



## Open DFARS Cases as of 9/15/2021



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## Open DFARS Cases as of September 15, 2021

Case Number	Part Number	Title	Synopsis	Status
2021-D030	209, 252	Representation Relating to Compensation of Former DoD Officials	Implements the GAO recommendations from the GAO Report GAO-21-104311, Post Government Employment Restrictions--DOD Could Further Enhance Its Compliance Efforts Related to Former Employees Working for Defense Contractors, dated September 9, 2021.	09/15/2021 DARC Director tasked Staff Level (DFARS) to draft proposed DFARS rule. Report due 10/27/2021.
2021-D029		Reporting Tax Information on Certain Foreign Procurements	Requires reporting tax information for certain foreign procurements to the Defense Finance and Accounting Service to permit DFARS to identify contracts that must have tax withheld from payments to support processing of payments.	09/08/2021 DARC Director tasked Contract Finance Team to draft proposed DFARS rule. Report due 10/27/2021.
2021-D028		Cost and Software Data Reporting for Major Weapons Systems	Implements Cost and Software Data Reporting Readiness Reviews, as required by DODM 5000.04 and DoDI 5000.73.	06/16/2021 DARC Director tasked Acquisition Environmental & Contract Management Team to draft proposed DFARS rule. Report due 08/04/2021. Report due date extended to 09/29/2021.
2021-D027	225, 252	Department of State Rescission of Determination Regarding Sudan	Implements the Department of State's rescission of the determination of August 12, 1993, regarding Sudan, effective December 14, 2020. This rule will revise DFARS 225.7 to remove Sudan from the list of countries identified as a state sponsor of terrorism.	08/23/2021 OIRA cleared final DFARS rule. DARS Regulatory Control Officer preparing for publication, pending DoD ATP. Confirm any required systems changes.
2021-D026		(S) Beneficial Ownership Information Requirements	Implement section 6403 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021. Section 6403 requires certain contractors to disclose beneficial ownership information as part of any bid or proposal for a contract valued in excess of the simplified acquisition threshold.	02/03/2021 DARC Director tasked Acquisition Technology & Information (DFARS) team to draft proposed DFARS rule. Report due 03/17/2021. Report due date extended to 09/29/2021.
2021-D025	217, 234, 235	(S) Contract Authority for Development and Demonstration of Prototypes	Implements section 831(a)(2) of the NDAA for FY 2021 (Pub. L. 116-283). Section 831(a)(2) amends 10 U.S.C. 2302e to permit a contract for new technology originally awarded pursuant to competitive solicitation to include a line item or option for the development or demonstration of technology developed under the contract, instead of for advanced component development or prototype units.	09/13/2021 DARS Regulatory Control Officer submitted draft proposed DFARS rule to OIRA. OIRA reviewing.

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Case Number	Part Number	Title	Synopsis	Status
2021-D024		(S) Limitation on Awards to Entities Operating Certain Communication Networks	Implements section 1662 of the NDAA for FY 2021 (Pub. L. 116-283), which prohibits the award, or renewal of a contract, with an entity than engages in commercial terrestrial operations using certain megahertz band.	02/03/2021 DARC Director tasked Acquisition Technology & Information (DFARS) team to draft proposed DFARS rule. Report due 03/17/2021. Report due date extended to 09/29/2021.
2021-D023		(S) Limitation on Certain Institutes of Higher Education	Implements section 1062 of the NDAA for FY 2021 (Pub. L. 116-283), which prohibits contract award to institutions of higher education that host a Confucius Institute.	02/10/2021 DARC Director tasked Acquisition Law (DFARS) to draft proposed DFARS rule. Report due 05/12/2021. Report due date extended to 10/13/2021.
2021-D022	225.70	(S) Limitation on the Acquisition of Certain Satellite Component and on Certain Goods Other than United States Goods	Implements sections 845 and 1603 of the NDAA for FY 2021 (Pub. L. 116-283), which further amends 10 U.S.C. 2534(a) to require that acquisition of a star tracker, used in certain satellites, is obtained from the National Technology and Industrial Base (NTIB); and certain shipboard components and certain other goods be manufactured in the NTIB.	02/10/2021 DARC Director tasked Acquisition Law (DFARS) to draft proposed DFARS rule. Report due 04/21/2021. Report due date extended to 09/22/2021.
2021-D021		(S) Restrictions on Overhaul and Repair of Naval Vessels in Foreign Shipyards	Implements section 1025 of the NDAA for FY 2021 (Pub. L. 116-283), which amends 10 U.S.C. 8680 to permit naval vessels to be repaired in a shipyard outside the United States or Guam in certain circumstances and require certain criteria when using foreign workers to perform corrective and preventive maintenance.	02/03/2021 DARC Director tasked Acquisition Law (DFARS) team to draft proposed DFARS rule. Report due 04/28/2021. Report due date extended to 09/22/2021.
2021-D020	247	(S) Preference for United States Vessels in Transporting Supplies by Sea	Implements section 1024 of the NDAA for FY 2021 (Pub. L. 116-283), which provides a preference for U.S. vessels when transporting supplies by sea and requires that reflagging or repair work is performed in the U.S., unless the requirement is waived.	02/03/2021 DARC Director tasked Acquisition Environmental & Contract Management (DFARS) team to draft proposed DFARS rule. Report due 04/21/2021. Report due date extended to 10/06/2021.
2021-D019	225	(S) Use of Firm Fixed-Price Contracts for Foreign Military Sales	Implements section 888 of the NDAA for FY 2021 (Pub. L. 116-283). Section 888 repeals section 830 of the NDAA for FY 2017, which required the use of firm-fixed-price contracts for foreign military sales, unless one of the exceptions or waiver applied.	08/30/2021 Published final DFARS rule in Federal Register (86 FR 48339). Effective upon publication.

