

GSA Acquisition Policy Federal Advisory Committee (GAP FAC) Policy & Practice Subcommittee Meeting

March 30, 2023

The GSA Acquisition Policy Federal Advisory Industry Partnerships Subcommittee convened for the eighth public meeting at 3:00 PM on March 30, 2023, virtually via Zoom, with Steven Schooner, Chair, and Luke Bassis, Co-Chair, presiding.

In accordance with FACA, as amended, 5 U.S.C. App 2, the meeting was open to the public from 3:00 PM to 5:00 PM EST.

Subcommittee Members Present:

Steven Schooner, Chairperson	<i>George Washington University</i>
Luke Bassis, Co-chairperson	<i>Port Authority of New York and New Jersey</i>
Richard Beutel	<i>George Mason University</i>
Mark Hayden	<i>State of New Mexico</i>
Jennie Romer	<i>Environmental Protection Agency</i>
Nigel Stephens	<i>U.S. Black Chambers of Commerce</i>
Anish Tilak	<i>Rocky Mountain Institute</i>
Dr. David Waggar	<i>Institute of Scrap Recycling Industries</i>

Absent:

Nicole Darnall, Antoinio Doss, Mamie Mallory, Dr. Amlan Mukherjee, Stacy Smedley, and Dr. Kimberly Wise White

Guest Speakers & Presenters:

John Kostyack	<i>Principal, Kostyack Strategies and Ceres Consultant</i>
Mark Hayden	<i>New Mexico, Government</i>

GSA Staff Present:

Boris Arratia	<i>Designated Federal Officer</i>
Stephanie Hardison	<i>Deputy Designated Federal Officer</i>
David Cochennic	<i>GAP FAC Support Team</i>
Skylar Holloway	<i>GAP FAC Support Team</i>
Anna Hargett	<i>Closed Captioner</i>
Andrea Nagarajan and Lisa Besant	<i>ASL Interpreters</i>

CALL TO ORDER

Stephanie Hardison, Deputy Designated Federal Officer, opened the public meeting by welcoming the group before reminding the public that there would be time for comments and statements at the end of the meeting. She then performed a roll call to confirm attendance and a quorum. After the quorum was met, she turned the meeting over to Co-Chair Luke Bassis.

INTRODUCTORY REMARKS

Co-Chair Luke Bassis opened the meeting by thanking the subcommittee members for joining and looking forward to the upcoming full committee meeting in May. He introduced speakers John Kostyack and Mark Hayden.

GUEST SPEAKER(S) & DISCUSSION

Speaker John Kostyack

John discussed the Federal Acquisition Regulation (FAR) Council's proposal in FAR case 2021-015, which addresses climate risk in federal supply chains.

Ceres plays a key leadership role in helping the federal government reduce climate-related financial risk in the economy. It partners with many companies and investors that agree on the need for priority and attention to climate risk.

The three disclosures required to be reported once the rule is finalized will be greenhouse gas emission calculations, climate risk assessments, and validated emissions reduction targets. Some disclosures will be due one year following the rule's effective date, and most will be due two years later.

The requirements are limited to the largest contractors to ease burdens on contractors. They will be tapping into the work that has been going on for the past two decades, led by private sector entities. Finally, numerous exceptions and waivers will be designed to avoid unintended or unfair outcomes.

This proposal is a graduated approach based on the business size that the contractor is doing with the federal government. In Tier One, 49,000 entities must indicate whether they are getting more than \$7.5 million worth of federal business. In Tier Two, disclosure of scope 1 & 2 and relevant 3 emissions are required for all contractors except those that fall into tribal entities, state level governments, higher education institutions, managing and operating (M&O) contractors, and nonprofit research institutions. Two other categories that fall into tier two are those already doing \$50 million or more in business with the government, but they are small businesses as designated by the Small Business Administration (SBA) and nonprofits. The government will receive Scope 1, 2, and relevant Scope 3 emissions, climate risk assessment, and validated science-based targets.

The disclosures can help address physical risk, transition risk, and systemic risk.

The physical risk of climate change is present every day. Billion-dollar climate-related disasters have increased from three per year to twenty in the past three years, and the trend line is not positive. Acute disasters such as droughts and hurricanes enormously impact the supply chain. This rule is designed to give the federal government a better window into this problem to devise a solution. We are unsure if our contractors are prepared for floods, wildfires, droughts, and other climate-related impacts until this rule is finalized. Current policies can be updated to strengthen our resilience to these physical impacts. How you design these policies will have to be informed by these disclosures.

