



Legislative Update

MSFC SBELT 12 September 2024



Topics for Conversation – Part One

☐ **Small Business Administration (SBA) Updates**

- HUBZone Updates & Clarifications, & Clarifications to Other SB Programs *(158 pages)*
- Tribal Consultation for HUBZone Program Updates & Clarifications & Potential Reforms

☐ **Department of Labor (DOL) Updates**

- New SCA Health & Welfare (H&W) rates
- Final rule - Defining & Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, & Computer Employees

☐ **GSA MAS Updates**

- GSA MAS Contractor Team Arrangements (CTAs) Guidance
- Transactional Data Reporting (TDR) Data
- GSA FAS Catalog Platform (FCP)

Topics for Conversation – Part Two *(if time permits)*

Open FAR Cases

- 60 Open Cases
- 3 Additional since April 2024
- Opinion: Presidential Election Nearing impacts progress

NASA SEWP VI Update

Did You Know?

- SBA Semiannual Regulator Agenda
- GAO Updates
- False Claims Act (FCA) Suit Due To Cybersecurity Violations

HUBZone Updates & Clarifications, & Clarifications to Other SB Programs

- ❑ Proposes to require HUBZone to be eligible as of the date of offer (*as opposed to having to comply only at the time of the annual recertification of HUBZone status.*)
- ❑ Removes the burden of annual recertification by moving to a triennial recertification requirement.
- ❑ Raises the minimum number of work hours necessary for an individual to count as an HUBZone employee from 40 hours per month to 80 hours per month.
- ❑ Deletes the provision allowing individuals who receive in-kind compensation to be considered employees.
- ❑ Allows 100% of a firm's employees to telework, but where that occurs would require the firm to have 51% of its employees reside in a HUBZone instead of the normal 35%.
- ❑ ***If HUBZone, review the proposed rule for ALL proposed changes.***

Mentor Protégé Joint Ventures (JVs)

- ❑ Proposes alterations that clearly state a mentor can be found to be an ostensible subcontractor of its protégé if the joint venture requirements of § 125.8(b) are not met.
 - *SBA is attempting to prevent a situation where a mentor could serve as a subcontractor to its protégé outside the mentor-protégé JV context and avoid application of the ostensible subcontractor rule.*
- ❑ Proposes language that would permit agencies to require the protégé of a mentor-protégé JV to have a certain level/amount of past performance, such that the protégé could not rely solely on the past performance of its mentor.
- ❑ ***Review the proposed rule for ALL proposed changes.***

HUBZone Updates & Clarifications, & Clarifications to Other SB Programs

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- ❑ Clarifies and/or changes recertification rules governing multiple-award *contracts* (*in response to several recent protest decisions*)
- ❑ Rule provides that if a mentor acquires another mentor and both firms are participating in JVs under the same multiple award contract, the mentor must exit one of those JV relationships. (*Would also add a new requirement that protégé firms be given a right of first refusal to purchase a mentor's interest in a mentor-protégé JV where the mentor seeks to sell its interest in the JV.*)
- ❑ Clarifies (at 13 C.F.R. 125.2) that a procuring activity cannot create a SB set-aside or reserve (for either a contract, order, or agreement) that requires one or more socioeconomic certifications in addition to a size certification or give evaluation preferences to concerns having one or more socioeconomic certifications.
- ❑ ***Review the proposed rule for ALL proposed changes.***



Docket No. SBA-2024-0007 or RIN 3245-AH68

8(a)s

- ❑ Proposes several changes to the regulations that govern minority ownership of 8(a) entities.
- ❑ Provides additional “clarification” as to how the SBA will determine whether an 8(a) entity has made good faith efforts to meet its business activity targets.
- ❑ Permits the novation of an 8(a) contract to the 8(a) entity, where a JV between an 8(a) entity and a non-8(a) business concern was awarded an 8(a) contract, and the two firms seek to terminate the JV and novate the 8(a) contract individually to the 8(a) entity.
- ❑ ***Review the proposed rule for ALL proposed changes.***

HUBZone Updates & Clarifications, & Clarifications to Other SB Programs

- ❑ Promotes uniformity across the various size and status certification programs.
- ❑ Deletes the program specific recertification requirements contained separately in SBA's size, 8(a) BD, HUBZone, WOSB, and VetCert and move them to a new section that would cover all size and status recertification requirements.
- ❑ Proposes a ruling to provide that if a concern submits a disqualifying recertification [due to a sale, merger, or acquisition], it may or may not be eligible for the award:
 - If the merger, sale, or acquisition occurs within 180 days of offer submission and before award, the concern is ineligible for the award.
 - If the merger, sale, or acquisition occurs after 180 days of its offer and before award, the concern would continue to be eligible.
- ❑ ***Review the proposed rule for ALL proposed changes.***
- ❑ ***Comments are due by October 7th and should reference Docket No. SBA-2024-0007 or RIN 3245-AH68. May be submitted through <http://www.regulations.gov/>.***