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Case Number	Part Number	Title	Synopsis	Status
2021-D018		(S) Prohibition on Award to Contractors that Require Certain Nondisclosure Agreements	Implements section 883 of the NDAA for FY 2021 (Pub. L. 116-283), which prohibits award of a contract to a contractor unless the contractor represents that it: does not require its employees to sign confidentiality agreements or statements that prohibit or restrict their lawful reporting of waste, fraud, or abuse related to contract performance; and informs its employees of such limitations on confidentiality agreements and other statements.	02/10/2021 DARC Director tasked Acquisition Strategy (DFARS) to draft proposed DFARS rule. Report due 03/24/2021. Report due date extended to 09/29/2021.
2021-D017		(S) Domestic Comparative Testing Activities	Implements section 882 of the NDAA for FY 2021 (Pub. L. 116-283), which defines covered equipment, munitions, and technologies related to domestic comparative testing activities.	02/10/2021 DARC Director tasked Acquisition Law (DFARS) team to draft proposed DFARS rule. Report due 04/14/2021. Report due date extended to 09/22/2021.
2021-D015		(S) Prohibition on Certain Metal Products	Implements section 844 of the NDAA for FY 2021 (Pub. L. 116-283), which amends the 10 U.S.C. 2533c prohibition on procuring covered material melted or produced in any covered nation and the exceptions to the prohibition.	02/10/2021 DARC Director tasked Acquisition Law (DFARS) to draft proposed DFARS rule. Report due 05/05/2021. Report due date extended to 09/22/2021.
2021-D014		(S) Restriction on Printed Circuit Boards	Implements section 841 of the NDAA for FY 2021 (Pub. L. 116-283)(10 U.S.C. 2533d), which prohibits acquiring a covered printed circuit board from a covered country, unless a waiver is obtained.	02/10/2021 DARC Director tasked Acquisition Law (DFARS) to draft proposed DFARS rule. Report due 04/28/2021. Report due date extended to 09/29/2021.
2021-D013		(S) Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve	Implements section 821 of the NDAA for FY 2021 (Pub. L. 116-283), which repeals the requirement for contractors to submit certain documentation when an evaluation factor for employing or subcontracting with members of the Selected Reserve is included in solicitations.	02/10/2021 DARC Director tasked Ad Hoc team to review public comments, draft final DFARS rule. Report due 03/31/2021. Report due date extended to 10/13/2021.
2021-D012	204	(S) Contract Closeout Authority for DoD Services Contracts	Implements section 820 of the NDAA for FY 2021 (Pub. L. 116-283), which modifies expedited contract closeout requirements.	08/30/2021 Published proposed DFARS rule in Federal Register (86 FR 48366). Public comment period ends 10/29/2021.

