



October 27, 2025

Dr. Kevin Rhodes
Administrator, Office of Federal Procurement Policy
Office of Management and Budget
Washington, DC 20503

Subject: Feedback on Federal Acquisition Regulation Overhaul – Parts 17, 27, & 45

Dear Dr. Rhodes,

Representing the nation's leading aerospace and defense companies, the Aerospace Industries Association (AIA) appreciates the Administration's ongoing commitment to modernizing and streamlining the Federal Acquisition Regulation (FAR). We appreciate the opportunity to provide informal feedback throughout the FAR Overhaul initiative and have previously submitted comments on several revisions released to date.¹ Our member companies have reviewed the proposed changes to FAR Parts 17, 27, and 45, and respectfully offer the following comments and recommendations.

FAR Part 17: Special Contracting Methods

1. Use of Options: The revised FAR Part 17 replaces the requirement for a contracting officer to make a written determination that there is "reasonable likelihood" the government would exercise contract options when using sealed bidding before including the clause at 52.217-5 ("Evaluation of Options") in a solicitation. The revised FAR instead requires the contracting officer to document a "probability" the government will exercise the options. This new language establishes a more ambiguous—and potentially higher—threshold, which could levy an administrative burden on defense contractors who may need to do more work to build and price proposals that align with solicitations containing options, even when the likelihood of those options being exercised is uncertain. AIA recommends that for all proposals and solicitations, options should be included only when there is a reasonable likelihood of the government exercising those options. To avoid adding additional and unnecessary burden, AIA recommends retaining the original language (Citation: original FAR Subpart 17.208(b)).

2. Administrative Error in Subparts Naming: Both revised FAR Subparts 17.6 and 17.7 are named identically. To avoid confusion, AIA recommends revising the titles of FAR 17.6 and 17.7 to reflect their distinct purposes and suggests the titles used in the original FAR Subparts: FAR 17.6 (International Acquisitions: Acquisitions by Nondefense Agencies on Behalf of the Department of Defense), and FAR 17.7: (Management and Operating Contracts) (Citation: revised FAR Subparts 17.6 and 17.7).

FAR Part 27: Patents, Data, and Copyrights

AIA and its members appreciate the efforts to streamline FAR Part 27 and recognize the progress made toward modernizing the framework. However, additional changes are

¹ [AIA Feedback on Revised FAR Parts 1, 10, 34](#); [AIA Feedback on Revised FAR Parts 11, 18, 39, 43](#); [AIA Feedback on Revised FAR Part 6](#); [AIA Feedback on Revised FAR Parts 29, 31](#); [AIA Feedback on Revised FAR Part 35](#); [AIA Feedback on Revised FAR Part 50](#); [AIA Feedback on Revised FAR Part 5](#); [AIA Feedback on Revised FAR Parts 9, 33, 49](#); [AIA Feedback on Revised FAR Part 30](#); [AIA Feedback on Revised FAR Parts 4, 8, 12, 40](#); [AIA Feedback on Revised FAR Part 44](#)

necessary to ensure the U.S. government adopts a balanced approach to acquiring intellectual property rights—one that secures the rights it reasonably requires while continuing to incentivize contractor innovation and investment. It is equally important to eliminate burdensome, non-statutory requirements that discourage contractors from doing business with the government. To support this goal, AIA offers the following comments and recommendations.

1. Retention of Guidance Emphasizing a Balanced Approach to Intellectual Property:

The revised FAR Part 27 removes several policy statements providing important context on the need to balance the interests of the government and industry with respect to intellectual property. This information is essential for conveying to U.S. government personnel, especially contracting officers, the importance of maintaining a balanced approach between government and industry interests, which is key to fostering a vibrant and innovative industrial base. In the interest of ensuring this balance, AIA recommends retaining important policy statements in FAR Part 27, including:

- **Original FAR Subpart 27.102, “General guidance.”** This section included guidance recognizing rights in data developed at private expense and limits the government’s demands for that data. When such data is delivered, the government will acquire only those rights necessary to support its reasonable needs.
- **Original FAR Subpart 27.402, “Policy.”** This section included policy guidance acknowledging that contractors may have proprietary interest in data, and that to prevent compromise of these interests, agencies will protect proprietary data from unauthorized use or disclosure. The policy further states that the protection of this data is necessary to encourage qualified contractors to participate in and apply innovative concepts to government programs.
- **Original FAR Subpart 27.406-1, “General.”** This section outlines government practice for determining its data requirements in time for inclusion in solicitations and identifies that such requirements may be revised during negotiations. This section emphasizes keeping data requirements to a minimum. It also states data delivery requirements should not normally require that a contractor provide the government, as a condition of the procurement, unlimited rights in data that qualify as limited rights data or restricted computer software. Rather, form, fit, and function data may be furnished with unlimited rights instead of the qualifying data.
- **Original FAR Subpart 27.408, “Cosponsored research and development activities.”** This section clarifies that the contracting officer may limit the acquisition of data, or acquire less than unlimited rights, for any data developed under contracts involving cosponsored research and development that require the contractor to make substantial contributions of funds or resources, and the contractor’s and the government’s respective contributions are not readily segregable.

