



October 28, 2021

General Services Administration  
Regulatory Secretariat Division  
Attn. Ms. Mahruha Uddowla  
1800 F Street, NW  
Washington, DC 20405

**Ref: FAR Case 2021-008: Federal Acquisition Regulation: Amendments to the FAR Buy American Act Requirements**

Dear Ms. Uddowla:

The undersigned associations appreciate the opportunity to submit these comments on the proposed rule to implement changes to existing Buy American Act (BAA) requirements for federal contracts, as published in the July 30, 2021 *Federal Register*.

Together, our memberships are comprised of leading technology and service companies in the United States and globally, serving consumers and enterprise customers in sectors as diverse as additive manufacturing, semiconductor design, computer storage, ecommerce platforms, social media, automotive production, and telecommunications, among many others. Our respective members also represent every step of the technology company growth path, from startups to longstanding public companies, as well as product lifecycle, from research and development (R&D) to production.

While the Notice of Proposed Rulemaking (NPRM) includes many proposed reforms and questions relevant to the federal contracting community, we would like to call your attention to one element with the potential to present serious challenges for the continued strength of the U.S. information and communications technology (ICT) industry: the reevaluation of the existing exception to BAA for commercial information technology (IT).

First enacted in 2004, the BAA commercial IT exception not only remains relevant today but continues to be vital for ensuring the U.S. Government maintains access to cutting-edge, innovative, and secure technologies. Congress recognized nearly two decades ago that without an exception for commercial IT, the U.S. Government would be left behind in terms of accessing best-in-class, global technology. This reality remains true today.

Removing or limiting the current commercial IT exception would result in significant changes to how commercial IT is developed and sold to the U.S. Government, which could severely impact the government's ability to procure advanced technologies. The NPRM envisions that companies would undertake the costly reconfiguration of global supply chains and R&D networks, without appropriate consideration of the feasibility, time, and investments required to create an appropriately robust U.S. electronics ecosystem to meet U.S.-specific content requirements. To be clear, the U.S. electronics ecosystem is not sufficient at this time to require U.S. manufacturers to alter existing supplier relationships in favor of wholly U.S.-based supply chains. Marketplace conditions do not support such changes.

Further, such changes would impact the ability of U.S. operations to make successful bids in foreign procurement processes, maintain significant shares in global markets, and remain competitive. The ICT supply chain is global, highly interdependent, and increasingly networked. Attempts to consolidate portions of that supply chain into a limited geographic space are unlikely to make it more secure, resilient, or affordable. Indeed, there could be a point at which the costs necessary to supply goods to the U.S. Government would make it unsustainable for those same products to compete globally. When the commercial and procurement opportunities outside of the United States outweigh the benefits of serving the U.S. Government, companies may respond accordingly. Alternatively, if U.S.-based advanced manufacturers are required to shift resources from developing high-tech end products to onshoring the development of basic, interchangeable commodities, the overall price of mission-critical technologies will exponentially increase while their capabilities stagnate. Both outcomes would hurt the U.S. Government's ability to ensure reliable access to these technologies.

The commercial IT exception remains relevant, promotes innovation and American competitiveness, and serves the U.S. Government's procurement needs as originally envisioned. Companies establish global supply chains built to support resiliency and serve the global market. They also leverage these supply chains to foster dynamic environments from which new and innovative products can emerge. At this juncture, ensuring America remains a leader in advanced high-tech manufacturing should be the U.S. Government's primary focus and a core tenet of its trade, procurement, and innovation policies. To support these objectives, we strongly encourage the U.S. Government to maintain the existing exception to BAA for commercial IT.

Thank you again for the opportunity to provide our input as part of the rulemaking process. Many of the organizations below have also submitted comments responding to the NPRM separately, which further detail our various organizations' feedback on this rulemaking. We stand by if you would like clarification on any of our points and we look forward to engaging as this process evolves.

Sincerely,

ACT | The App Association  
Information Technology Industry Council (ITI)  
Internet Association  
Security Industry Association (SIA)  
TechNet  
Telecommunications Industry Association (TIA)