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Case Number	Part Number	Title	Synopsis	Status
2021-D011		(S) Mitigating Risks Related to Foreign Ownership, Control, or Influence	Implements section 819 of the NDAA for FY 2021 (Pub. L. 116-283) and section 847 of the NDAA for FY 2020 (Pub. L. 116-92). Section 847 enhances the process for assessing and mitigating risks related to foreign ownership control, or influence. Section 819 amends section 847 to require the examination, assessment, and reporting of covered contractor and subcontractor compliance; and procedures to respond to changes in covered contractor or subcontractor beneficial ownership status.	02/03/2021 DARC Director tasked Acquisition Technology & Information (DFARS) to draft proposed DFARS rule. Report due 03/31/2021. Report due date extended to 09/29/2021.
2021-D010	225.7002, 252	(S) Modification of Small Purchase Threshold Exceptions	Implements section 817 of the NDAA for FY 2021 (Pub. L. 116-283), which amends 10 U.S.C. 2533a to revise the threshold of the exception for small purchases from application of the Berry Amendment.	08/16/2021 OIRA cleared proposed DFARS rule. DARS Regulatory Control Officer preparing for publication, pending DoD ATP.
2021-D009	212	(S) Commercial Item Determination Documentation	Implements section 816 of the NDAA for FY 2021 (Pub. L. 116-283), which provides that a contracting officer, in making a determination whether a particular product or service meets the definition of commercial, may: consult with appropriate experts and consider the views of appropriate public and private sector entities; and submit, consistent with DoD policy and regulation, a written memorandum summarizing the determination.	08/23/2021 Case closed and rolled into DFARS PGI case 2021-P003.
2021-D008		(S) Prompt Payment of Contractors	Implements section 815 of the NDAA for FY 2021 (Pub. L. 116-283), which revises requirements for accelerating payments to small business prime contractors and for small business subcontractors.	02/03/2021 DARC Director tasked Acquisition Finance (DFARS) team to draft proposed DFARS rule. Report due 03/17/2021. Report due date extended to 09/22/2021.
2021-D007		(S) DoD Cost or Pricing Data Reporting Requirements	Implements section 814 of the NDAA for FY 2021 (Pub. L. 116-283), which updates certain requirements for requiring cost or pricing data and certification for a change or modification to a contract and subcontract.	02/03/2021 DARC Director tasked Acquisition Finance (DFARS) to draft proposed DFARS rule. Report due 03/17/2021. Report due date extended to 09/22/2021.
2021-D006		(S) Definition of Material Weakness	Implements section 806 of the NDAA for FY 2021 (Pub. L. 116-283), which provides a definition of material weakness for contractor business systems.	09/01/2021 DARC agreed to draft proposed DFARS rule. Case manager processing.

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Case Number	Part Number	Title	Synopsis	Status
2021-D005	227, 252	(S) Modular Open Systems Approaches	Implements section 804 of the NDAA for FY 2021 (Pub. L. 116-283), section 809 of the NDAA for FY 2017 (Pub. L. 114-328), and section 815 of the NDAA for FY 2012 (Pub. L. 112-81). Section 804 addresses rights in technical data for modular system interfaces developed exclusively at private expense or with mixed funding. Section 809, subsections (a), (b), and (d), addresses rights relating to items or processes developed exclusively at private expense. Section 815, subsection (b), addresses validation of proprietary data restrictions.	03/03/2021 DARC Director tasked Patents, Data, and Copyrights (DFARS) team to draft proposed DFARS rule. Report due 4/14/2021. Report due date extended to 09/29/2021.
2021-D004	223	(S) Restriction on Certain Items Containing Perfluorooctane Sulfonate or Perfluorooctanoic Acid	Implements section 333 of the NDAA for FY 2021 (Pub. L. 116-283) which restricts the DoD from procuring certain items containing Perfluorooctane Sulfonate (PFOS) or Perfluorooctanoic Acid (PFAS), effective April 1, 2023. Covered items are (1) nonstick cookware or cooking utensils for use in galleys or dining facilities; and (2) upholstered furniture, carpets, and rugs that have been treated with stain-resistant coatings.	02/03/2021 DARC Director tasked Acquisition Environmental & Contract Management (DFARS) to draft proposed DFARS rule. Report due 03/10/2021. Report due date extended to 10/13/2021.
2021-D003		Undefinitized Contract Actions	Implements recommendations from DoD IG Report 2020-084, dated May 11, 2020, regarding undefinitized contract actions.	02/03/2021 DARC Director tasked Acquisition Finance (DFARS) team to draft proposed DFARS rule. Report due 03/17/2021. Report due date extended to 10/20/2021.
2021-D002	227	Use of DoD Program Nomenclature	Implements policy to ensure the Department and its authorized suppliers are not restricted in the use of certain DoD program nomenclature, such as program names and assigned DoD systems designations that are assigned and approved by the Government pursuant to established departmental procedures.	01/12/2021 DARC Director tasked ad hoc team to draft proposed DFARS rule. Report due 02/10/2021. Report due date extended to 10/13/2021.
2021-D001	242.708	Quick-closeout Procedures Threshold	Considers implementation in the DFARS of changes to the quick-closeout procedures threshold at FAR 42.708, partially in response to GAO report 17-738, Federal Contracting: Additional Management Action Needed to Close Contracts and Reduce Audit Backlog.	04/14/2021 DARC Director tasked Adhoc Team to draft proposed DFARS rule. Report due 06/09/2021. Report due date extended to 09/29/2021.

