

**Federal Acquisition Regulation**  
**Federal Acquisition Circular 2021-07 Summary of Rules**  
**FAC 2021-07**

<b><u>Item</u></b>	<b><u>Subject</u></b>	<b><u>FAR Case</u></b>
I	Section 508-Based Standards in Information and Communication Technology	2017-011
II	Revision of Limitation on Subcontracting	2016-011
III	Scope of Review by Procurement Center Representatives	2020-012
IV	Good Faith in Small Business Subcontracting	2019-004
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**Item I— Section 508-Based Standards in Information and Communication Technology (FAR Case 2017-011)**

This final rule amends the FAR to incorporate recent revisions and updates to accessibility standards issued by the U.S. Access Board. The Access Board’s final rule was published in the Federal Register at 82 FR 5790 on January 18, 2017. This final rule updates the FAR to ensure that the updated standards are appropriately considered in Federal ICT acquisitions. The final rule includes a “safe harbor” provision for existing (i.e., legacy) ICT, which considers legacy ICT in existence on or before January 18, 2018, to be compliant if it meets the earlier standard issued pursuant to section 508 of the Rehabilitation Act of 1973 (see E202.2 of Revised Standards) and the legacy ICT is not altered after January 18, 2018. In other words, such “untouched” ICT need not be modified or upgraded to conform to the revised 508 standards as long as it already conforms to the original 508 standards. However, ICT acquired on or before January 18, 2018, will need to be upgraded or modified to conform to the new standard if such ICT is altered after January 18, 2018, or does not comply with the original 508 standards. In addition, ICT acquired after January 18, 2018, must be upgraded or modified to conform to the new standard.

**Item II— Revision of Limitation on Subcontracting (FAR Case 2016-011)**

This final rule amends the FAR to implement regulatory changes made by the Small Business Administration (SBA) in its final rule published in the Federal Register at 81 FR 34243, on May 31, 2016. SBA’s final rule implements the statutory requirements of section 1651 of the National Defense Authorization Act for Fiscal Year 2013. Section 1651 revised and standardized the limitations on subcontracting, including the nonmanufacturer rule, that apply to small business concerns under FAR part 19 procurements. Section 1651 shifts the limitations on subcontracting from the concept of a required percentage of work to be performed by a prime contractor to the concept of a limit on the percentage of the overall award amount to be spent by the prime on subcontractors. Significantly, section 1651 excludes from this calculation the percentage of the award amount that the prime contractor spends on subcontractors who are similarly situated entities. This rule implements the revised and standardized limitations on

subcontracting through the use of a single FAR clause for every small business program, instead of continuing to implement through multiple FAR clauses that were specific to a particular small business program. This rule also revises the FAR clause implementing the nonmanufacturer rule to reflect the standardized requirements across all the small business programs.

**Item III— Scope of Review by Procurement Center Representatives  
(FAR Case 2020-012)**

This final rule amends the FAR to implement section 1811 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328), as implemented in the Small Business Administration (SBA) final rule published at 84 FR 65647 on November 29, 2019. Section 1811 allows SBA’s procurement center representatives to review any solicitation for a contract or task order, without regard to whether it is set aside for small business concerns, or reserved in the case of a multiple-award contract, or whether it would result in a bundled or consolidated contract or order.

**Item IV— Good Faith in Small Business Subcontracting (FAR Case 2019-004)**

This final rule amends the FAR to implement a section of the National Defense Authorization Act for Fiscal Year 2017, which requires examples of failure to make good faith efforts to comply with a small business subcontracting plan. This final FAR rule requires that all indirect costs, with certain exceptions, are included in commercial plans and SSRs. FAR 19.705–7 contains examples of a good faith effort, and examples of a failure to make a good faith effort.

**Item V—Technical Amendments**

Editorial changes are made at FAR 42.709–1 through 42.709–7, 52.242–3, and 52.245–1.