

4.2304 Procedures.

(a) *Identifying applicable FASCSCA orders.* The applicability of *FASCSCA orders* to a particular *acquisition* depends on the *contracting office's* agency, the scope of the *FASCSCA order*, the funding, and whether the requirement involves certain types of information systems (see the definition of *FASCSCA order* at [4.2301](#)). The *contracting officer shall* coordinate with the program office or requiring activity to identify the *FASCSCA order(s)* that apply to the *acquisition* as follows:

(1) Unless the program office or requiring activity instructs the *contracting officer* otherwise, *FASCSCA orders* apply as follows: contracts awarded by civilian agencies will be subject to DHS *FASCSCA orders*, and contracts awarded by the Department of Defense will be subject to DoD *FASCSCA orders*. See paragraph (b) of [52.204-30](#), Federal Acquisition Supply Chain Security Act Orders-Prohibition.

(2) For *acquisitions* where the program office or the requiring activity instructs the *contracting officer* to select specific *FASCSCA orders*, the *contracting officer must* select “yes” or “no” for each applicable type of *FASCSCA order* (*i.e.*, “DHS *FASCSCA Order*” “DoD *FASCSCA Order*” or “DNI *FASCSCA Order*”). See paragraph (b)(1) of [52.204-30](#), Federal Acquisition Supply Chain Security Act Orders—Prohibition, with its *Alternate I*.

(b) Federal Supply Schedules, Governmentwide *acquisition* contracts, multi-agency contracts specific procedures—

(1) Applying *FASCSCA orders*. An agency awarding this type of contract *may* choose to apply *FASCSCA orders* in accordance with agency policy as follows:

(i) *Application at the contract level.* The agency awarding the basic contract *may* choose to apply *FASCSCA orders* to the basic contract award. This is the preferred method, especially if small value orders or orders without a request for quotation (RFQ) are expected. Ordering activity *contracting officers may* use this contract vehicle without taking further steps to identify applicable *FASCSCA orders* in the order. The *contracting officer* awarding the basic contract would select “yes” for all *FASCSCA orders* (*i.e.*, “DHS *FASCSCA Order*” “DoD *FASCSCA Order*” and “DNI *FASCSCA Order*”) (see paragraph (b)(1) of [52.204-30](#), Federal Acquisition Supply Chain Security Act Orders—Prohibition, with its *Alternate I*). If the *contracting officer* becomes aware of a newly issued applicable *FASCSCA order*, then the agency awarding the basic contract *shall* modify the basic contract to remove any *covered article*, or any *products* or services produced or provided by a *source*, prohibited by the newly issued *FASCSCA order*.

(ii) *Application at the order level.* The agency awarding the basic contract *may* choose to apply *FASCSCA orders* at the order level, as implemented by the ordering activity *contracting officer*.

(2) *Collective FASCSCA orders.* If a new *FASCSCA order* is issued collectively by the Secretary of Homeland Security, Secretary of Defense, and Director of National Intelligence, then the *contracting officer shall* modify the basic contract based upon the requirements of the order, removing any *covered article*, or any *products* or services produced or provided by a *source* (see [4.2303\(b\)](#)).

(3) *Interagency acquisitions.* For an *interagency acquisition* (see subpart [17.5](#)) where the funding agency differs from the awarding agency, the funding agency *shall* determine the applicable *FASCSCA orders*.

(4) *Inconsistencies*. If any inconsistency is identified between the basic contract and the order, then the *FASCSA orders* identified in the order will take precedence.

(c) *Updating the solicitation or contract for new FASCSA orders*. The *contracting officer* shall update a *solicitation* or contract if the program office or requiring activity determines it is necessary to:

(1) Amend the *solicitation* to incorporate *FASCSA orders* in effect after the date the *solicitation* was issued but prior to contract award; or

(2) Modify the contract to incorporate *FASCSA orders* issued after the date of contract award.

(i) Any such modification *should* take place within a reasonable amount of time, but no later than 6 months from the determination of the program office or requiring activity.

(ii) If the contract is not modified within the time specified in paragraph (c)(2)(i) of this section, then the contract file *shall* be documented providing rationale why the contract could not be modified within this timeframe.

(d) *Agency specific procedures*. The *contracting officer* shall follow agency procedures for implementing *FASCSA orders* not identified in SAM (see [4.2303\(c\)\(2\)](#)).

(e) *Disclosures*. If an *offeror* provides a disclosure pursuant to paragraph (e) of [52.204-29](#), Federal Acquisition Supply Chain Security Act Orders—Representation and Disclosures, the *contracting officer* shall engage with the program office or requiring activity to determine whether to pursue a waiver, if available, in accordance with [4.2305](#) and agency procedures or not award to that *offeror*. For *FASCSA orders* handled at the order level, the disclosures language is found at paragraph (b)(5) of [52.204-30](#), Federal Acquisition Supply Chain Security Act Orders—Prohibition, with its *Alternate II*.

(f) *Waiver*. An *acquisition* may be either fully or partially covered by a waiver. Partial waiver coverage occurs when only portions of the *products* or services being procured or provided by a *source* are covered by an applicable waiver. If the requiring activity notifies the *contracting officer* that the *acquisition* is partially covered by an approved individual waiver or class waiver under [4.2305](#), then the *contracting officer* shall work with the program office or requiring activity to identify in the *solicitation*, RFQ, or order, the *covered articles* or services produced by or provided by a *source* that are subject to the waiver (see [41 CFR 201-1.304\(b\)](#)).

(g) *Reporting*. If a contractor provides a report pursuant to paragraph (c) of [52.204-30](#), Federal Acquisition Supply Chain Security Act Orders—Prohibition, the *contracting officer* shall engage with the agency supply chain risk management program in accordance with agency procedures.

Parent topic: [Subpart 4.23 Federal Acquisition Security Council](#).