Part 17. Special Contracting Methods
  - Part 18. Emergency Acquisitions
- ▶ **Subchapter D: Socioeconomic Programs**
  - Part 19. Small business programs
  - Parts 20-21. *Reserved*
  - Part 22. Application of Labor Laws to Government Acquisitions
  - Part 23. Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace
  - Part 24. Protection of Privacy and Freedom of Information
  - Part 25. Foreign Acquisition
  - Part 26. Other Socioeconomic Programs
- ▶ **Subchapter E: General Contracting Requirements**
  - Part 27. Patents, Data, and Copyrights
  - Part 28. Bonds and Insurance
  - Part 29. Taxes
  - Part 30. Cost Accounting Standards Administration
  - Part 31. Contract Cost Principles and Procedures
  - Part 32. Contract Financing
  - Part 33. Protests, Disputes, and Appeals
- ▶ **Subchapter F: Special Categories of Contracting**
  - Part 34. Major System Acquisition
  - Part 35. Research and Development Contracting
  - Part 36. Construction and Architect-Engineer Contracts
  - Part 37. Service Contracting
  - Part 38. Federal Supply Schedule Contracting
  - Part 39. Acquisition of Information Technology
  - Part 40. *Reserved*
  - Part 41. Acquisition of Utility Services
- ▶ **Subchapter G: Contract Management**
  - Part 42. Contract Administration and Audit Services
  - Part 43. Contract Modifications
  - Part 44. Subcontracting Policies and Procedures
  - Part 45. Government Property
  - Part 46. Quality Assurance
  - Part 47. Transportation
  - Part 48. Value Engineering
  - Part 49. Termination of Contracts
  - Part 50. Extraordinary Contractual Actions and the Safety Act
  - Part 51. Use of Government Sources by Contractors
- ▶ **Subchapter H: Clauses and Forms**
  - Part 52. Solicitation Provisions and Contract Clauses
  - Part 53. Forms
  - Parts 54-99. *Reserved*

# WHERE TO FIND THE FAR

# WHERE IS THE FAR?

- The FAR is officially located online at a website called Acquisition. Gov.
- <https://www.acquisition.gov/>
- Acquisition.gov contains HTML Format, PDF Format, Word, Apple Books, Kindle
- Federal Acquisition Circulars (FAC), Agency Supplemental Regulations, and a Smart Matrix
- Hardcopy FAR books are available

FAR PARTS

Index

List of Sections Affected

DOD Deviations

CAAC Deviations

1	2	3	4	5
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Chapter 99 (CAS)

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FAC Number	Effective Date	HTML	DITA	PDF	Word	Epub	Apple Books	Kindle
2022-08	10/28/2022							

Browse FAR Part/Subpart and Download in Various Formats

Parts/Subparts	HTML	DITA	Print
+ <a href="#">Part 1 - Federal Acquisition Regulations System</a>			
+ <a href="#">Part 2 - Definitions of Words and Terms</a>			
+ <a href="#">Part 3 - Improper Business Practices and Personal Conflicts of Interest</a>			
+ <a href="#">Part 4 - Administrative and Information Matters</a>			
+ <a href="#">Part 5 - Publicizing Contract Actions</a>			
+ <a href="#">Part 6 - Competition Requirements</a>			
+ <a href="#">Part 7 - Acquisition Planning</a>			
+ <a href="#">Part 8 - Required Sources of Supplies and Services</a>			
+ <a href="#">Part 9 - Contractor Qualifications</a>			

# FINDING THE FAR

- Use caution when using other than the official FAR site
- The FAR is free online
- Located numerous sites to purchase some are electronic versions for ereaders
- Make sure any site you are using is current through the most recent issued FAC.

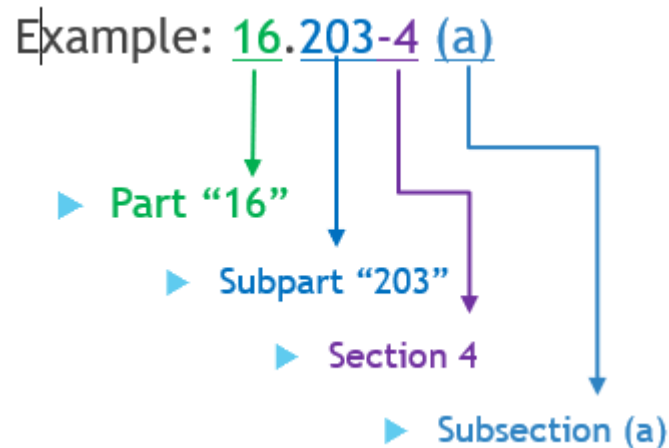
# HOW TO USE THE FAR

# HOW TO USE THE FAR?

- You do not need to read the entire FAR
- Read the sections that apply to you as outlined in the solicitation/contract
- Use the Table of Contents or on-line search features to locate what you are looking for
- FAR parts are “Reserved” when the regulations change and that portion is no longer applicable

