



October 14, 2025

Mr. Mathew Blum
Acting Administrator
Office of Federal Procurement Policy
Office of Management and Budget
Washington, DC 20503

Subject: Feedback on Federal Acquisition Regulation Overhaul – Parts 4, 8, 12, & 40

Dear Mr. Blum,

On behalf of the Aerospace Industries Association (AIA), which represents the nation's leading aerospace and defense companies, we commend the Administration's ongoing efforts to review the Federal Acquisition Regulation (FAR) with the objective of simplifying procurement processes. The effort to streamline processes is especially critical in commercial procurement, which has grown increasingly complex and burdensome in the decades since the enactment of the Federal Acquisition Streamlining Act of 1994. Deregulation in this area will make it easier for the government to leverage commercially available solutions and services.

We appreciate the opportunity to provide informal feedback on the proposed revisions to the FAR Parts most related to commercial procurement—FAR Part 4, Part 8, Part 12, and Part 40—and offer the comments and recommendations below.

Additionally, we offer an overarching comment that we ask the FAR Council to keep in mind as revisions to commercial procurement processes are contemplated: We are at a pivotal juncture in the evolution of federal procurement, marked by expanded opportunities to leverage commercial buying practices and to prioritize price-based acquisitions over traditional cost-based methodologies. However, the current FAR rewrite does not adequately advance these objectives. Moreover, it fails to drive the cultural shift required to integrate commercial acquisition principles within a workforce that remains more accustomed to FAR Part 15 (Contracting by Negotiation) procedures than to those outlined in FAR Part 12 (Acquisition of Commercial Products and Services). To better align the FAR with modern procurement needs, AIA recommends that the revisions more explicitly incorporate value-based pricing as a recognized and encouraged method for determining fair and reasonable pricing in commercial acquisitions. Additionally, the FAR Council should work with the federal agencies to prioritize workforce transformation by developing targeted training, updated guidance, and practical tools that equip contracting personnel to confidently apply FAR Part 12 principles. These steps are essential to fostering a procurement culture that embraces commercial practices and delivers greater value to the government.

FAR Part 4: Administrative and Information Matters

1. **Restructuring of FAR Part 4:** The revised FAR Part 4 has been restructured to align subparts with the acquisition lifecycle—pre-solicitation, solicitation/evaluation/award, post-award, and contractor records retention. AIA welcomes these structural improvements because they will improve usability and clarity for both contracting officers and industry alike.

2. **Record Retention Requirements:** The revised FAR Part 4 retains a long-standing requirement to retain original physical records for at least a year after imaging before electronic copies can be used to satisfy document retention requirements. This provision has been in place for decades and has not been updated to reflect today's digital environment. The outdated requirement is burdensome, and the administrative costs of maintaining hardcopy records far exceed any tangible benefit. To better reflect modern business practices, AIA recommends eliminating the requirement to maintain physical records and instead to require the retention of digital records. If it is not possible to eliminate this requirement, AIA recommends reducing the retention period to one month, which would still allow for adequate validation during audits (Citation: FAR Subpart 4.703(c)).
3. **Contract Distribution:** The revised FAR Part 4 eliminates discussion of contract distribution requirements following contract award or modification. While we understand this may simply be an effort to streamline content, as written, the revisions could inadvertently be interpreted by agencies as eliminating the obligation to distribute contracts to relevant stakeholders, potentially disrupting transparency, oversight, and execution. As such, AIA recommends incorporating into the revised FAR Part 4 a requirement to distribute executed contracts and modifications to contractors within two to three working days. Further delays in contract or modification receipt could hinder contract setup, subcontractor engagement, and timely performance (Citation: original FAR Subpart 4.2).