Transition risk happens with the arrival of much cheaper and cleaner technologies. Firms in the federal government will go out of business due to the failure to grapple with the rapidly decarbonizing economy. By securing the kinds of disclosure this proposal calls for, the government will be able to know which businesses need to transition. They can begin to develop strategies of policies for strengthening preparedness for this rapidly decarbonizing economy.

As the federal government adds to systemic risk, it increases the risk of a financial crash that economists are predicting due to climate change. To head that off, the government should look at its own business to see what contributions it makes and how it can reduce those contributions. In addition to looking at that at a company level, they need to look at it from a systemic level.

There is a climate-related opportunity within this proposal to strengthen our economy with a focus on companies poised and ready to implement sustainable business practices. If implemented there is an estimate that the net zero by 2050 goal would provide investment opportunities around the range of \$9.2 trillion per year from 2023 to 2050.

Ceres completed an analysis of the comments submitted on the proposal and sent them to the FAR Council. The results of the analysis were that the most commenters are strongly supportive of moving forward including a plurality of private sector commentators and the non-government organization (NGO) community.

Speaker Mark Hayden

Mark Hayden spoke about applying lessons learned from the World Climate Summit regarding sustainability and procurement.

New Mexico is a member of the United States Climate Alliance and other states. New Mexico adopted the strongest oil and gas release regulation in the nation and the government is now turning to NM for guidance.

A plethora of commitments, initiatives, and plans that came out of the Summit to align more with sustainability. Mark presented some commitments, initiatives, and plans to the subcommittee.

SPEAKER QUESTION & ANSWERS

Questions for John Kostyack

Q: Steven Schooner – Can you say something about how the rule works and your thoughts on the Operational Procurement rule?

A: John Kostyack – We believe this can't be the only step the FAR council takes to update climate change. It is an important first step. In trying to understand how to give a framework to contracting officers that they can use, the data submitted won't be enough. We suggest that procurement officials need one component of a larger data set, but it is operating at the strategic level. How do we gather information to inform the next generation of procurement and strategy? That's where we are now, and we can't do it all at once. We have to take one step at a time. The other FAR case is also a big priority coming up.

Q: Mark Hayden – Is there a way to devise a carbon rating number on products to see the legitimate products in a request for proposal (RFP) or something similar? Does something like this exist?

A: John Kostyack - There's a request for information (RFI) out. The Environmental Protection Agency (EPA) is doing an ecolabel focused on this issue and is asking for input addressing everything we discussed today. It's going to be in the realm of industrial/construction materials.

Q: David Wagger – I'm concerned there could be a company provider of products that has minimized their scope 1 and 2, but their supply chain is vulnerable due to physical risk with climate change. How would we evaluate based on those considerations when their greenhouse gas emissions data have nothing to do with the actual risk entailed in their product?

A: John Kostyack – This proposal doesn't deny a federal contract if some climate risk surfaces in your disclosure. The only way to suffer a negative consequence to this rule is if you refuse to disclose.

Q: David Waggoner – It seems some of these issues were entailed in the Securities and Exchange Commission’s (SEC) Environmental, Social, and Governance (ESG) rule. Are there any consistencies between the SEC rule and the FAR proposed rule?

A: John Kostyack – We’ve looked at these rules, and the more we can align these disclosure methodologies, the better. There needs to be a way to align and create incentives for companies to participate in those standard-setting exercises. If they satisfy one rule, then it should cover the others.

Q: Steven Schooner – Science Based Targets initiative (SBTi) won’t deal with, for example, extracting firms that people complain about. There are grumblings that GHG protocols will revamp the Scope 3 rubric. What are your thoughts on that?

A: John Kostyack – These are moving targets, and these are going to be changing. When we crafted our comments, we suggested having the government set the standards and allow contractors to decide which entity they want to work with to meet those standards.

Q: Steven Schooner – The contracting officer doesn’t have to do anything for a few years because this needs to be implemented, and the reporting must be done. The rule is a responsibility rule.

A: John Kostyack – A bunch of things being done outside of the scope of the FAR. Contracting officers should be thinking about smaller steps they can take to engrain climate thinking into their work.