Tribal Consultation on Proposed Rule

- ▶ SBA is holding a Tribal consultation meeting in DC, concerning forthcoming proposed revisions to the HUBZone program regulations. The proposed rule would amend the 8(a) Business Development (BD) and size regulations to clarify certain policies.
- ▶ Meeting is **Monday, Sept 23, 2 p.m. to 5 p.m. EDT. Pre-registration for this Tribal consultation meeting is requested by Sept 16.**
- ▶ Additionally, SBA requests comments and input on how best to implement the EO entitled “Reforming Federal Funding and Support for Tribal Nations To Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination”.
- ▶ SBA is also seeking comments on prospective policy changes addressing JV participation in SBA's programs.
- ▶ Send pre-registration requests to attend and/or testify to Chequita Carter of SBA's Office of Native American Affairs, U.S. Small Business Administration, 409 3rd Street SW, Washington, DC 20416; Chequita.Carter@sba.gov; or Facsimile to (202) 481-2177.

DOL Updates

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- New SCA Health & Welfare (H&W) rates
- Final rule - Defining & Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, & Computer Employees



Wage and Hour Division

DOL – New SCA Health & Welfare (H&W) rates

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- ❑ July 2024, Wage and Hour Division (WDL) increased the prevailing H&W fringe benefits from a rate of \$4.98 per hour to \$5.36 per hour.
 - If a contractor is obligated to comply with EO 13706 sick leave obligations, the rates have increased from \$4.57 per hour to \$4.93 per hour.
 - Updated rates of \$2.36 per hour (without the EO) and \$1.93 (with the EO) also apply to employees in Hawaii covered by the Hawaii Prepaid Health Act.
- ❑ Discontinues the use of even-numbered wage determinations, ***which, when incorporated in a contract,*** required compliance with the H&W fringe benefits on an “average cost” basis.

DOL – Final Rule

- ❑ Final rule, [*Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees*](#) effective on July 1, 2024.
- ❑ Increased the standard salary level and the highly compensated employee total annual compensation threshold on the rule's effective date.
 - As of July 1, 2024, employees must be paid \$844 per week (\$43,888 annualized) to satisfy the salary threshold for the executive, administrative and professional exemptions.
 - Highly compensated employees must be compensated at least \$132,964 per year
- ❑ Provides for future updates of these levels **on January 1, 2025**, when changes in the methodologies used to calculate these levels become applicable, and **every three years** to reflect current earnings data.
- ❑ **In effect**, but has [Federal Court Challenges](#)

GSA MAS Updates

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- GSA MAS Contractor Team Arrangements (CTAs) Guidance
- GSA Services Transactional Data Reporting (TDR) Update
- GSA FAS Catalog Platform (FCP) Replacing SIP



[BUY.GSA.GOV](https://buy.gsa.gov)

GSA MAS CTAs – Feedback Requested

- **Revised MAS CTA language, guidance, and a proposed template is available.**
- GSA seeks feedback and responses:
 1. Do you have a specific question about how CTAs under MAS work?
 2. In your opinion, what is the most common point of confusion related to CTAs on MAS?
 3. What is the biggest challenge for vendors using CTAs on MAS?
 4. What is the biggest challenge for customers using CTAs on MAS?
- Responses should be email to MASRFI@gsa.gov no later than **Sept 16**.



GSA FAS Catalog Platform (FCP)

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FCP will be replacing the Schedule Input Program (SIP) for maintaining pricelists on GSA Advantage and eLibrary

- ❑ FCP combines, consolidates, and replaces the Price Proposal Template (PPT) and SIP templates.
- ❑ Timeline for transition to FCP:
 - Products were piloted in 2023, and a broader rollout began in Q1 2024.
 - **Services are being piloted in 2024, and a broader rollout will begin in 2025.**
- ❑ Transition Information :
 - FCP will integrate with eMod.
 - Contractors will be required to submit a modification in eMod and upload the new Services Plus File and/or the Products File to replace their current Price Proposal Templates (PPT) and transition to FCP.
 - When modifications are approved, FCP will automatically publish pricelists to GSA Advantage and eLibrary and it will update the data in CALC+.