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Case Number	Part Number	Title	Synopsis	Status
2020-D033		(S) Commercial Item Determinations	Further implements section 848 of the NDAA for FY 2018 (Pub. L. 114-328). Section 848 modifies 10 U.S.C. 2380(b) to provide that a contract for an item using FAR part 12 procedures shall serve as a commercial item determination, with some exceptions.	07/08/2021 Case manager forwarded draft final DFARS rule to DARS Regulatory Control Officer. DARS Regulatory Control Officer reviewing.
2020-D032		United States-Mexico-Canada Agreement	Implements the United States-Mexico-Canada Agreement (FY20), which replaces the North American Free Trade Agreement (NAFTA). The Government Procurement Agreement at Chapter 13 of the USMCA applies only to Mexico. Therefore, Canada is no longer a Free Trade Agreement country, but is still a designated country under the World Trade Organization Government Procurement Agreement (WTO GPA).	05/05/2021 Case manager forwarded draft proposed rule to DARS Regulatory Control Officer. DARS Regulatory Control Officer reviewing.
2020-D030	212, 225, 252	(S) Improved Energy Security for Main Operating Bases in Europe	Implements section Sec. 2821, paragraphs (b)(1) and (b)(2), of the NDAA for FY 2020 (Pub. L. 116-92), which requires that each contract for the acquisition of furnished energy for a covered military installation in Europe does not use any energy sourced from inside the Russian Federation as a means of generating the furnished energy for the covered military installation.	08/30/2021 Published final DFARS rule in Federal Register (86 FR 48336). Effective upon publication.
2020-D029		Consolidation of DoD Government Property Clauses	Amends the DFARS to consolidate the information in DFARS clauses 252.245-7001, Tagging, Labeling, and Marking of Government-Furnished Property; 252.245-7002, Reporting Loss of Government Property; 252.247-7003, Contractor Property Management System Administration; and 252.245-7004, Reporting, Reutilization, and Disposal, into a single comprehensive clause.	03/25/2020 DARC Director tasked Acquisition Environmental & Contract Management Cmte. to draft proposed DFARS rule. Report due 07/29/2020. Report due date extended to 09/22/2021.
2020-D028	235, 252	Public Access to Results of Federally Funded Research	Implements policy requirements to address access to scientific articles or papers published in scientific journals and submission of a data management plan for research and development contracts, based on DoD recommendations to GAO Report GAO-20-81, "Federal Research. Additional Actions Needed to Improve Public Access to Research Results," dated November 2019.	05/13/2020 DARC Director tasked Construction, Services, and Research & Development Cmte. to draft proposed DFARS rule. Report due 07/29/2020. Report due date extended to 09/22/2021.

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Case Number	Part Number	Title	Synopsis	Status
2020-D027	228.3, 242.302, 252.228-7001	Ground and Flight Risk	Update the DoD Ground and Flight Risk policy.	06/16/2021 Case manager forwarded revised draft proposed rule to DARS Regulatory Control Officer. DARS Regulatory Control Officer reviewing.
2020-D026		Modification of Notification of Intent to Transport Supplies By Sea	Amends DFARS clause 252.247-7023, Transportation of Supplies By Sea, to include and revise the requirement in DFARS provision 252.247-7022, Representation of Extent of Transportation By Sea, to notify the Government of the intent to transport supplies by sea, as applicable.	01/24/2020 DARC Director tasked Acquisition Strategy (DFARS) Team to draft proposed DFARS rule. Report due 03/18/2020. Report due date extended to 09/22/2021.
2020-D023		(S) Limitation on Communications Systems Lacking Certain Resiliency Features	Implements section 168 of the NDAA for FY 2020 (Pub. L. 116-92). Section 168 limits availability of funds for the procurement of a current or future DoD communications program of record, unless certain conditions are met.	03/11/2020 DARC Director tasked DFARS Technology Team to draft proposed DFARS rule. Report due 4/22/2020. Report due date extended to 09/29/2021.
2020-D022		(S) Management of the Procurement Technical Assistance Agreement Program	Implements section 852 of the NDAA for FY 2020 (Pub L. 116-92). Section 852 transfers responsibility for implementation of the Procurement Technical Assistance Cooperative (PTAC) Program and has an effective date of October 1, 2021. This rule amends DFARS provision 252.219-7000 and DFARS clause 252.205-7000 to update contact information for the Program, as a result of section 825.	02/12/2020 Case on hold, pending new web address from OSD to update DFARS provision 252.219-7000.
2020-D021		(S) Transfer and Adoption of Military Animals	Implements section 372(f) of the NDAA for FY 2020 (Pub. L. 116-92), which requires a contract term for contract working dogs.	02/28/2020 DARC Director tasked Cmte. to draft proposed DFARS rule. Report due 04/08/2020. Report due date extended to 09/22/2021.
2020-D020		(S) Prohibition on Procurement of Foreign-Made Unmanned Aircraft Systems.	Implements section 848 of the NDAA for FY 2020 (Pub L. 116-92), which prohibits the procurement of foreign-made unmanned aircraft systems by the Department of Defense.	01/15/2020 DARC Director tasked Acquisition Technology and Information (DFARS) Cmte to draft proposed DFARS rule. Report due 02/26/2020. Report due date extended to 09/22/2021.
2020-D017	212, 225, 252	(S) Source Restrictions on Auxiliary Ship Components	Implements section 853 of the NDAA for FY 2020 (Pub. L. 116-92), which amends 10 U.S.C.2534(a) by requiring certain auxiliary ship components to be procured from a manufacturer in the national technology and industrial base.	01/27/2021 DARC Director tasked Acquisition Law Team to review public comments, draft final DFARS rule. Report due 03/03/2021. Report due date extended to 09/22/2021.