2. Protection of Trade Secrets: AIA recommends adding a new policy statement emphasizing the importance of safeguarding trade secrets by adding to FAR Subpart 27.402 the following: “The U.S. government’s rights in data, including unlimited rights, shall in no way jeopardize the contractor’s proprietary interests in such data, or the contractor’s ability to protect the data as a trade secret against third parties not

authorized by the contractor, the U.S. government, or an authorized licensee.” (Citation: revised FAR Subpart 27.402).

3. Encourage Use of Specially Negotiated License Rights (SNLRs): In line with statutory direction, the revised FAR Part 27 should better promote the use of SNLRs to meet the U.S. government’s needs in lieu of limited rights, restricted rights, or unlimited rights in all procurements and not only for Special Works under Subpart 27.405-1 and Existing Works under Subpart 27.405-2. The use of specially negotiated licenses enables government and industry to develop custom agreements that are mutually beneficial to both parties. To that end, AIA recommends inserting a new subpart within FAR Subpart 27.404 as follows:

“27.404-X Specifically negotiated license rights data.

The standard license rights granted to the government may be modified by mutual agreement to provide such rights as the parties consider appropriate. Any rights so negotiated shall be identified in a license agreement made part of this contract.”

4. Unlimited Rights Data: AIA recommends revising language related to the government’s acquisition of unlimited rights to more accurately reflect statute by amending the revised Subpart 27.404-1(a) as follows:

“(a) Data first produced in the performance of a contract delivered under contract that was developed exclusively with Government funds and is needed to ensure the competitive acquisition of supplies or services that will be required in substantial quantities in the future (except to the extent the data: (i) is derived from and inherently discloses limited rights data or restricted computer software, or, (ii) constitute minor modifications to data that are limited rights data or restricted computer software).”

This revision will better align the FAR with 41 U.S.C. § 2302(c)(1)(A). This statute establishes a funding test for unlimited rights in technical data based on funds used for development. It also requires that delivery is under contract and that the data is needed to ensure competitive acquisition of supplies or services that will be required in substantial quantities. This revision would also protect against disclosure of inherently limited rights data or restricted computer software (Citation: revised FAR Subpart 27.404-1(a)).

5. Government Purpose Rights: The revised FAR Part 27 would benefit from the inclusion of a definition of “government purpose rights” within the definitions section at FAR Subpart 27.401. This will help to differentiate between unlimited rights acquired under 41 U.S.C. § 2302(c)(1)(A) and government purpose rights acquired under 41 U.S.C. § 2302(c)(1)(B). Statute stipulates the government has unlimited rights to technical data developed exclusively at government expense if delivery of the data: (1) was required as an element of performance under a contract; and (2) is needed to ensure the competitive acquisition of supplies or services that will be required in substantial quantities in the future. Otherwise, the government has unrestricted, royalty-free right to use, or have its contractors use (for government purposes) technical data developed exclusively at private expense. AIA also recommends inserting a new subsection within FAR Subpart 27.404 (“Basic rights in data clause”) as follows:

“27.404-X Government purpose rights data.

The government acquires government purpose rights in the following data except for copyrighted works as provided in 27.404-3:

- (a) Data delivered under contract that was developed exclusively with government funds that are not provided to the government with unlimited rights in 27.404-1(a).
- (b) Data delivered under contract that was developed exclusively with government funds that are derived from and inherently discloses limited rights data or restricted computer software.
- (c) Data delivered under contract that was developed partially with government funds.”

The term “government purpose rights” is detailed in agency supplements (e.g., Defense Federal Acquisition Regulation Supplement 227.7103-5(b)) but inclusion in the FAR would help ensure consistency across all government agencies (Citations: revised FAR Subparts 27.401 and 27.404).

