

Panel Discussion: Key Developments Impacting Oversight & GovCon Compliance



Session 1 Panel



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Learning Objectives

- ✓ FAR Overhaul
- ✓ Nontraditional Defense Contractors (NTDC)
- ✓ Past Performance
- ✓ Small Business Regulations (SBA)
- ✓ Small Business Size Standards
- ✓ CASB Update
- ✓ DCAA Changes
- ✓ DCAA's Use of IPAs by External Oversight Summary

FAR Overhaul

Executive Order
14192: Restoring
Common Sense to
Federal
Procurement
(April 15, 2025)

- Streamline FAR
- Include provisions required by statute and necessary for efficient acquisition
- 2 phases:
 - **Phase 1:** (April 2025 – October 2025): FAR part revised and agencies issue deviations to adopt
 - **Phase 2:** (October 2025 – Ongoing): Formal rulemaking to finalize the “New FAR”
- Agencies have 30 days from release of FAR deviation to issue their own deviations
- 4 Year Sunset Provision – those not required by statute expire unless renewed
- As of September 9, 2025
 - Revised 32 parts plus related FAR 52
 - 20 parts left plus related FAR 52
- FAR Companion Guide Version 1 issued September 9, 2024
 - Assist acquisition officials – includes non-statutory rules
- SAM.gov changes as a result of the FAR Overhaul

FAR Overhaul

Part 40 – Information Security and Supply Chain Security

- New provision **52.240-90** Security Prohibitions and Exclusions Representations and Certifications
 - Combined 5 provisions 52.204-24, 52.204-26, 52.204-29, 52.225-20, 52.225-25
- New Clause **52.240-91** Security Prohibitions and Exclusions
 - Combined 7 clauses – 52.204-23, 52.204-25, 52.204-27, 52.204-28, 52.204-30, 52.225-13, 52.240-1
- New clause **52.240-92** Security Requirements (replaces **52.204-2**)
- New Clause **52.240-93** Basic Safeguarding of Covered Contractor Information Systems (replaces **52.204-21**)

FAR Overhaul

Part 31 – Contract Cost Principles and Procedures

- **31.001** Several definitions were removed
- **31.205-6(m)(2)** Unallowability of company provided automobiles for personal use was lined out
 - It is addressed in FAR 31.205-46(d)
- **31.205-33(f)** Removed wording that retainers generally don't have a scope of work
- **31.205-35(c)** Removed wording that mortgage title policy is allowable
- **31.205-42** Removed “*Contract terminations generally give rise to the incurrence of costs or the need for special treatment of costs that would not have arisen had the contract not been terminated.*” These words have been used to imply that unallowable cost should be considered.

FAR Overhaul

Contract Terminations

FAR 31.205-42 Termination costs. [Changed]

~~Contract terminations generally give rise to the incurrence of costs or the need for special treatment of costs that would not have arisen had the contract not been terminated. The following cost principles peculiar to termination situations are to be used in conjunction with the other cost principles in subpart 31.2.~~

FAR Part 31 Requirement Taken Out

~~FAR 49.113 Cost principles.~~

~~The cost principles and procedures in the applicable subpart of part 31 shall, subject to the general principles in 49.201, (a) be used in asserting, negotiating, or determining costs relevant to termination settlements under contracts with other than educational institutions, and (b) be a guide for the negotiation of settlements under contracts for experimental, developmental, or research work with educational institutions (but see 31.104).~~

FAR Overhaul

Contract Terminations



FAR Companion
Guide V1

Government is Not Going to Assist Prime Contractors with Subcontractor Settlements

FAR 49.108-7 Government assistance in settling subcontracts.

~~In unusual cases the TCO may determine, with the consent of the prime contractor, that it is in the Government's interest to provide assistance to the prime contractor in the settlement of a particular subcontract. In these situations, the Government, the prime contractor, and a subcontractor may enter into an agreement covering the settlement of one or more subcontracts. In these settlements, the subcontractor shall be paid through the prime contractor as part of the overall settlement with the prime contractor.~~

Sections Eliminated from FAR BUT Placed Into an Upcoming FAR Companion Guide

The following non-regulatory sections and subsection are moving to the FAR Companion Guide:

- **49.108-7** Government assistance in settling subcontracts,
- **49.113** Cost principles, and
- **49.405** Completion by another contractor.

