



February 6, 2024

The Honorable Shalanda Young
Director
U.S. Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Director Young:

BSA | The Software Alliance¹ is the leading advocate for the enterprise technology sector in the global marketplace. Our members' innovative solutions are helping to positively transform businesses and government agencies alike. That is why we urge the Office of Management and Budget to take a stronger role in coordinating a series of overlapping and conflicting regulations governing how the US government procures IT and software services.

The current regulatory framework for IT is under rapid change. The Administration has an ambitious goal of modernizing the government's current IT infrastructure to better serve the public. At the same time, President Biden's executive order on artificial intelligence (AI) also charges the government with finding ways to responsibly incorporate AI-enabled technology. The executive order also sets a goal of creating "a coordinated, Federal Government-wide approach" regarding the use of AI. Through its *Better Contracting Initiative*, the Administration has an additional goal of setting a government-wide approach to purchasing technology. The Administration is taking steps to respond to the rapid pace of change in the IT market.

The practical result, though, is that **eight** different regulatory efforts related to IT are now currently underway:

- OMB's recently closed memo on Artificial Intelligence
- OMB's recently closed FedRAMP memo
- The Department of Defense's (DOD) Cybersecurity Maturity Model Certification (CMMC)

¹ BSA's members include: Adobe, Alteryx, Asana, Atlassian, Autodesk, Bentley Systems, Box, Cisco, CNC/Mastercam, Databricks, DocuSign, Dropbox, Elastic, Graphisoft, Hubspot, IBM, Informatica, Kyndryl, MathWorks, Microsoft, Okta, Oracle, PagerDuty, Palo Alto Networks, Prokon, Rubrik, Salesforce, SAP, ServiceNow, Shopify Inc., Siemens Industry Software Inc., Splunk, Trend Micro, Trimble Solutions Corporation, TriNet, Twilio, Workday, Zendesk, and Zoom Video Communications, Inc.

- FAR Case 2021-017 Federal Acquisition Regulation: Standardizing Cybersecurity Requirements for Unclassified Federal Information Systems
- FAR Case 2021–019 Cyber Threat and Incident Reporting and Information Sharing
- FAR Case 2023-06 Implementation of Federal Acquisition Supply Chain Security Act (FASCA) Orders
- Cybersecurity and Infrastructure Security Agency CISA 2022-0010 responding to Request for Information defining Cyber Incident Reporting for Critical Infrastructure Act (CIRCA)
- Department of Commerce Proposed Rule DOC-2021-0007-001 National Emergency with Respect to Significant Malicious Cyber-Enabled Activities


To achieve the Administration’s stated goals, BSA asks that OMB take the lead in creating government-wide consistency in IT regulations, by working to harmonize and deconflict the ongoing regulations within OMB, the Federal Acquisition Council, and the DOD.

There are positive steps underway. We applaud the FAR Council for looking at these three FAR rules in concert, but also urge that they consider how other procurement rules outside of the FAR, like CMMC and FedRAMP, will impact the purchasing environment for software. As software companies must make changes for one agency, it splinters the core software into something that is not a commercial item, which is against the federal government’s purchasing guidance.

The Office of Management and Budget’s primary function involves the coordination and management of functions, particularly procurement, across federal agencies. No entity in government is better-positioned to harmonize these different regulatory workstreams and ensure that the government can access innovative technologies to better deliver services to the general public.

Again, we respectfully urge OMB to take a leading role in coordinating across all of the current regulations that impact the federal IT market to make sure that they do not conflict. We also strongly recommend OMB to consult with stakeholders, including industry, to look at these changes in concert, as the multiple regulations will need a coordinated approach to advancing AI innovation through modernized IT. BSA stands ready to assist with substantive expertise regarding this effort and looks forward to assisting the Administration in their efforts.

Sincerely,


Victoria A. Espinel
BSA | The Software Alliance