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Case Number	Part Number	Title	Synopsis	Status
2020-D015		(S) Gross Violations of Internationally Recognized Human Rights	Implements section 888 of the NDAA for FY 2020 (Pub. L. 116-92), which requires an update of the DoD policy and guidance and DFARS to provide specific guidance for DoD contractors performing DoD contracts that supports US Armed Forces deployed outside of the US on monitoring and reporting allegations of gross violations on internationally recognized human rights.	03/04/2020 Case on hold, pending resolution of issues with OSD (P).
2020-D013		(S) Incentives and Past Performance Evaluation for Contractor Qualified Training Program	Implements section 864 of the NDAA for FY 2020 (Pub. L. 116-92), which requires the development of workforce development investment incentives for contractor's qualified training program and use of Contractor Performance Assessment Reporting System (CPARS) to evaluate past performance of the availability, quality and effectiveness of their qualified training program.	02/05/2020 Case on hold, pending resolution of issues with OUSD (P&R).
2020-D011		(S) Replacement of Fluorinated Aqueous Film-Forming Foam	Implements section 322 of the NDAA for FY 2020 (Pub. L. 116-92). Section 322 prohibits DoD procurement of fire-fighting foam containing perfluoroalkyl and polyfluoroalkyl substances unless used solely on board oceangoing vessels, after October 2023 and prohibits the use of fluorinated foam on military installations by October 2024, with the option for the Secretary of Defense to extend the date for up to one year using a waiver authority.	09/15/2020 DARS Regulatory Control Officer identified issues with draft proposed rule to case manager. Case manager and DARS Regulatory Control Officer resolving issues.
2020-D010		(S) Prohibition on Contracting with Persons that have Business Operations with the Maduro Regime	Implements section 890 of the NDAA for FY 2020 (Pub. L. 116-92), which prohibits the procurement of goods or services with any person that has business operations with an authority of the Government of Venezuela that is not recognized as the legitimate Government of Venezuela by the United States Government; subject to exceptions.	12/02/2020 DARC Director tasked Acquisition Law Cmte. to review public comments, draft final DFARS rule. Report due 01/27/2021. Report due date extended to 10/06/2021.
2020-D009		(S) Reauthorization and Improvement of Mentor-Protege Program	Implements section 872 of the NDAA for FY 2020 (Pub. L. 116-92), which reauthorizes and modifies the DoD Mentor-Protege Program.	07/22/2021 Case manager forwarded draft proposed rule to DARS Regulatory Control Officer. DARS Regulatory Control Officer reviewing.

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Case Number	Part Number	Title	Synopsis	Status
2020-D008	215.4, 242.15	(S) Requiring Data Other than Certified Cost or Pricing Data	Implements section 803 of the NDAA for FY 2020 (Pub. L. 116-92), which amends 10 U.S.C. 2306a(d) to require data, other than historical prices paid, to determine prices to be fair and reasonable; and to state that an offeror is ineligible for award if the contracting officer is unable to determine proposed prices are fair and reasonable by any other means, when an offeror fails to make a good faith effort to comply with a reasonable request to submit data, unless the HCA determines that it is in the best interest of the Government to make the award to that offeror.	08/30/2021 Published proposed DFARS rule in Federal Register (86 FR 48368). Public comment period ends 10/29/2021.
2020-D007	212.301, 225.7018, 252.225-7052	(S) Restriction on Acquisition of Tantalum	Implements section 849 of the NDAA for FY 2020 (Pub. L. 116-92), which includes tantalum in the definition of covered materials in 10 U.S.C. 2533c.	01/27/2021 DARC Director tasked Acquisition Law Team to review public comments, draft final DFARS rule. Report due 03/17/2021. Report due date extended to 09/29/2021.
2019-D045	225, 252	(EO) Maximizing the Use of American-Made Goods	Implements E.O. 13881, Maximizing Use of American-Made Goods, Products, and Materials, which supersedes E.O. 10582 by establishing that under the Buy American Act a product is foreign if the cost of all foreign components used in such product constitutes 45% or more of the cost of all components; except that iron and steel products are foreign if the cost of foreign iron and steel equals or exceeds 5 percent of the cost of all components.	08/30/2021 Published proposed DFARS rule in Federal Register (86 FR 48370). Public comment period ends 10/29/2021.
2019-D044	227	(S) Rights in Technical Data	Implements section 809(c) of the NDAA for FY 2017 (Pub. L. 114-328) and section 815(a) of the NDAA for FY 2012 (Pub. L. 112-81), which address deferred ordering of technical data.	10/02/2019 DARC Director tasked Patents, Data, and Copyrights (DFARS) Cmte to draft DFARS advance notice of proposed rulemaking. Report due 11/13/2019. Report due date extended to 09/29/2021.
2019-D043	227, 252	Small Business Innovation Research Program Data Rights	Implements changes related to data rights in the Small Business Administration's Policy Directive for the Small Business Innovation Research (SBIR) Program, published in the Federal Register on April 2, 2019 (84 FR 12794).	02/03/2021 DARC Director tasked Patents, Data, and Copyrights Team to review public comments, draft proposed DFARS rule. Report due 01/27/2021. Report due date extended to 09/22/2021.