FAR Part 8: Required Sources of Supply and Services

1. **Use of Government Sources:** The revised FAR Part 8 authorizes contracting officers to permit contractor purchases from government supply sources. AIA appreciates this expanded authority; however, we recommend clarifying that contractors using an authorized government source of supply shall not be liable for failure to flow down FAR clauses to these sources, as such terms are not accepted by government supply entities (Citation: revised FAR Subpart 8.105-2 and associated FAR Clause 52.208-10).
2. **Creation of New "Required Use" Class of Contracts:** The second revision to FAR Part 8 replaces references to "best in class contracts" or "BIC" with "required use contracts," a class of contracts that is not yet defined. The accompanying Office of Federal Procurement Policy (OFPP) announcement stated that OFPP "will establish the criteria for determining what vehicles should qualify as required use contracts." Given the mandate to use a new class of "required use contracts" in revised FAR Subpart 8.104(a)(1)-(2), AIA requests that OFPP develop the criteria for "required use" contracts in collaboration with industry and/or publish the proposed criteria in the Federal Register and allow for public comment (Citation: revised FAR Subpart 8.104(a)(1)-(2)).

FAR Part 12: Acquisition of Commercial Products and Commercial Services

1. **Elimination of Non-relevant Clauses:** The revised FAR Part 12 reduces the number of provisions and clauses by nearly 30 percent. AIA commends this reduction of excessive and non-standard clauses in contracts that can deter participation by providers of commercial goods and services.
2. **Use of Value-Based Pricing:** Value-based pricing is beneficial in defense procurement as it aligns cost with actual mission impact and performance of a product or service,

rather than just inputs or historical costs. This approach incentivizes innovation, quality, and long-term value, especially for commercial technologies where traditional cost-based pricing may not reflect market realities. This approach was recently recognized by the House Armed Services Committee as an appropriate alternative method by which to determine whether the price for a commercial solution is fair and reasonable.¹ This approach is also already recognized as an appropriate method at FAR Subpart 15.404-1(b)(4), which states that “value analysis can give insight into the relative worth of a product and the government may use it in conjunction with the price analysis techniques” listed elsewhere. Use of value-based pricing and other flexible pricing approaches promise to help decrease procurement timeline, reduce burden on government and contractors alike, and incentivize additional participation in the federal marketplace—ultimately driving better mission outcomes through more competitive, innovative, and responsive acquisition strategies. As such, AIA recommends the revised FAR Part 12 explicitly discuss and emphasize value-based pricing (Citation: revised FAR Part 12).

- 3. Limitations on Other than Certified Cost and Pricing Data:** The extensive and burdensome process required to obtain other than certified cost and pricing data places a significant administrative strain on contractors, discourages participation in federal procurements, and significantly slows acquisition timelines without necessarily improving pricing outcomes. The current language included in the FAR—both the revised FAR Part 12 and FAR Part 15—may lead contracting officers to prematurely request other than certified cost or pricing data, even in commercial acquisitions, without first attempting standard price analysis techniques. This could impose unnecessary burdens on contractors and undermine the streamlined intent of commercial procurement. To ensure a more disciplined approach that prioritizes existing price analysis methods before resorting to additional data requests, AIA recommends mandating that contracting officers attempt to use the price analysis techniques established at FAR Subpart 15.404-1(b)(2) prior to requesting other than certified cost or pricing data from a contractor. To implement this, AIA recommends including a requirement that, before requesting other than certified cost or pricing data, the contracting officer must document the request and obtain approval from at least one level above the contracting officer. This elevation will add rigor to the process and ensure the contracting officer must demonstrate they made efforts to perform the standard price analysis techniques established at FAR Subpart 15.404-1(b)(2) prior to requesting other than certified cost and pricing data (Citation: revised FAR Part 12, original FAR Subpart 15.401-(b)(1)-(2)).
- 4. Contracting Officer Roles & Responsibilities:** The revised FAR Part 12 does not clearly reinforce the contracting officer’s authority as the final decision-maker on commercial item determinations and fair and reasonable pricing for commercial procurements. The ambiguity created by past Department of War guidance has led to confusion about the role of the Defense Contract Management Agency Commercial Item Group, which AIA believes should remain advisory, not determinative.² Clarifying the contracting officer’s role in making commerciality determinations and determining fair and reasonable pricing for commercial procurements in the FAR and the Defense Federal Acquisition Regulation Supplement would help restore proper procurement authority and streamline decision-making (Citation: revised FAR Part 12).