Nontraditional Defense Contractors (NTDC)

- NTDCs: Broad Topics
- Other Transaction Agreement procurements can drive use of non-traditional defense contractors
 - Non-traditional
 - True commercial entity
 - Strategies for traditional contractors to create non-traditional entities
 - Opportunities for non-traditional small businesses

Past Performance

- Use of past performance from affiliates, joint ventures and foreign affiliates in proposals
 - OTA scenario
 - Nontraditional bids
- Pre-bid protests

Small Business Regulations (SBA)

- Regulatory changes and compliance implications
 - Recertification rules
 - SBA regulations not yet in FAR
 - FAR/SBA inconsistencies
 - Executive Order/outdated clause discrepancies

Small Business Size Standards

- Impact of Joint Ventures (JV) on small business size standards
 - Understand type of JV
 - Revenue calculation
 - Headcount calculation

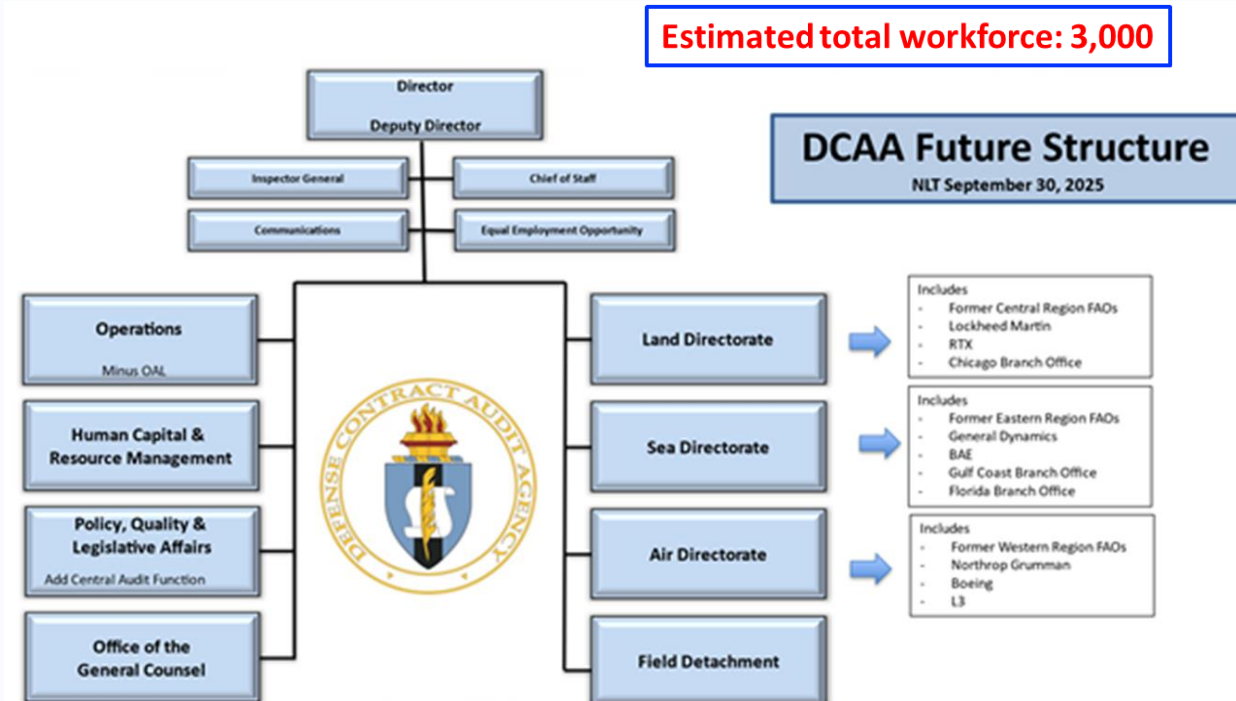
CASB Update

- CAS Board held meetings in June, July, August, and September 2025
- Meeting Agenda Items Include:
 - Statutory CAS thresholds
 - Regulatory CAS thresholds
 - Conformance of CAS to GAAP
 - CAS 404, 408, 409, and 411
 - Open cases addressing CAS 407, 415, and 416
 - Cost impact of accounting changes
 - CAS applicability IDIQ contracts
- September 11, 2025 - Notice of proposed rulemaking on CAS 404, 408, 409 and 411 issued for public comments by October 14, 2025

DCAA Changes

Reorganization

- Elimination of CADs/ Regions
- Organized under Directorates: Land, Sea, Air, and Field Detachment
- Decreased staff 25%
- Eliminated 40 offices
- Still more to come?



DCAA Changes

What's the Impact?



DCAA is going to settle with fewer auditors. Less than 3,000 total staff and adjust as needed. Lowest it has had since its early DCAA years



Will probably not impact its incurred cost



