



# Legislative Update

MSFC SBELT 13 December 2022



# Five in Five


- Effective Communication between Government & Industry**
- Four (4) Open FAR Cases to date in 2023**
- SBA Issues Rule Adjusting Monetary Size Standards for Inflation**
- GAO Bid Protest Annual Report for 2022 released 1 Nov 22**
- National Women's Business Council Public Meeting Notice**

# Effective Communication between Government & Industry

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**PUBLISHED DOCUMENT**

**AGENCY:**  
Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:**  
Final rule. 

**SUMMARY:**  
DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act for Fiscal Year 2016. This rule clarifies that agency acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry, so long as those exchanges are consistent with existing law and regulation and do not promote an unfair competitive advantage to particular firms.

**DOCUMENT DETAILS**

**Printed version:**  
[PDF](#)

**Publication Date:**  
12/01/2022

**Agencies:**  
[Department of Defense](#)  
[General Services Administration](#)  
[National Aeronautics and Space Administration](#)

**Dates:**  
Effective: December 30, 2022.

**Effective Date:**  
12/30/2022

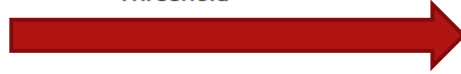
**Document Type:**  
Rule

**Document Citation:**  
87 FR 73902

**Page:**  
73902-73909 (8 pages)

# Open FAR Cases in 2023

Case Number	Part Number	Title	Synopsis	Status
2023-004		Small Disadvantaged Business Threshold	Implements SBA's final rule published on November 17, 2022, at 87 FR 69118 which increased the net worth threshold that is used to determine eligibility for small disadvantaged businesses from \$750,000 to \$850,000 for inflation.	11/30/2022 DARC Director tasked Staff to draft final FAR rule. Report due 01/04/2023.
2023-003	17, 36	(S) Prohibition on the Use of Reverse Auctions for Complex, Specialized, or Substantial Design and Construction Services	Implements section 402 of the Construction Consensus Procurement Improvement Act of 2020 (Pub. L. 116-260) as amended by section 2 of the Construction Consensus Procurement Improvement Act of 2021 (Pub. L. 117-28). The statute, as amended, prohibits the use of a reverse auction for the award of a contract for complex, specialized, or substantial design and construction services.	11/23/2022 DARC Director tasked Acquisition Strategy Team to draft proposed FAR rule. Report due 01/11/2023.
2023-002	1, 39, 52	Supply Chain Software Security	Implements section 4(n) of Executive Order (EO) 14028, which requires suppliers of software available for purchase by agencies to comply with, and attest to complying with, applicable secure software development requirements in accordance.	11/02/2022 DARC Director tasked FAR Acquisition Technology & Information Team to draft proposed FAR rule. Report due 12/14/2022.
2023-001	19, 2, 42, 52	(S) Subcontracting to Puerto Rican and Covered Territory Small Businesses	Implements SBA's final rules 85 FR 66146 and 87 FR 50925 published on October 16, 2020 and August 19, 2022, which implement section 861 of the NDAA for FY 2019 (Pub. L. 115-232) and section 866 of the NDAA for FY 2021 (Pub. L. 116-283), which define covered territory small business and provide contracting incentives to mentors that subcontract to protégé firms that are Puerto Rican and covered territory small businesses; provide for reliance on subcontractor representations; and exclude Alaska Native Corporations from the requirement for subcontracting plans.	10/05/2022 DARC Director tasked Acquisition Small Business Team to draft proposed FAR rule. Report due 11/30/2022. Report due date extended to 1/04/2023.



# SBA Issues Rule Adjusting Monetary Size Standards for Inflation

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A Rule by the [Small Business Administration](#) on 11/17/2022



Comments on this document are being accepted at [Regulations.gov](#).

[SUBMIT A FORMAL COMMENT](#)

[Read the 3 public comments](#) ⓘ

**PUBLISHED DOCUMENT**

Start Printed Page 69118

**AGENCY:**  
U.S. Small Business Administration.

**ACTION:**  
Final rule and interim final rule with request for comments.

**SUMMARY:**  
This rulemaking finalizes, without change, the U.S. Small Business Administration's (SBA or Agency) 2019 interim final rule (RIN 3245-AH17) that adjusted monetary-based industry size standards (*i.e.*, receipts- and assets-based) for inflation that occurred since 2014. This rulemaking also includes three interim final actions. First, SBA adds an additional 13.65 percent inflation increase to the monetary small business size standards, which have been recently adjusted as part of the second five-year review of size standards pursuant to the Small Business Jobs Act of 2010 (Jobs Act). This concurrent additional

**DOCUMENT DETAILS**

**Printed version:**  
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**Publication Date:**  
11/17/2022

**Agency:**  
[Small Business Administration](#)

**Dates:**  
Effective date: This rule is effective on December 19, 2022.


**Effective Date:**  
12/19/2022

**Document Type:**  
Rule

**Document Citation:**  
87 FR 69118

**Page:**  
69118-69154 (37 pages)

**CFR:**



# REMINDER

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## SAM Update Required to show Update to Size

### **Important Notice:**

Businesses registered in the System for Award Management (SAM.gov) must update their SAM registration in order to have their small business status updated based on the new size standards effective October 1, 2022. Until the SAM registration is updated, the SAM profiles will continue to display the small business status under the old size standards.



## Bid Protest Statistics for Fiscal Years 2018-2022

	FY2022	FY2021	FY2020	FY2019	FY2018
Cases Filed <sup>1</sup>	1658 (down 12%) <sup>2</sup>	1897 (down 12%)	2149 (down 2%)	2198 (down 16%)	2607 (less than 1% increase)
Cases Closed <sup>3</sup>	1655	2017	2137	2200	2642
Merit (Sustain + Deny) Decisions	455	581	545	587	622
Number of Sustains	59	85	84	77	92
Sustain Rate	13%	15%	15%	13%	15%
Effectiveness Rate <sup>4</sup>	51%	48%	51%	44%	44%
ADR <sup>5</sup> (cases used)	74	76	124	40	86
ADR Success Rate <sup>6</sup>	92%	84%	82%	90%	77%
Hearings <sup>7</sup>	.27% (2 cases)	1% (13 cases)	1% (9 cases)	2% (21 cases)	0.51% (5 cases)

### Most Prevalent Reasons for Sustaining

- Unreasonable Technical Evaluations
- Flawed Selection Criteria
- Flawed Solicitations



# National Women's Business Council; Notice of Public Meeting

**PUBLISHED DOCUMENT**

**AGENCY:**  
Small Business Administration, National Women's Business Council.

**ACTION:**  
Notice of open public meeting.

**DATES:**  
The public meeting will be held on Wednesday, February 8, 2023, from 10:00 a.m. to 12:00 p.m. EDT.

**ADDRESSES:**  
This meeting is hybrid and will be held via Zoom, a web conferencing platform as well as in-person. The access link will be provided to attendees upon registration. For those attending in-person, the event will take place at the U.S. Small Business Administration Headquarters (409 3rd St. SW, Washington, DC 20416) in Eisenhower Conference Room B on the Concourse Level.

**FOR FURTHER INFORMATION CONTACT:**  
For more information, please visit the NWBC website at [www.nwbc.gov](http://www.nwbc.gov), email [info@nwbc.gov](mailto:info@nwbc.gov) or call Jordan Chapman (NWBC Communications Specialist) at 202-941-6001.

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**Agency:**  
[Small Business Administration](#)

**Dates:**  
The public meeting will be held on Wednesday, February 8, 2023, from 10:00 a.m. to 12:00 p.m. EDT.

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Notice

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