GSA Services TDR Reporting Update

- ❑ GSA's desire for MAS – Secure OMB designation of Best-In-Class.
- ❑ Unuseable industry-provided MAS TDR data is a impediment.
- ❑ TDR data is frequently provided unaligned with awarded contract.
- ❑ Contract/task order type determines the level of TDR detail
 - FFP
 - T&M and Labor Hour contracts/tasks **must map to GSA price list**

GSA Services TDR Reporting Update

- ❑ T&M and Labor Hour contracts/tasks **must map to GSA pricelist**

- ❑ Contractors should report sales based on what has been awarded on the MAS contract
 - Describe the item/service/labor category sold using the description that is on your MAS
 - Map what was proposed and awarded to approved pricelist
 - Report sales using the unit of measure matching awarded contract terms
 - Unit Measure (unit of issue) for labor hours contract and awards is LH (Labor Hour)

- ❑ Task/delivery/award Id/order number: Procurement Instrument Identifier (PIID)
 - Report the correct order number order for GSA to pull in additional data elements
 - Will be different for each task order award
 - Do not report BPA award number, report the call order number

NASA SEWP VI Update - Pause

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- ❑ Final RFP Released May 23, 2024 SAM Notice ID: [80TECH24R001](#)
- ❑ SEWP VI Technical areas include Information Technology & Networking, Software & Cloud, Mobility & Communications, and AV/Conferencing
 - ❑ Category A: ITC/AV (Information Technology, Communications and Audio Visual) Solutions
 - ❑ Category B: Enterprise-wide ITC/AV Service Solutions
 - ❑ Category C: ITC/AV Mission-Based Services

Announcement- New Update 8/28/2024

Please be advised that the strategic pause for the SEWP VI Request for Proposal (RFP) remains in effect. As such, the August 28, 2024, proposal submission due date is no longer valid.

Therefore, at this time, NASA requests that no proposals or past performance questionnaires be submitted. An updated proposal submission due date will be provided in an upcoming amendment.

NASA appreciates industry's cooperation and will provide further updates as soon as they become available.



2024 Open FAR Cases as of 6 Sept 2024

Open FAR Cases as of September 06, 2024

Case Number	Part Number	Title	Synopsis	Status
2024-007	16	Protests of Orders under Certain Multiple-Award Contracts	This case clarifies policy regarding protest rights for orders that are set aside under certain multiple-award contracts.	09/04/2024 DARC received Staff Level FAR draft proposed FAR rule from DAR staff. Discuss on 09/11/2024.
2024-006		Service-Disabled Veteran-Owned Small Business Certification Requirements	Implements SBA's final rule published on June 6, 2024, at 89 FR 48266, which implements section 864 of the National Defense Authorization Act for Fiscal Year 2024 (Pub. L. 118-31) that requires all service-disabled veteran-owned small businesses to be certified.	08/21/2024 DARC Director tasked Acquisition Small Business Team to draft proposed FAR rule. Report due 10/16/2024.
2024-005		Positioning, Navigation, and Timing Requirements for Federal Information Systems	This rule will implement minimum requirements for products, systems, and services that integrate or utilize Federal positioning, navigation, and timing (PNT) services in Federal information systems, in accordance with Section 4(d) of Executive Order 13095, and the controls (e.g., workflows, steps, and structures) outlined in the Federal Positioning, Navigation, and Timing Services Acquisition Guidance.	08/07/2024 DARC Director tasked Acquisition Technology and Information Team to draft proposed FAR rule. Report due 09/04/2024. Report due date extended to 10/16/2024.

57 Open Cases

- 2024 – 7
- 2023 – 17
- 2022 – 3
- 2021 – 11
- 2020 – 7
- 2019 – 5
- 2018 – 5
- 2017 – 1
- 2015 – 1

Three (3) Additional 2024 FAR Cases since April 2023

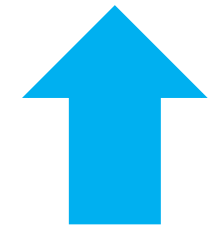


Open FAR Cases

Credit for Lower-Tier Small Business Subcontracting

Open FAR Cases as of September 06, 2024

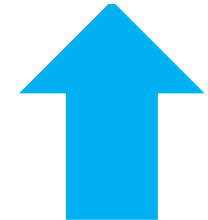
Case Number	Part Number	Title	Synopsis	Status
2023-009	19, 52	(S) Credit for Lower-Tier Subcontracting	Implements section 1614 of the NDAA for FY 2014 (Pub. L. 113-66), as implemented in SBA's final rule published on December 23, 2016 (81 FR 94246), and section 870 of the NDAA for FY 2020 (Pub. L. 116-92) as implemented in SBA's final rule published on October 11, 2023 (88 FR 70339), which allows prime contractors to receive credit toward goals in their small business subcontracting plans for subcontracts awarded by their subcontractors.	09/04/2024 DARC agreed to draft proposed FAR rule. DAR staff processing.