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Case Number	Part Number	Title	Synopsis	Status
2019-D041	204.73, 204.75, 212.301, 217.207, 252.204-7019, 252.204-7020, 252.204-7021	Strategic Assessment and Cybersecurity Certification Requirements	Implements a standard DoD-wide methodology for assessing DoD contractor compliance with all security requirements in the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations and a DoD certification process, known as the Cybersecurity Maturity Model Certification (CMMC), that measures a company's maturity and institutionalization of cybersecurity practices and processes. Partially implements section 1648 of the FY20 NDAA.	04/21/2021 DARC Director tasked Adhoc Team to review public comments, draft final DFARS rule. Report due 06/08/2021. Report due date extended to 09/29/2021.
2019-D038	204.71	Uniform Use of Line Items	Implements changes required subsequent to FAR Case 2013-014 published as a final rule (82 FR 4709) (FAC 2005-95) on January 13, 2017; to amend DFARS 204.71 to remove coverage that duplicates coverage added to FAR 4.10 and to provide agency implementing guidance and procedures.	08/16/2019 DARC Director tasked staff. to draft proposed DFARS rule. Report due 10/16/2019. Report due date extended to 10/06/2021.
2019-D037		Peer Reviews of Contracts for Supplies and Services	Revises the authorities at DFARS 201.170 for the conduct of peer reviews by the Office of the Secretary of Defense.	09/01/2021 DARC agreed to draft final DFARS rule. DAR staff processing.
2019-D034	212, 236, 252	(S) Preference for Commercial Construction Services	Partially implements section 876 of the NDAA for FY 2017 (Pub. L. 114-328) regarding the preference for the acquisition of commercial construction services.	04/19/2021 DARS Regulatory Control Officer identified issues with draft proposed rule to case manager. Case manager and DARS Regulatory Control Officer resolving issues.
2019-D031		(S) Exception to Competition for Certain Follow-on Production Contracts	Implements section 815(f) of the NDAA for FY 2016 (Pub. L. 114-92), which implements 10 U.S.C. 2371b and amends the criteria that must be met to award a follow-on production contract, resulting from a transaction entered into under 10 U.S.C. 2371b, without the use of competitive procedures.	08/26/2020 DARC agreed to draft final DFARS rule. DAR staff processing.

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Case Number	Part Number	Title	Synopsis	Status
2019-D010	212.301, 237.270, 252.237	(S) Requirement for Firms Used to Support Department of Defense Audits	Implements section 1006 of the NDAA for FY 2019 (Pub. L. 115-232) and DoD policy, which requires firms that offer to provide financial statement auditing to DoD in support of the audits required under 31 U.S.C. 3521, or audit remediation services in support of the Financial Improvement and Audit Remediation Plan described in 10 U.S.C. 240b, to represent whether the offeror has been the subject of disciplinary proceedings and, if so, to provide to DoD a statement setting forth the details of any disciplinary proceedings with respect to the accounting firm or its associated persons before any entity with the authority to enforce compliance with rules or laws applying to audit services offered by the firm.	10/29/2020 Case manager forwarded draft proposed rule to DARS Regulatory Control Officer. DARS Regulatory Control Officer reviewing.
2019-D009	209, 213, 252	Use of Supplier Performance Risk System (SPRS) Assessments	Incorporates SPRS risk assessments, to include price, item and supplier risk, in the evaluation of offerors and the determination of responsibility.	06/09/2021 Case manager forwarded draft final DFARS rule to DARS Regulatory Control Officer. DARS Regulatory Control Officer reviewing.
2019-D001	232	Contract Financing	Revises contract financing policies for DoD contracts, in order to increase DoD's overall effectiveness and efficiency.	12/12/2018 Published in FRN (83 FR 63846) announcement of public meetings on 1/10/2019, 1/22/2019, and 2/19/2019.