6. Notice of Government as a Licensee: The revised FAR Part 27 significantly streamlines language related to royalties. This streamlining is welcome, but we note the removal of a requirement for the government to notify prospective offerors when the government is obligated to pay a royalty because of an existing patent license agreement applicable to the prospective contract. This information is relevant to prospective offerors and should be retained to ensure that offerors are aware of such licenses and royalties that may impact their proposals. As such, AIA recommends retaining the language requiring notice of the government as a licensee, and procedures covering when the government is obligated to pay a royalty on a patent involved in a prospective contract. (Citations: original FAR Subparts 27.202-2 and 27.202-5(b)).

7. Patent Indemnity for Commercial Products and Commercial Services: The revised FAR Part 27 retains two requirements to include FAR Clause 52.227-3 (“Patent Indemnity”) for contracts for commercial products or commercial services. However, it is not standard practice for commercial vendors to provide broad, unqualified patent indemnities of the scope required by this clause. This misalignment with commercial norms may serve to disincentivize participation in federal contracting, undermining efforts to broaden the industrial base and attract non-traditional suppliers. To better reflect commercial practices and encourage broader engagement, AIA recommends removing these provisions (Citations: revised FAR Subparts 27.201(d) and 27.201-2(c)).²

8. Subcontract Policy: The revised FAR Part 27 retains language establishing government policy that contractors must not use their ability to award subcontracts as economic leverage to acquire rights for themselves in inventions resulting from subcontracts. While this policy is clear in its intent, it would benefit from further clarification to ensure that a prime contractor can efficiently execute the performance of its prime contract without requiring the U.S. government to practice the invention

² See comment #7 on AIA’s feedback on FAR Part 12 for more details on patent indemnities running contrary to commercial practices ([AIA Feedback on Revised FAR Parts 4, 8, 12, 40](#)).

resulting from the subcontract. AIA recommends adding the following sentence at the end of the provision to provide such clarification: “Notwithstanding same and unless otherwise agreed, to the extent an invention results from a subcontract, the contractor shall have at least a nonexclusive, nontransferable, irrevocable, paid-up license to practice, or have practiced for or on behalf of the United States, the invention throughout the world solely to the extent such is in performance of contractors' prime contract obligations for which the subcontract was issued.” (Citation: revised FAR Subpart 27.304-3).

9. Definition of “Modification”: The revised FAR Part 27 would benefit from the inclusion of a new definition that clearly distinguishes between minor modifications of technology and the new development of technology, to ensure a clear understanding of the allocation of rights. AIA recommends adding the term “modification” to the definitions section at FAR Subpart 27.401 and defining it as follows: “‘Modification’ shall mean modifications of a technology that do not rise to the level of development, and for which the U.S. government does not obtain rights.” This will distinguish between development of technology and minor updates or enhancements not rising to the level of development (e.g., routine changes, minor improvements, translations, formatting, modifications of a type) and therefore not obtained by the government (Citation: revised FAR Subpart 27.401).

10. Rights in Data for Small Business Innovative Research (SBIR) Programs: The revised FAR Part 27 retains a reference to the Rights in Data – SBIR clause at FAR 52.227-20. However, this clause has not been updated to reflect the latest Small Business Administration SBIR/Small Business Technology Transfer Program Policy Directive. The Directive was most recently revised in May 2023 and includes an extension of the protection period from unauthorized disclosure of technical data and computer software developed under SBIR contracts to 20 years. The FAR Clause 52.227-20 should be reviewed to ensure it incorporates the most recent changes to data rights for SBIR programs (Citation: revised FAR Subpart 27.409(h), revised FAR Clause 52.227-20).

11. Inspection of Data at a Contractor’s Facility: The revised FAR Subpart 27.404-6 retains language permitting contracting officers (or designees) to inspect data at a contractor’s facility to verify a contractor’s assertion regarding the limited rights or restricted rights status of data. While this provision reflects longstanding practice, it does not account for the evolution in how data is stored, accessed, and shared in modern contracting environments. Given the ubiquity of electronic data sharing, on-site inspection of data may no longer be necessary. AIA instead recommends this language be updated to enable the government to request non-deliverable access to data when required for this purpose (Citation: revised FAR Subpart 27.404-6).