Pay Equity & Transparency

Open FAR Cases as of September 06, 2024

Case Number	Part Number	Title	Synopsis	Status
2023-021	1, 22, 52	Pay Equity and Transparency in Federal Contracting	Implements Executive Order 14069, Advancing Economy, Efficiency, and Effectiveness in Federal Contracting by Promoting Pay Equity and Transparency, which requires the disclosure of compensation ranges in certain job announcements and limits or prohibits contractors from requesting an applicant's compensation history for the purpose of making employment decisions.	05/01/2024 DARC Director tasked the Ad Hoc Team to review public comments, draft final FAR rule. Report due 06/05/2024. Report due date extended to 09/25/2024.

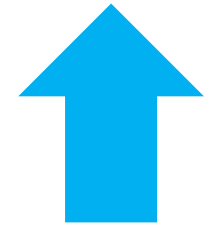


Report Date Extended

Policy on Joint Ventures

Open FAR Cases as of September 06, 2024

Case Number	Part Number	Title	Synopsis	Status
2023-015	19, 52	Policy on Joint Ventures	Implements the Small Business Administration's final rule published on April 27, 2023, at 88 FR 26164, which clarifies joint venture certification requirements and joint venture partner limitations.	08/09/2023 DARC Director tasked Acquisition Small Business Team to draft proposed FAR rule. Report due 10/04/2023. Report due date extended to 10/02/2024.



Report Date Extended

Did you know?

❑ SBA publishes a Semiannual Regulator Agenda in the Federal Register

Regulatory Agenda:

[Semiannual Regulatory Agenda](#) 2

February

Published 02/09/2024

FR Document 2024-00460

 PDF Pages 9648-9650 (3 pgs)

August

Published 08/16/2024

FR Document 2024-16463

 PDF Pages 66888-66890 (3 pgs)

Easily Accessible GAO Updates

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The screenshot shows the GAO website's navigation menu with options like 'For Congress', 'Press Center', 'Careers', and 'Blog'. The main content area is titled 'Top Ten List' and features a sidebar with categories: 'Reports & Testimonies', 'Recommendations Database', 'Month In Review', and 'Top 10 List'. Under 'Month In Review', the 'August 2024' section is highlighted, showing a link for 'Federal Student Loans' and a report titled 'Preliminary Observations on Borrower Repayment Practices after the Payment Pause' (GAO-24-107150).

The screenshot shows an email titled 'U.S. Government Accountability Office Weekly Digest Bulletin' sent to 'mary.griffith@avistastrategies.com'. The email content includes the GAO logo and the heading 'Newly Issued CG Legal Decisions - August 26, 2024'. It lists a 'Bid Protest Decision' (B-422469, B-422469.2) issued on July 3, 2024, regarding Ernst & Young, LLP's protest of a contract award to KPMG LLC.



Top 10 List for August 2024 | U.S. GAO

Did you know?

❑ False Claims Act (FCA) Suit Due To Cybersecurity Violations

PRESS RELEASE

United States Files Suit Against the Georgia Institute of Technology and Georgia Tech Research Corporation Alleging Cybersecurity Violations

Thursday, August 22, 2024

Share >

For Immediate Release

U.S. Attorney's Office, Northern District of Georgia

ATLANTA – The United States has filed a complaint-in-intervention against the Georgia Institute of Technology (Georgia Tech) and Georgia Tech Research Corporation (GTRC) raising claims under the False Claims Act and federal common law alleging that those defendants failed to meet cybersecurity requirements in connection with U.S. Department of Defense (DoD) contracts.

GTRC is an affiliate of Georgia Tech that contracts with government agencies for work to be performed at Georgia Tech and its related entities. On February 20, 2024, the United States intervened in a whistleblower suit brought by current and former members of Georgia Tech's cybersecurity team against Georgia Tech and GTRC.



[U.S. Sues Georgia Tech: A CMMC Wake-Up Call for Higher Ed \[+ Expert Advice from University IT Leaders\] \(summit7.us\)](#)

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