

Federal Acquisition Regulation
Federal Acquisition Circular 2023-02 Summary of Rules
FAC 2023-02

<u>Item</u>	<u>Subject</u>	<u>FAR Case</u>
I	Accelerated Payments Applicable to Contracts with Certain Small Business Concerns	2020-007
II	Small Business Program Amendments	2019-008
IV	Technical Amendments	

Item I — Accelerated Payments Applicable to Contracts with Certain Small Business Concerns (FAR Case 2020-007)

This final rule provides for accelerated payments to contractors that are small businesses and to small business subcontractors by accelerating payments to their prime contractors. The rule implements section 873 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Pub. L. 116–92), which amends 31 U.S.C. 3903(a).

Item II — Small Business Program Amendments (FAR Case 2019-008)

This final rule amends the FAR to align with SBA’s regulations related to several topic areas. This rule clarifies that SBA determines size status as of the date of initial offer for a multiple-award contract, whether or not the offer includes price, or the price is evaluated.

Additionally, in accordance with FAR 19.301–2(b)(2), the “ostensible subcontractor rule” (a small business must not be unduly reliant on a nonsimilarly situated small business subcontractor or have such a subcontractor perform the primary and vital requirements of the contract) is implemented in this rule as a new ground for socioeconomic status protest.

The rule also clarifies that contracting officers will not be able to exercise options past the fifth year of long-term 8(a) contracts if the 8(a) contractor no longer qualifies for the 8(a) program.

Lastly, the rule clarifies the size standard for the information technology value added resellers under North American Industry Classification System code 541519 is 150 employees, not 500 employees.

Item III — Technical Amendments

Administrative change is made at FAR 2.101.