## Open DFARS Cases as of September 15, 2021

Case Number	Part Number	Title	Synopsis	Status
2018-D074		(S) Inapplicability of Additional Defense-Unique Laws and Certain Non-statutory DFARS clauses to Commercial Item Contracts	<p>Implements paragraphs (b) and (c) of section 849 of the NDAA for FY 2018 (Pub. L. 115-91) to eliminate certain contract clause requirements applicable to FAR part 12 commercial item acquisitions and COTS item subcontracts, unless the Secretary of Defense determines that there is a specific reason not to eliminate the regulation.</p> <p>Also, implements paragraph (a) of section 837 of the NDAA for FY 2019 (Pub. L. 115-232), which revises 10 U.S.C. 2375(b)(2) by deleting the words "January 1, 2015" and adding the words "October 13, 1994" to eliminate certain solicitation provisions and contract clauses enacted after October 13, 1994, from commercial item solicitations and contracts, unless the Under Secretary of Defense for Acquisition and Sustainment makes a written determination that it would not be in best interest of the Department of Defense to exclude them. .</p>	09/19/2019 Case manager forwarded draft proposed rule to DARS Regulatory Control Officer. DARS Regulatory Control Officer reviewing.
2018-D071	207, 212, 215, 227	(S) Negotiation of Price for Technical Data and Preference for Specially Negotiated Licenses	Implements section 835 of the NDAA for FY 2018 (Pub. L. 115-91) and section 867 of the NDAA for FY 2019 (Pub. L. 115-232). Section 835 adds 10 U.S.C. 2439 to require negotiation of a price for technical data before development or production of major weapon systems, and amends 10 U.S.C. 2320 to establish a preference for specially negotiated licenses. Section 867 requires DoD, before selecting a contractor for production or sustainment of a major weapon system, to negotiate a price for technical data to be delivered under the contract.	08/25/2021 DARC received Patents, Data, and Copyrights (DFARS) Cmte draft proposed DFARS rule. Will discuss draft proposed DFARS rule on 09/08/2021.
2018-D069	227, 252	(S) Validation of Proprietary and Technical Data	Implements section 865 of the NDAA for FY 2019 (Pub. L. 115-232). Section 865 provides for a presumption of development exclusively at private expense under a contract for commercial items, unless DoD demonstrates the item was not developed exclusively at private expense.	01/27/2021 DARC Director tasked Patents, Data, and Copyrights Team to review public comments, draft final DFARS rule. Report due 03/10/2021. Report due date extended to 09/22/2021.

## Open DFARS Cases as of September 15, 2021

Case Number	Part Number	Title	Synopsis	Status
2018-D066	203, 205, 207, 208, 208, 211, 212, 213, 215, 216, 217, 219, 223, 225, 226, 227, 232, 234, 237, 239, 242, 243, 244, 245, 246, 247, 252	(S) Revision of Definition of Commercial Item	Partially implements sections 836 and 837 of the NDAA for FY 2019 (Pub. L. 115-232). Section 836 separates the definition of "commercial item" into two definitions: one for commercial products and another for commercial services. The effective date of the new definition is January 1, 2020. Section 837, paragraphs (b) and (c), implements the new definition for commercial products in 10 U.S.C. 2533a, regarding the Berry Amendment, and 10 U.S.C. 2533b, regarding specialty metals.	07/17/2021 Case manager forwarded draft proposed rule to DARS Regulatory Control Officer. DARS Regulatory Control Officer reviewing.
2018-D064		(S) Disclosure of Information Regarding Foreign Obligations	Implements Section 1655 of the NDAA for FY 2019 (Pub. L. 115-232), which requires certain offerors and contractors to disclose foreign obligations.	05/10/2019 Case on hold, pending resolution of technical issues.
2018-D055	215, 236, 242, 252	(S) Past Performance of Subcontractors and Joint Venture Partners	Implements section 823 of the NDAA for FY 2019 (Pub. L. 115-232). Section 823 requires the development of policies and revisions to DFARS part 242 for the inclusion of best available information regarding past performance of subcontractors and joint venture partners when awarding contracts.	07/26/2021 DARC Director tasked DFARS Acquisition Environment and Contract Management Team to review public comments, draft final DFARS rule. Report due 09/01/2021. Report due date extended to 09/29/2021.
2018-D053	225, 252	Export-Controlled Items	Requires contractors to provide any export control license to the contract administration office, in order to facilitate the use of existing host nation agreements.	03/08/2020 DARS Regulatory Control Officer notified OASD(LA) of planned publication of draft proposed DFARS rule.
2018-D018	227	(S) Noncommercial Computer Software	Implements section 871 of the NDAA for FY 2018 (Pub. L. 115-91). Section 871 adds new section 10 U.S.C. 2322a, Requirement for consideration of certain matters during acquisition of noncommercial computer software.	05/18/2021 Case manager forwarded draft proposed rule to DARS Regulatory Control Officer. DARS Regulatory Control Officer reviewing.
2018-D009	212, 215, 216, 233, 252	(S) Postaward Debriefings	Implements section 818 of the NDAA for FY 2018 (Pub. L. 115-91). Section 818 requires amendment of the DFARS to provide enhanced debriefing rights for contracts and task or delivery orders that exceed \$10 million.	08/03/2021 DARC Director tasked DFARS Acquisition Environmental and Contract Placement Team to review public comments, draft final DFARS rule. Report due 09/01/2021. Report due date extended to 09/22/2021.