Audit priorities have already been established



Impact to audit process – unclear if any changes



DCAA could “readjust” frequency of contract required (non-demand requested audits - other than proposals, claims, terminations and time sensitive audits) audit effort



DCAA will use virtual meetings more to save travel costs

DCAA's Use of IPAs by External Oversight Summary

DoD-IG –
IPA Audits
(January 21, 2025)

DoD-IG – IPA Audits (January 21, 2025) - How Well IPAs Performed

Objective: Determine whether IPAs complied with GAS when performing audits of DoD contractor incurred costs Evaluated 16 audits (October 1, 2018, through September 30, 2022)

- **Findings/Non-compliances:**

- Failure to obtain sufficient evidence to support reported conclusions
- Did not use a sufficient sample methodology to support conclusions
- Did not document the work performed in sufficient detail
- Failure to make inquiries of management

- **Recommendations:**

- Revise performance work statements
- Require IPAs to address compliance with GAS in their quality control plans

GAO Report – Continued Need for IPAs (May 19, 2025) - Still Needed?

- **Recommendations:** DCAA assess the future use of IPAs to perform ICS audits and present a plan to Congress by April 30, 2026

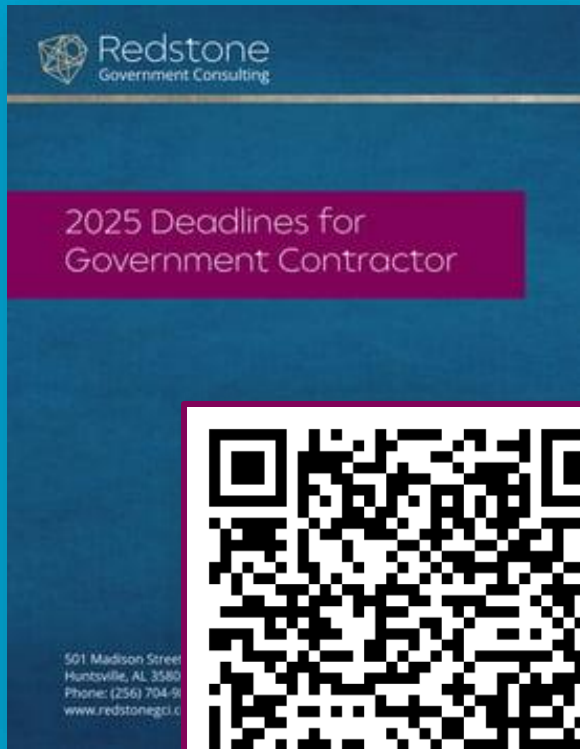
Questions and Discussion



2025 Critical Deadlines for Government Contractors

This guide provides you with all of the essential information and dates you need to know, including:

- Important deadlines for your internal departments
 - Accounting,
 - Human Resources,
 - Contracts & Subcontracts, and
 - Government Compliance
- Contract performance and delivery deadlines
- Deadlines for reporting and compliance requirements
- Deadlines for audits and reviews



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