January 13, 2022

Ms. Jennifer Hawes
Procurement Analyst
Regulatory Secretariat Division
General Services Administration
1800 F Street, NW
Washington, DC 20006

Subject: FAR Case 2021-016, Federal Acquisition Regulation: Minimizing the Risk of Climate Change in Federal Acquisitions

Dear Ms. Hawes:

The Coalition for Government Procurement ("the Coalition") appreciates the opportunity to provide the FAR Council with comments in response to its advance notice of proposed rulemaking on Mitigating the Risks of Climate Change in Federal Acquisitions ("Advance Notice").

The Coalition is a non-profit association of firms selling commercial services, products, and solutions to the Federal Government. Coalition members include small, medium, and large businesses that account for more than $145 billion in Federal Government contracts, including tens of billions of dollars of the sales generated through the GSA Multiple Award Schedules (MAS) program. The Coalition is proud to have worked with Government officials for more than 40 years towards the mutual goal of common-sense acquisition.

The Coalition supports the FAR Council's outreach to industry as it considers drafting a FAR amendment that minimizes climate change risk in major Federal procurements in accordance with Executive Order (E.O.) 14030, *Climate-Related Financial Risk*. In drafting a proposed rule, the Coalition respectfully suggests that the FAR Council consider the following principles:

1. Ensure Uniformity Across Regulations by Harmonizing with the SEC Climate Risk Framework. The Securities and Exchange Commission (SEC) is expected to release a proposed rule on climate change risk disclosure requirements for public companies in the coming months. It is the Coalition's understanding that one of the objectives of the SEC in issuing these regulations is to address the lack of standardization in how companies disclose their GHG and other sustainability information. Many of the Coalition's member companies are recognized leaders in corporate sustainability and are committed to disclosing their greenhouse gas emissions and environmental, social and governance (ESG) activities to the public and investors. However, as the SEC has observed, there is variation in how companies report this information. For example, there is a lack of standardization in the third-party organizations that companies use for verification purposes and the types of data that are included in the ESG reporting.

The Coalition previously provided comments to the Office of Undersecretary of Defense for Acquisition & Sustainment in response to the DARS-2021-0014 "Sustainability and Climate-related Disclosures" RFI. In those comments the Coalition recommended that, if Defense Pricing and Contracting and the FAR Council decide to establish requirements for the disclosure of GHG emissions, climate-related financial risk and the development of specific reduction targets, that these requirements should be harmonized in the DFARS and FAR.

The Coalition recommends that the FAR Council and the Defense Department await the forthcoming rulemaking by the SEC and align with the SEC's framework for GHG emissions reporting, climate-related financial risk and specific reduction targets. We believe that the combined efforts of the FAR Council, the Department of Defense, and the SEC would have a more significant impact on incentivizing commercial companies to reduce their environmental impacts and contribute to achieving the Administration's climate change objectives, than if the FAR Council were to develop its own unique requirements.

2. Ensure a Level Playing Field and Fair Competition. Any new sustainability requirements need to be fair in how they are applied based on business size. The Advance Notice concerns "major Federal agency procurements" and EO 14030 requires the FAR Council to consider amending the FAR to require "major Federal suppliers" to disclose GHG emissions and climate-related financial risk. The Coalition wants to ensure that large businesses are not disproportionally impacted by any new sustainability requirements. A commitment to environmental sustainability has become standard commercial practice for large businesses in many industries. However, it is less so for small businesses due to the cost and other investments involved. These costs can be particularly daunting for small businesses in an industry where the prominence of price is ever-present. Sustainable products and services often carry a price premium, and there have not yet been strong market indicators from many Government customers that they are willing to pay that premium to warrant the investment. The Coalition encourages the FAR Council to consider how these changes may impact large and small contractors so as to ensure there is a level playing field.

The FAR Council also should consider the fairness of using a standard that rewards contractors that achieve greater reductions in GHG emissions. The Coalition's members have expressed that it is likely to be more difficult for contractors with established GHG reduction programs to achieve the same reductions as companies that are newly reducing their GHG emissions. Contractors that have been working for many years to reduce their GHG emissions should not be penalized for their proactive approach. If the FAR Council were to use the reduction of GHG emissions as an incentive, one option is to use a benchmark to look at how a contractor has reduced its GHG emissions over a longer period of time.

3. Any New Standards Must be Measurable and Easy to Understand for Government and Industry. It is important that contractors can comply with any new standards related to the measuring and reporting of GHG emissions and the social cost of such emissions. Any new standards therefore need to be reasonable, measurable, and reliable. They must also be easily understood and implemented by both suppliers and the acquisition workforce. The Coalition recommends that any FAR amendment involve simple, high-level guidance to allow contracting officers to evaluate a contractor's approach to measuring and reporting GHG emissions and the social cost of such emissions, and leaves flexibility for the contracting officers to work with the contractor's/industry's current approach.

4. Consider a Phased In Approach beginning with a Pilot Program. The Coalition recommends that the Council consider using a pilot program for GHG emissions reporting and/or reduction requirements. This would help the Federal Government determine how to balance incentivizing companies to address climate change risk without damaging the Federal Government's industrial base.

5. Continue an Open Dialogue between Government and Industry on Sustainable Federal Acquisition. The Coalition appreciates the opportunity to provide industry input as the FAR Council works to implement recent Executive Orders on sustainability and climate-related disclosures. We believe it is important that there is an ongoing dialogue between the Federal Government and industry about how to best leverage commercial best practices and commercial technologies to meet the Biden Administration's sustainability goals. The Coalition and its members look forward to engaging in such discussions and would welcome the opportunity to provide feedback on any draft proposals.

Again, the Coalition appreciates the opportunity to provide industry input in response to the Minimizing the Risk of Climate Change in Federal Acquisitions Advance Notice. If there are any questions, I may be reached at rwaldron@thecgp.org.

Very respectfully,

Roger Waldron
President