## Open DFARS Cases as of September 15, 2021

Case Number	Part Number	Title	Synopsis	Status
2017-D036	204.71, 232.5, 252.204, 252.232	Payment Instructions	Considers the recommendations of an Ad Hoc team of representatives from DFAS, OUSD Comptroller and CFO, the military services, and DPAP), which concluded that the appropriate accounting treatment for payments can be derived from the type of item acquired and the type of payment.	11/19/2020 DARS Regulatory Control Officer identified issues with draft proposed rule to case manager. Case manager and DARS Regulatory Control Officer resolving issues.
2017-D028		(S) Repeal of Major Automated Information Systems Provisions	Implements section 846 of the NDAA for FY 2017 (Pub. L. 114-328), which repeals 10 U.S.C. Chapter 144A and amends 10 U.S.C. 2334(a)(2). Section 846 is effective on September 30, 2017.	04/12/2017 Case on hold, pending rewrite of DoDI 5000.02 to remove MAIS policy.
2017-D021	242, 252	(S) Contractor Business Systems	Implements sections 893 of the NDAA for FY 2017 (Pub. L. 114-328) to revise the requirements for review of contractor business systems.	01/11/2017 DARC Director tasked Ad Hoc Cmte. to draft proposed DFARS rule. Report due 03/08/2017. Report due date extended to 10/06/2021.
2017-D018	215, 231, 252	(S) Treatment of Incurred Independent Research and Development Costs	Implements section 824 of the NDAA for FY 2017 (Pub. L. 114-328), which amends 10 U.S.C. 2372 to require regulations governing the payment by the DoD of expenses incurred by contractors for independent research and development (IR&D) costs, and amends 10 U.S.C. 2313a to require DCAA reporting of contractor IR&D and bid & proposal costs.	09/09/2021 OIRA cleared proposed DFARS rule. DARS Regulatory Control Officer preparing for publication, pending DoD ATP.
2017-D010	212.3, 212.5, 252.244-7000	(S) Inapplicability of Certain Defense-Unique Laws to Commercial Items	Partially implements section 874 of the NDAA for FY 2017 (Pub. L. 114-328).to address commercial item applicability for DFARS-unique statutes and associated contract clauses issued on or after January 1, 2015. Nonstatutory FAR contract clauses issued on or after January 1, 2015, are being reviewed under FAR Case 2018-019. The rule also redefines "subcontract" and restricts flowing down these contract clauses to subcontracts under contracts for the acquisition of commercial items, including commercially available off-the-shelf items.	11/15/2019 DARS Regulatory Control Officer identified issues with draft final DFARS rule to case manager. Case manager and DARS Regulatory Control Officer resolving issues.
2016-D021	52.225-7040, DFARS 225	Contractor Personnel Supporting U.S. Armed Forces Outside the United States	Updates DFARS clause 252.225-7040 and adds comparable clause for noncontingency situations.	10/07/2020 DARS Regulatory Control Officer identified issues with draft proposed rule to case manager. Case manager and DARS Regulatory Control Officer resolving issues.

**Open DFARS Cases as of September 15, 2021**

<b>Case Number</b>	<b>Part Number</b>	<b>Title</b>	<b>Synopsis</b>	<b>Status</b>
2015-D038	234, 252.234	Earned Value Management Applicability	Addresses applicability of Earned Value Management (EVM) on DoD contracts. The rule will address thresholds, roles and responsibilities, and approval authorities for the application of EVMS.	09/14/2021 DARS Regulatory Control Officer identified issues with draft proposed rule to case manager. Case manager and DARS Regulatory Control Officer resolving issues.