# INTERPRETING THE FAR NUMBERING

- Arrangement of FAR references:



- FAR from Parts 1 – 51 are generally regulations required of the Federal agencies. They are passed to Contractors as requirements via contract clauses (FAR Part 52), and arranged by the FAR Part that they relate to:
  - FAR 52.216-2, FAR 52.216-3 and FAR 52.216-4 are possible clauses from the FAR shown in the above example

# HOW TO USE THE FAR?

- Each FAR clause or provision starts with 52.2\_\_-\_\_\_\_, followed by the name, and effective date. Such as **52.219-6 Notice of Total Small Business Set-Aside (Nov 2020)**
- The first \_\_\_\_ references the FAR Part being utilized
- This can be used to quickly go to the Part of the FAR covered by the clause or provision
- The second \_\_\_\_ numbers each provision/clause within the Part

# HOW TO USE THE FAR?

- Provisions/clauses can be in full text or referenced. Referenced provisions/clauses have same impact as full text ones. FAR Matrix indicates if provision/clause can be referenced. Final decision is with the Contracting Officer.
- Each provision/clause provides where in the FAR it is prescribed to use the provision/clause. The FAR states when the contracting officer shall use each provision/clause.
- Electronic version of the FAR contains hyperlinks to go between the provision/clause and when to use it.

# HOW TO USE THE FAR?

## **52.214-22 Evaluation of Bids for Multiple Awards.**

As prescribed in [14.201-6](#)(q), insert the following provision:

### **Evaluation of Bids for Multiple Awards (Mar 1990)**

In addition to other factors, bids will be evaluated on the basis of advantages and disadvantages to the Government that might result from making more than one award (multiple awards). It is assumed, for the purpose of evaluating bids, that \$500 would be the administrative cost to the Government for issuing and administering each contract awarded under this solicitation, and individual awards will be for the items or combinations of items that result in the lowest aggregate cost to the Government, including the assumed administrative costs.

(End of provision)

# AGENCY SUPPLEMENTS

- Agency Acquisition Regulations implement or supplement the FAR.
- Each Agency Supplement adds an additional number to the front of the reference number. There are 31 Agency Supplements. Agency Supplements follow the FAR basic format.

DFAR – 252.219-7003 Defense Federal Acquisition Regulations

GSAM – 552.219-70 General Services Acquisition Regulations

VAAR– 852.219-9 Department of Veterans Affairs Acquisition Regulations

# AGENCY SUPPLEMENTS

- Agency regulations follow the structure and numbering system of the original FAR when supplementing the FAR
  - FAR 52.204-9 Personal Identity Verification of Contractor Personnel (Jan 2011)
  - VAAR 852.204-70 Personal Identity Verification of Contractor Personnel (May 2020)
- Agency regulations add additional parts when adding information not found in the FAR
- VAAR 852.270-1 Representatives of Contracting Officers (Jan 2008)

# WHAT IS THE MOST IMPORTANT PART OF THE FAR?

- All of it
- The most important part to you is the part that currently applies to the solicitation or contract you are looking at
- Small Businesses should review and understand the Small Business Programs located in Part 19
- Federal Supply Schedule Holders (GSA or VA) should review and understand how the Government uses Federal Supply Schedules located in Part 8.4

# SOME USEFUL PARTS OF THE FAR

- Part 2 – Definitions
- Part 22 – Labor Laws
- Part 28 – Bonds and Insurance
- Part 29 – Taxes
- Part 33 – Protests
- Part 36 – Construction and Architect-Engineer Contracts
- Part 44 – Subcontracting Policies and Procedures
- Part 49 - Terminations

# PROVISION VERSES CLAUSE

Solicitation provisions are distinguished from contract clauses

- Provision: A written term or condition used only in solicitations and applying only before contract award
- Clause: Terms and conditions in the final contract
- Solicitations include both Contract Clauses and Provisions
- At time of award most contracting officers remove the provision section of the solicitation
- Final Contract includes the clauses but no provisions