¹ Section 1823 of the FY26 House Armed Services Committee National Defense Authorization Act, “Alternative Capability-Based Pricing”

² Department of War memorandum, Office of Defense Pricing and Contracting, subject “Defense Contract Management Agency Commercial Item Determination Authority,” 20 December 2018

5. **Award Fees and Incentives:** The revised FAR Part 12 removes language that previously allowed for the use of performance or delivery incentives or award fees in certain cases. While not explicitly prohibited, this omission may reduce flexibility in contracting as there are times when delivery and/or performance incentives would be appropriate. To ensure contracting officers have the discretion to determine the most appropriate contract structure, AIA recommends restoring this provision (Citation: original FAR Subpart 12.207(d)).
6. **Quality Assurance Requirements:** The revised FAR Part 12 removes language that previously required that contracts for commercial products rely on contractors' existing quality assurance systems as a substitute for government inspection and testing. Instead, the revised FAR Subpart 12.105(a)-(b) directs that contractors' existing quality assurance systems and warranties be used "to the maximum extent." This change introduces ambiguity and inconsistency in the acquisition of commercial products and services and contradicts the original intent of commercial procurement, which is based on using standard commercial practices. To support the government's stated goal to ensure it can rapidly acquire and adopt commercial innovations, AIA recommends retaining the original language, which will help ensure that contractors can rely on their existing commercial quality systems and shorten procurement timelines (Citation: original FAR Subpart 12.208).
7. **Contract Terms and Conditions for Commercial Products and Commercial Services:** The revised FAR Part 12 retains FAR clause 52.212-4, "Terms and Conditions – Commercial Products and Commercial Services" which, as the title states, mandates the inclusion of certain terms in solicitations and contracts for commercial products and services. Despite the absence of any statutory requirement, FAR clause 52.212-4(h) includes a "Patent Indemnity" that requires sellers indemnify the U.S. government for patent infringement. The patent indemnity goes beyond the warranty against infringement provided in Uniform Commercial Code 2-312, and further, is not commercially standard, lacking any limitations, requirements on the buyer (e.g., to support the defense of any claim), and exclusions (e.g., for changes to products or services made by the buyer). AIA recommends excluding this clause from solicitations and contracts for commercial products and services (Citation: revised FAR Subpart 12.205(b)(1)).
8. **Incorrect Reference:** The citation included at the revised FAR Subpart 12.109 incorrectly references FAR Subpart 12.001(c), when it should reference FAR Subpart 12.001(b). AIA recommends this administrative error be corrected prior to final rulemaking (Citation: revised FAR Subpart 12.109).

FAR Part 40: Information Security and Supply Chain Security

1. **Restructuring of FAR Part 40:** The revised FAR Part 40 has been substantially restructured to consolidate cybersecurity, supply chain, and foreign sourcing requirements into a single, coherent section. AIA supports this approach, as it improves clarity, reduces duplication, and helps both government and industry navigate complex compliance requirements more efficiently.
2. **Intelligence Elements:** The revised FAR Part 40 defines what organizations constitute the "intelligence community." To ensure completeness and to reflect current

organizational structures, AIA recommends adding the Space Force to the list of intelligence community offices (Citation: revised FAR Subpart 40.201).

3. **Reasonable Inquiry Scope:** The revised FAR Clause 52.240-91 provides an updated definition for what constitutes a “reasonable inquiry” when determining if there are prohibited products or services. While AIA appreciates the attempt to define and limit the scope of what constitutes a “reasonable inquiry,” the definition may be overly burdensome or even unworkable for entities with multiple facilities or subdivisions that do not share information systems due to security constraints. AIA recommends revising the definition of “reasonable inquiry” to account for these operational realities and avoid impractical or unlawful obligations (Citation: revised FAR Clause 52.240-91(f)).

