



Regulatory Secretariat Division (MVCB)
General Services Administration
1800 F Street NW, 2nd Floor
Washington, DC 20405

July 23, 2026

Re: BSA Comments on the Revolutionary FAR Overhaul, Round 1 (FAR Cases 2026-001, 2026-002, 2026-005, and 2026-007)¹

Dear Members of the FAR Council:

The Business Software Alliance (BSA) is the leading advocate for the global enterprise software industry.² We work in over 20 markets in the Americas, Europe, and Asia, advocating for policies that build trust in technology so that the government, every industry sector, and the public can benefit from innovation. BSA members are at the forefront of providing AI, cybersecurity, cloud computing, quantum, and other technologies. Our members welcome the opportunity to comment on Round 1 of the Revolutionary FAR Overhaul (RFO), as many of our members hold or are pursuing federal contracts and rely on the FAR to provide clarity and consistency in how the government buys commercial software and services. Our comments below focus on FAR Parts 2, 39, 40, and 52, which have the direct effect on commercial software providers.

FAR Part 2, Definitions

The proposed definitions of “Federal information system” and “information system” should distinguish a system the government owns or operates from a commercial service the government merely subscribes to. As drafted, an overbroad reading could sweep a standard commercial cloud offering into the definition of a federal information system simply because an agency purchases a subscription to it, triggering safeguarding obligations designed for government owned systems.

Relatedly, the FAR Council should confirm that replacing “federally controlled information system” with the new “Federal information system” definition does not expand the population of systems subject to safeguarding requirements or capture commercial offerings that were previously outside scope.

The revisions to commercial computer software, commercial product, commercial service, COTS item, computer software, and technical data are presented as conforming changes, and BSA asks the FAR Council to confirm they do not narrow commerciality. Any narrowing of commercial computer software or

¹FR Doc. 2026-12559 (FAR Case 2026-001); FR Doc. 2026-12560 (FAR Case 2026-002); FR Doc. 2026-12561 (FAR Case 2026-005); FR Doc. 2026-12562 (FAR Case 2026-007).

² BSA's members include: Adobe, Alteryx, Amadeus, Asana, Atlassian, Autodesk, Avalara, Bentley Systems, Box, Cisco, Cohere, Cohesity, Dassault Systemes, Databricks, Docusign, Dropbox, Elastic, EY, Graphisoft, HubSpot, IBM, Informatica, Kyndryl, MathWorks, Microsoft, Notion, Okta, OpenAI, Oracle, PagerDuty, Palo Alto Networks, PTC, Rubrik, Salesforce, SAP, ServiceNow, Shopify Inc., Siemens Industry Software Inc., Trend Micro, TriNet, Veeam, Workday, Zendesk, and Zoom Communications Inc.

computer software would flow directly into the commercial software data rights framework at DFARS 252.227-7202, and that treatment should be preserved. The commercial service definition should continue to cover professional and support services sold on standard commercial terms without triggering deliverable acceptance or non-commercial data rights regimes.

BSA also recommends that the commercial computer software definition cross reference the minor modifications description already used in the commercial products definition. We ask that the language parallel to paragraph 6 of that definition recognizing software developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple state, local, or foreign governments.

For Controlled Unclassified Information (CUI), BSA recommends deleting the word “permits” from the first paragraph of the definition. As drafted, information may be designated CUI whenever an agency permits it, not only when required by law, regulation, or policy. This discretion is unworkable in practice: agencies will not consistently observe the narrower exception in subparagraph (3), and contractors will be left handling inconsistently designated information across the government.

Finally, BSA recommends the FAR Council adopt definitions for commonly used artificial intelligence terms, including “artificial intelligence,” “model,” “input,” and “output,” based on the NIST AI Resource Center glossary already used by DOD and other agencies. Doing so now will avoid a fragmented regulatory approach to AI across the FAR.

FAR Part 39, Information and Communication Technology Acquisition

BSA asks the FAR Council to clarify how information and communication technology (ICT) will be defined and to confirm the scope aligns with commercial industry usage. As proposed, the shift from information technology to ICT may expand the universe of acquisitions subject to Part 39, and the FAR should recognize the practical differences between SaaS, on premise software, and operational technology rather than applying a single set of requirements across all three.