12. Clarification on the Use of the Additional Data Requirements Clause: The revised FAR Part 27 identifies situations for including the Additional Data Requirements clause at FAR 52.227-16. The use of this clause can create uncoded burdens on the delivery of data. Specifically, the clause’s scope to include data “specifically used” provides a means to order limited rights data, restricted rights computer software, or other contractor data known when contracted but not otherwise contemplated to be delivered. Therefore, its use should be limited to circumstances where the government cannot reasonably anticipate its needs for additional data and not used as a mechanism to require additional deliverables that could have been contracted for and priced at the

outset of a contract. Furthermore, the FAR 52.227-16 clause should be amended to remove “or specifically used” from its scope as unnecessarily overbroad and demonstrated to lead to overreaching requests for delivery of detailed manufacturing and process data and sensitive trade secrets used in contractor operations. To ensure appropriate use of this clause commensurate with the recommendations above, AIA recommends amending FAR Subparts 27.406-2(a), 27.406-2(b) and 27.409(d) (Citation: revised FAR Subpart 27.406-2(a)-(b), revised FAR Subpart 27.409(d)).

13. Request Opportunity to Review and Comment on FAR Part 27 Companion

Guide: AIA understands the FAR Council is developing companion guides as a dynamic resource to assist acquisition officials in exercising their discretion within the recently rewritten FAR Parts. The companion guide accompanying FAR Part 27 is not currently available but may eventually include many elements removed from the revised FAR Part 27. To ensure industry feedback is considered, AIA requests the guide be made available for public review and comment before final publication.

FAR Part 45: Government Property

1. Responsibility and Liability for Government Property: The revised FAR Part 45 would benefit by reducing record-keeping requirements for low-risk or low-value property. This would reflect ongoing agency level efforts such as DOD Class Deviation 99-O0008, which reduces property record keeping and periodic physical inventory requirements for “low-value property” in order to lower administrative burdens and avoid unnecessary costs on contracts. To enable this, AIA recommends adding the following language to the end of FAR Subpart 45.104: “(d) To reduce recordkeeping and periodic inventory requirements, delayed reporting of low-risk property (items with unit acquisition cost less than \$5,000) losses by the contractors are authorized until contract completion, termination, or when needed for continued contract performance. Items with delayed reporting may have lesser degree of evidence/documentation to find the contractor not liable for the loss; grouping of corrective actions are acceptable.” (Citation: revised FAR Subpart 45.104).

2. Transferring Accountability: The revised FAR Part 45 would benefit by empowering contractors to transfer property between contracts. This would reduce administrative burden and better align with commercial practices. AIA recommends revising FAR Subpart 45.106 as follow: “The Contractor must transfer government property must be transferred from one contract to another only when firm requirements exist under the gaining contract (see 45.102). Upon completing a contract transfer, the contractor must notify the contracting officer on both the gaining and losing contracts. The notification will include a list of transferred property. Such transfers must be documented by modifications to both gaining and losing contracts. Once transferred, all property must be considered government-furnished property to the gaining contract. The warranties of suitability of use and timely delivery of government-furnished property do not apply to property acquired or fabricated by the contractor as contractor-acquired property that is subsequently transferred to another contract with the same contractor.” (Citation: revised FAR Subpart 45.106).

3. Use of Government Property on Non-Interference Basis: The revised FAR Subpart 45 could further streamline processes by allowing contractors to utilize government property in performing any government contract as long as it is done on a

non-interference basis, meaning it does not disrupt the performance of the contract under which the property is accountable. For example:

- FAR Subpart 45.201(c)(1) should be revised to state: "A list or description of all government property that the offeror or its subcontractors propose to use on a rent-free and non-interference basis."
- FAR Part 45.301(a) should be revised to state: "Government property generally must be provided on a rent-free basis in performance of the contract under which it is accountable or on a rent-free non-interference basis in the performance of other government contracts."

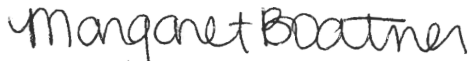
4. Administrative Error in Contractors' Property Management System Compliance:

The revised FAR Subpart 45.105(d) deletes a reference to FAR Clause "52.245-1" while still referencing the paragraph designator "(f)(1)(viii)" within the clause. AIA recommends ensuring that the full FAR Clause citation "52.245-1(f)(1)(viii)" be included for clarity (Citation: revised FAR Subpart 45.105(d)).

AIA applauds efforts to streamline, simplify, and modernize the federal procurement process. AIA and its member companies stand ready to partner with the Office of Management and Budget on the FAR Overhaul, and we look forward to reviewing and providing feedback on the revised FAR Parts as the effort progresses.

Thank you in advance for considering our views. Please direct any questions to the undersigned at margaret.boatner@aia-aerospace.org or 703-358-1085.

Sincerely,



Margaret Boatner
Vice President, National Security Policy