# FILL IN THE BLANKS

- Some clauses/provisions have blanks to fill in.
- Blanks should be filled in by the Contracting Officer or the offeror/bidder depending on the clause/provision.
- Language within clause/provision may indicate who should complete the fill in either the Contracting Officer or the offeror/bidder.
- Make sure all these are reviewed and completed during the procurement process to ensure a compliant contract

# CONTRACTOR/OFFEROR FILL IN THE BLANK

## 52.215-6 Place of Performance (Oct 1997)

- (a) The offeror or respondent, in the performance of any contract resulting from this solicitation,  intends,  does not intend [*check applicable block*] to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.
- (b) If the offeror or respondent checks “intends” in paragraph (a) of this provision, it shall insert in the following spaces the required information:

Place of Performance

Name and Address of Owner and Operator

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(End of provision)

# CONTRACTING OFFICER FILL IN THE BLANK

## 52.217-8 Option to Extend Services (Nov 1999)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within \_\_\_\_\_ *[insert the period of time within which the Contracting Officer may exercise the option]*.

(End of clause)

# ALTERNATES

- Provisions and clauses may have alternate paragraphs that change the language and meaning of the provision or clause. Be mindful to confirm what is written in the solicitation or contract to ensure following the proper requirement
- Contracting Officer determines if alternate provisions or clauses will be used
  - **52.219-1 Small Business Program Representations (Oct 2022)**
  - **52.219-1 Small Business Program Representations (Oct 2022)  
Alternate I (Sept 2015)**

Adds paragraph (c)(9) to the basic provision

# CLAUSE DATES

- Dates on clauses are very important
  - Example: 52.203-3 Gratuities (Apr 1984)
- Generally, the clause revision in effect at date of Contract Award is the applicable clause. When dealing with subcontracts, the Prime generally must flow down the clause revision in effect at date of the Prime Contract, not the award of the subcontract
- If a significant change to a FAR Clause occurs during a solicitation negotiation award process, it is good idea to be in contact with the contracting officer to ensure both parties are the same page
- If a clause changes significantly and the impact is such that the new clause must be incorporated into an existing awarded contract, it falls under the Changes clause, and the contractor has the right to work with the Government for an equitable adjustment

# IS THE FAR JUST BOILER PLATE LANGUAGE?

- There are over 600 various provisions/clauses in the FAR.
- Contracting Officers select which ones are applicable to the type of contract they are writing.
- Which ones they select can impact your contract and the cost to you to provide the supplies and services under the contract

# LANGUAGE OF THE FAR

- Amendment – Refers to a change to a solicitation before a contract award
- Modification – Refers to a change made to an awarded contract
- Shall verses other wording: In legal terms, “Shall” indicates an imperative requirement, and is normally seen in statements pertaining to the ‘contractor shall’. A breach of contract occurs if the action is not performed.
- Will – indicates an anticipated future action or result, but is not a 100% surety and generally does not mean a breach of contract occurred if not performed.
- May – indicates a discretionary action, and is generally written so that the ‘government may’. It is not a breach of contract if it doesn’t occur.

# FAR INCLUDES

- How the Government will order
- How the Government will inspect and accept
- How and when the Government will make payment
- Required warranties
- Required bonding and insurance
- Subcontracting rules for both large and small businesses
- Reporting requirements
- Contract options

# HOW DOES THE FAR BECOME APPLICABLE TO MY BUSINESS?

- FAR Solicitation Provisions and Clauses need to be reviewed, understood and followed in proposing and contacting with the Government:
  - In Prime (Direct to Fed. Government Agency) procurements, the solicitation / contract will have a terms and conditions section that includes the applicable contract clauses
  - Many of these FAR Clauses require the PRIME contractor to 'pass down' (flow down) requirements to vendors lower in the supply chain, AND to require those sub vendors to also pass down the requirements through all levels of the supply chain.

# WRAP UP

- Not understanding all contract requirements and clauses is not a defense for breaches of contract, so reading and understanding everything, including the FAR clauses is important.
- What not to do
  - Do not ignore the FAR
  - Do not get over concerned about knowing everything about the entire 1200 pages of the FAR

# WRAP UP

## What to do

- Become familiar with the FAR clauses normal in your environment. Most of them will show up consistently in the same type of work
- Reach out to resources for help
  - WPI
  - Legal Council if you feel the need – Use a legal group grounded in federal contracting
- Stay abreast of updates
  - Membership in professional organizations like NCMA or NDIA can be helpful

# RESOURCES

# RESOURCES

Acquisition.Gov

<https://www.acquisition.gov/>

Wisconsin Procurement Institute - Phone: 414-270-3600

[www.wispro.org](http://www.wispro.org)