BSA also asks the FAR Council to confirm that removing FAR 39.105 and clause 52.239-1 (Privacy or Security Safeguards) does not leave any gap in privacy or security protections for software contractors during the transition to the consolidated Part 40 framework.

FAR Part 40, Supply Chain Security and Information Safeguarding

The government, not the contractor, should bear sole responsibility for determining and communicating CUI status through contracting documentation. Contractors should be accountable for protecting information once notified, but the current draft does not clearly assign the designation responsibility, which creates uncertainty for contractors acting in good faith.

The rule should also define when the 72-hour incident reporting clock begins. BSA recommends defining discovery as the point when a contractor has a reasonable basis, supported by technical investigation or verification, to conclude that a reportable incident has occurred. Reporting should be triggered by verified or confirmed incidents only, not by preliminary alerts or suspected events, which would overwhelm government tracking systems without providing actionable information. BSA supports the 72-hour reporting standard – if consistent with the standard applied under FISMA and FedRAMP – as a reasonable and workable alignment with existing federal timelines.

BSA recommends that the uniform FAR safeguarding standard expressly take precedence over agency specific requirements, and that compliance with the FAR standard satisfy a contractor's full obligation.

Layering additional agency specific rules on top of a uniform FAR standard undermines the consolidation this rule is meant to achieve. Relatedly, the FAR Council should reconcile the new CUI incident reporting timeline with GSA's separate one day CUI reporting requirement so contractors face a single consistent timeline rather than conflicting agency specific rules. BSA supports recognizing FedRAMP Moderate as the baseline for cloud security and treating FedRAMP authorized providers that follow FedRAMP incident procedures as satisfying the Part 40 reporting requirement.

FAR Part 52, Contract Clauses

BSA has a significant concern with the proposed revision to the order of precedence clause at FAR 52.212-4. First, the current clause specifically references "license agreements for computer software" within addenda to the contract; the proposed clause deletes this reference. While that language may be technically subsumed within the broader reference to addenda, the specific callout has been important in practice for commercial software vendors dealing with contracting officers who are reluctant to attach commercial terms to a contract or who do not recognize that commercial terms control over conflicting FAR clauses in commercial procurements. BSA asks the FAR Council to restore the specific reference to license agreements for computer software in the addenda paragraph.

Second, and more significantly, the proposed clause would place other contract clauses incorporated into the contract, potentially including intellectual property clauses, ahead of addenda that incorporate commercial license terms. Under the current clause, only 52.212-5 takes precedence over commercial terms in addenda. Elevating an unspecified set of other contract clauses above addenda would undermine commercial software vendors' ability to protect their intellectual property under negotiated license terms. BSA asks the FAR Council to specify which, if any, other contract clauses would take precedence over addenda under the revised paragraph (3), and to ensure that no intellectual property clauses are included among them.

BSA also asks the FAR Council to provide a defined transition period and clear guidance on how active contracts will be treated if FAR provisions and clauses are renumbered from the current 52.2XX format to a proposed 52.4XX format. This renumbering would require updates to contract management systems, templates, compliance checklists, and clause tracking tools across the industry, and the transition costs for large federal contractors could be significant. BSA recommends that any transition allow contract clause references to be updated over the course of a contract's lifecycle without requiring affirmative amendment of every affected subcontract. In a related vein, we ask that the FAR Council treat the final rule as a single, clean cutover from the current FAR deviations, rather than allowing a staggered transition in which some deviations persist while others are superseded at different times. A staggered approach would leave contractors tracking which deviations remain in effect and which have been superseded at any given time, adding unnecessary compliance burden on top of the transition costs already discussed above.

BSA appreciates the FAR Council's efforts to modernize federal acquisition regulations and we welcome the opportunity to discuss any of the comments above in more detail.

Sincerely,

Jessica Salmoiraghi
Senior Director, IT Modernization & Procurement