Q: Mark Hayden – Related to the supply chain, one of the initiatives is to migrate toward electric vehicles. Copper is essential to that, and they are looking at huge mines in Chile, which the Germans are buying from. The ones in foreign countries will say they have met environmental standards, but it isn’t true. Have you run across this before?

A: John Kostyack – We can’t look at climate change in an isolated case. We need to consider integrating human rights and other key decisions into these cases. We are starting to see increasing attention to environmental justice considerations.

Q: Leslie Cordes – You mentioned this would apply to a small percentage of contractors. How is this being received by these communities? Do you see potential down the line as we tackle the biggest companies?

A: John Kostyack – The government is calling up a base of companies and trade associations to get things done. There are a lot of companies that want to demonstrate what they have done on disclosures and climate, risk assessments, and greenhouse gas emissions.

Q: Luke Bassis - Is there any data on the financial burden of disclosing?

A: John Kostyack – We are looking into the workings of the cost of disclosures, and the FAR council is recommended to look at the filings in that record. Other agencies are also trying to nail down that question. The disclosure companies have scaled dramatically in the past 3-5 years. The cost numbers that exist today aren't a good indicator of where we will be in the future since this is something moving fast.

Q: David Waggoner – If a large contractor uses a subcontractor in their overall package, would the requirements be extended to that subcontractor?

A: John Kostyack – It is up to the reporting company how they want to collect their data. There are industries set up that are doing reasonable estimations. The way this proposal handles that is to not impose any rules on that. We will let the contractor figure out how to present that information.

Questions for Mark Hayden

Q: Luke Bassis – What has been your experience integrating sustainable procurement on the micro level? Are there any reporting obligations?

A: Mark Hayden – Albuquerque is autonomous in how they can roll out procurement. The default is you have to buy local unless you have a memo in the file saying you can't. That's one way of filtering it out.

Q: Steven Schooner – Many believe we need to figure out where the greatest points of impact are. What is your reaction to doing everything all at once or just a few things first? If the government moved to use disclosures, testing rubrics, etc., would this be a powerful tool? What are your thoughts?

A: Mark Hayden – By doing everything at once, you figure out what works, which is our approach. Anytime the state can point to the federal government, it's a better position.

Q: Steven Schooner – If you can access the federal supply schedule through cooperative purchasing and it was on an approved list, it saves time and effort and deals with some of the fallout. Is it worth it?

A: Mark Hayden – Anytime the state doesn't have to do procurement is good. We have the right to adopt a GSA purchasing package. I would love to do that because it's already been tested and approved, and it saves time and effort.

RECOMMENDATIONS DEVELOPMENT

Anish Tilak gave a brief overview of his subtask group's work in developing a draft of recommendations and strategies for reducing single-use plastics and packaging.

Anish's group opened the discussion to the rest of the subcommittee for feedback and suggestions. The group will revamp the developing draft of recommendations and present them again to the group in another two weeks.

The next recommendation draft was the technology tools with a global look at existing tools and how they may function better together. The group is working to get insight from guests on the topic to better formulate a recommendation.

The two recommendations left for the group to tackle are to improve the procurement decision framework to include measurement through sustainability scorecards, centralize education resources and best practices, and streamline access to this information. Luke called on the subcommittee members for feedback and further clarification on the two recommendation topics.

The group wants to bring in a guest speaker from the private sector perspective. Luke reminded the group that there is a document they can contribute to as a basis for conversation for the upcoming private sector speaker.

PUBLIC COMMENTS

William Garrett works at GSA as the Director of the Personal Property Management Policy Office. He connected with Boris to research various ways to improve communication across the federal government regarding excess federal government property, which is the first source of procurement. Some agencies do a good job with that, and some do not. William looks forward to future conversations and participation.

CLOSING REMARKS

Steven Schooner thanked the group for the work they were putting in. Luke Bassis turned the meeting over to Stephanie Hardison.

ADJOURNMENT

Stephanie Hardison adjourned the meeting at 5:00 PM EST. I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

DocuSigned by:


2/15/2024

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Luke Bassis

Co-Chairperson
GAP FAC Policy & Practice Subcommittee

Former Chair, Steven Schooner was succeeded by Luke Bassis on September 28, 2023.