Additionally, the revised FAR Clause 52.240-91 now applies the “reasonable inquiry” requirement to all prohibitions, whereas previously it was limited to telecommunications and Federal Acquisition Supply Chain Security Act (FASCSA)-covered products. This expansion significantly increases the burden on contractors, especially those with decentralized operations or segmented information systems. To ensure the requirement is practical and legally feasible, particularly for entities with security-driven compartmentalization, AIA recommends clarifying the scope of “reasonable inquiry” (Citation: revised FAR Clause 52.240-91).

4. **Prohibitions Clause Consolidation—Increased Compliance Complexity:** The revised FAR Clause 52.240-91 consolidates multiple prohibitions into a single clause. While this consolidation may appear to streamline compliance, it has introduced significant complexity. Previously distinct clauses—such as those governing telecommunications and FASCSA-covered products—had clearly defined applicability, timelines, and obligations. The new consolidated clause now requires contractors to parse multiple subparts (e.g., (a), (e), (f), (h)) to determine applicability, which can be confusing and burdensome. Contractors must now scroll through lengthy clauses to identify relevant prohibitions, rather than referring to standalone, clearly scoped clauses. This is especially challenging for manufacturers who think in terms of commodities and may only be affected by one subset of the clause. To avoid adding new complexity and burden—which run counter to the overarching intent of the FAR Overhaul—AIA proposes an alternative approach that maintains a consolidated list of exclusions under the revised FAR Part 40 but retains separate contract clauses for each prohibition. These clauses should follow a consistent structure (e.g., Representation/Certification, Prohibition, Disclosure) to improve readability and applicability. This would allow contracting officers and contractors to more easily identify relevant requirements and ensure compliance without unnecessary complexity (Citation: revised FAR Clause 52.240-91).

5. **Prohibitions Clause Consolidation—Expanded Disclosure Requirements and Compressed Timelines:** The revised FAR Clause 52.240-91(h)(1)) introduces a new 72-hour reporting requirement that consolidates and condenses previous timelines for telecoms (1 business day for initial notice + 10 business days to submit more detailed information) and FASCSA (3 business days for initial notice + 10 business days to submit more detailed information). The absence of “business days” in the new requirement substantially compresses the allowed notification timeline and poses significant challenges for large organizations with complex supply chains and multiple contracts. To ensure actionable and realistic timelines, and to avoid inadvertently encouraging incomplete or inaccurate reporting due to compressed timelines, AIA

recommends retaining the original timelines (Citation: original FAR Clause 52.204-25(d)(2); original FAR Clause 52.204-30(c)(4)).

6. Prohibitions Clause Consolidation—Definition Specificity and Statutory

Constraints: The revised FAR Clause 52.240-91 includes definitions that are highly specific and tied to statutory language. For example, the definition of “sensitive technology,” which is consistent with the statutory definition provided at 22 U.S. Code § 8515, specifically refers to dealings with Iran. Including such narrowly defined terms in a clause that spans multiple prohibitions may lead to confusion, especially if future additions to the prohibited list use similar terminology. To avoid misinterpretations, AIA recommends that definitions be clearly scoped to their applicable prohibitions and that statutory definitions be flagged as non-editable (Citation: revised FAR clause 52.240-90).

7. Prohibitions Clause Consolidation—Repetition and Redundancy: The consolidated clause contains multiple instances of repeated language, which may give the impression of expanded obligations. For example:

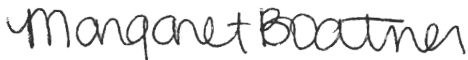
- The telecoms prohibition is repeated in multiple subparts.
- The reasonable inquiry requirement is reiterated even though its applicability is limited.
- FASCSA obligations appear in several locations.
- SAM registration and timing requirements are mentioned more than once.
- Disclosure and reporting language is repeated across subparts.

To reduce redundancy and potential confusion, AIA recommends consolidating the repeated language into a single, clearly defined section and referencing that section as needed throughout (Citation: revised FAR Clause 52.240-90).

AIA applauds efforts to streamline, simplify, and modernize the federal procurement process, and has been actively engaged in providing feedback on other revisions released to date.³ AIA and our 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

³ [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](#)