



PROCUREMENT MEMORANDUM 2024-04

ACTION

MEMORANDUM FOR: Senior Bureau Procurement Officials

FROM: Olivia J. Bradley
Senior Procurement Executive and
Director for Acquisition Management

André V. Mendes
Chief Information Officer

SUBJECT: Implementation of Federal Acquisition Supply Chain Security Act (FASCSA) Orders

Background

Title II of the SECURE Technology Act, also referred to as the Federal Acquisition Supply Chain Security Act of 2018, established the Federal Acquisition Security Council (FASC) and authorized it to perform a variety of functions, including making recommendations for orders that would require the removal of covered articles from executive agency information systems or the exclusion of sources or covered articles from executive agency procurement actions. The FASC is an Executive branch interagency council, which is chaired by a senior-level official from the Office of Management and Budget (OMB). The FASC includes representatives from the General Services Administration (GSA); Department of Homeland Security (DHS); Office of the Director of National Intelligence (ODNI); Department of Defense (DoD); Department of Justice (DOJ); and Department of Commerce (Commerce).

The FASC issued a final rule adding 41 CFR part 201-1¹, which implements the Federal Acquisition Supply Chain Security Act of 2018 requirements. The FASC final rule establishes procedures that govern the operation of the FASC, the sharing of supply chain risk information, the exercise of its authorities to recommend issuance of orders requiring removal of covered articles from information systems (removal orders), and orders excluding sources or covered articles from future procurements (exclusion orders) that pose a risk to our nation's supply chain. This rule refers to both exclusion and removal orders as "FASCSA orders".

Under the FASC final rule, the FASC will evaluate sources and/or covered articles by addressing a common set of non-exclusive factors that are listed in the FASC final rule. Initiation of the process can begin either by referral of the FASC or any member of the FASC; upon the written request of any U.S. Government body; or based on information submitted to the FASC by any individual or non-Federal entity that the FASC determines to be credible.

¹ <https://www.ecfr.gov/current/title-41/subtitle-D/chapter-201/part-201-1>

Collectively, the information sharing requirements and implementation of FASCSA orders will address risks in supply chains by reducing or removing threats and vulnerabilities that may lead to data and intellectual property theft, damage to critical infrastructure, harm to Federal information systems, and otherwise degrade our national security. This rule will also help make Government supply chains and information systems more resilient and less subject to disruptions that could impact Government operations.

Purpose

The purpose of this Procurement Memorandum is to provide guidance and procedures in reference to the interim rule to amend the Federal Acquisition Regulation (FAR)² to implement supply chain risk information sharing and exclusion or removal orders consistent with the Federal Acquisition Supply Chain Security Act of 2018 and the final rule issued by the Federal Acquisition Security Council.

Required Actions

1. All solicitations for contracts³ issued on or after December 4, 2023, shall include FAR provision 52.204-29 and FAR clause 52.204-30⁴ or its alternate⁵.
2. All new contracts and orders⁶ awarded on or after December 4, 2023, shall include FAR clause 52.204-30 (including any applicable alternate).
3. Existing indefinite delivery contracts shall be modified to include the FAR clause 52.204-30 (including any applicable alternate) within 6 months of December 4, 2023, to apply to future orders.
4. If exercising an option or modifying an existing contract or task or delivery order to extend the period of performance, contracting officers shall include the FAR clause 52.204-30 (including any applicable alternate).
5. For actions at or below the micro-purchase threshold⁷, do not procure or obtain, or extend or renew a contract to procure or obtain, any covered article, or any products or services produced or provided by a source, including contractor use of covered articles or sources, if prohibited from doing so by an applicable FASCSA order issued by the Director of National Intelligence, Secretary of Defense, or Secretary of Homeland Security (see FAR 4.2303).
 - a. To minimize risks of purchasing an excluded product or service, purchase cardholders are encouraged to utilize federal supply schedules or other indefinite-delivery vehicles within the order of preference.

² [FAR Case 2020-011](#)

³ For purposes of this Procurement Memorandum the term "contract" has the meaning as defined in FAR 2.101 and includes orders under indefinite delivery, indefinite quantity contracts and orders under blanket purchase agreements.

⁴ Where the conditions specified at 4.2304(a)(1) apply.

⁵ Where the conditions specified at 4.2304(a)(2) apply.

⁶ If not included in the basic contract.

⁷ This includes purchases made with a Government Purchase Card.

Waivers to FASCSA Orders

1. Where an acquisition is partially covered by a previously approved individual waiver or class waiver in accordance with the procedures established in FAR 4.2305-Waivers, the contracting officer shall work with the program office or requiring activity to identify in the solicitation or order, the covered articles or services produced by or provided by a source that are subject to the waiver.
2. For acquisitions where a FASCSA individual or class waiver has not been granted but is required, the program office or requiring activity shall submit the elements identified in FAR 4.2305(a) to the contracting officer for review. If the contracting officer agrees a waiver is justified, they will submit the required waiver information to SCRM_IOC@doc.gov for review and submission to the official who issued the FASCSA order.
3. For acquisitions when a FASCSA individual or class waiver has not already been granted and an offeror provides a disclosure⁸ as part of its offer, the contracting officer shall review the disclosure and, if a waiver is sought, coordinate with the program office or requiring activity to submit the required information to SCRM_IOC@doc.gov for review and submission to the official who issued the FASCSA order.

Additional FASCSA Requirements

1. Pursuant to FAR 4.2302-Sharing Supply Chain Risk Information, contracting officers and program offices shall coordinate with the Department of Commerce's Supply Chain Risk Official regarding relevant information on actual or potential supply chain risk determined to exist during the procurement process. All relevant information shall be submitted to SCRM_IOC@doc.gov. Additional guidance on sharing relevant information can be found in [NIST SP 800-161, Appendix E, Table E-2: Risk Severity Schema](#).
2. Pursuant to FAR 4.2303(c)(2), while most FASCSA orders for sources and covered articles will be identified in the System for Award Management (SAM), in rare cases, orders may not be listed. As such, it is the responsibility of the program office or the ordering activity to identify unlisted orders for sources and covered articles in Section 6 of the Office of the Chief Information Officer's (OCIO) most recently published IT Compliance in Acquisition Checklist (IT Checklist), as supplemental information. All inquiries regarding listed and non-listed FASCSA orders for sources and covered articles shall be referred to SCRM_IOC@doc.gov. The contracting officer shall coordinate with the program office and the OCIO via SCRM_IOC@doc.gov to implement FASCSA orders not identified in SAM.
3. Pursuant to FAR 4.2304(g), upon receipt of a report submitted by a contractor required by FAR 52.204-30(c)(3)(i), the contracting officer shall submit the report to SCRM_IOC@doc.gov within one (1) day to begin the review process and to develop the best strategy to remedy the issue(s).

⁸ See FAR 52.204-29(e).

Definitions

See FAR 4.2301 for definitions of terms found in this memorandum.

Effective Date

This procurement memorandum is effective immediately and remains in effect until rescinded.

Questions

Please direct any questions regarding this Procurement Memorandum to
[OAM Mailbox@doc.gov](mailto:OAM_Mailbox@doc.gov).