

July 10, 2025

Office of Management and Budget
Office of Federal Procurement Policy
Department of Defense
General Services Administration
National Aeronautics and Space Administration

Electronic Submission via www.reginfo.gov/public/do/PRAMain
Reference: OMB Control No. 9000-0136; Commercial Acquisitions

Re: Palantir Comments on Revisions to FAR 52.212-3, Offeror Representations and Certifications—Commercial Products and Commercial Services:¹

Palantir Technologies Inc. (“Palantir”) is a U.S.-based Software-as-a-Service company that enables public, private, and non-governmental organizations to integrate, analyze, collaborate, and make operational decisions with their data—including through the integration of AI capabilities—in a secure and privacy-protective way on our battle-tested platform. At Palantir, we see our work as a duty and privilege: to support the United States of America, its vital national interests, and the civilization of which it is a part. We can say proudly that many of the world’s most vital institutions rely on our software platform. Palantir serves as both a federal prime contractor and subcontractor.

This response outlines specific recommendations the Administration can take to ensure that federal contractors follow the legal requirements outlined in the Federal Acquisition Streamlining Act (FASA) and President Trump’s recent Executive Orders.

Recommendation: Like the approach utilized in the President’s recent Executive Order on [Ending Illegal Discrimination and Restoring Merit-Based Opportunity](#), and the Rule promulgated during his first Administration implementing the [Prohibition on Contracting with Entities Using Certain Telecommunications and Video Surveillance Services or Equipment \(Section 889\)](#), **amend FAR 12.301 and 52.212 to require federal contractors to explicitly certify that their compliance with FASA obligations is material.**

Why This Change Matters: President Trump is committed to reinvigorating the Federal Acquisition Streamlining Act. *See, e.g.,* [Ensuring Commercial, Cost-Effective Solutions in Federal Contracts](#). That longstanding statute already requires contractors to, as the President said, provide “commercially available products and services, including those that can be modified to fill agencies’ needs, to the maximum extent practicable.” But as the President noted, unscrupulous actors have “evaded statutory preferences and abused the Federal contracting framework” by exploiting gaps in the procurement system. There are few meaningful enforcement mechanisms to prevent abusive contracting practices under the current framework—and until that changes, true reform will remain elusive.

¹ This document is approved for public dissemination. It contains no business-proprietary or confidential information. Its contents may be reused without attribution.

The FAR proposals below will solve this problem by reducing fraud, waste, and abuse while adding **no new regulatory burden**. Instead, this draft simply requires contractors to **certify their compliance with existing statutory obligations in FASA**. As this Administration understands from using the same affirmative certification technique elsewhere, that small change would cause prime contractors to police themselves, their competitors, and their subcontractors. That would save the government money (and advance the President's agenda) by maximizing commercial purchases. Requiring contractors to affirmatively certify they are complying with existing law would also offset the fraud, waste, and abuse caused by a contractor's *needless* use of noncommercial items—**without interfering with the government's lawful purchase of these items when needed**.

Proposed Clauses: For simplicity's sake, we have organized the recommended FAR clauses into their own notional sections (e.g., 52.212-6). Alternatively, these recommended clauses could slot into existing FAR clauses, including 52.212-3. Insert into the FAR:

12.301(g)(1) Contracting officers shall include the clause at 52.212-6 in every contract (or task order or delivery order) for the procurement of products other than commercial products or services other than commercial services.

(2) Contracting officers shall include the clause at 52.212-6 with its Alternate I in every contract (or task order or delivery order) in an amount in excess of \$5,000,000 for the procurement of products other than commercial products or services other than commercial services for or on behalf of the Department of Defense.

(3) In accordance with 41 U.S.C. 3307, the clause at 52.212-6 and its Alternate I is required to implement provisions of law or executive orders applicable to the acquisition of commercial products or commercial services.

52.212-6 Materiality of Commercial Products and Commercial Services Determination.

As prescribed in 12.301(g)(1), insert the following clause:

MATERIALITY OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES DETERMINATION ([MONTH] 2025)

(a) *Certification*. The contractor certifies that it has determined the maximum practicable extent to which it and its subcontractors at all levels can incorporate commercial services, commercial products, or nondevelopmental items other than commercial products as components of items supplied to the agency, and that it has incorporated those components to the maximum extent practicable, in accordance with 41 U.S.C. 3307(c)(2).

(b) *Materiality*. The contractor agrees that its certification is material to the government's payment decisions for the purposes of 31 U.S.C. 3729(b)(4).

(c) *Flowdown*. The contractor shall insert this clause, including this paragraph (c), in all subcontracts at any tier for items supplied to the agency.

(End of clause)

Alternate I ([MONTH] 2025) As prescribed in 12.301(g)(2), substitute the following clause:

MATERIALITY OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES DETERMINATION AND
MARKET RESEARCH ([MONTH] 2025)

(a) *Certification*. The contractor certifies that, in accordance with 10 U.S.C. 3453(c)(5), it has determined through market research the maximum practicable extent to which it and its subcontractors at all levels can incorporate commercial services, commercial products, or nondevelopmental items other than commercial products as components of items supplied to the agency, and that it has incorporated those components to the maximum extent practicable, in accordance with 10 U.S.C. 3453(b)(2).

(b) *Materiality*. The contractor agrees that its certification is material to the government's payment decisions for the purposes of 31 U.S.C. 3729(b)(4).

(c) *Flowdown*. The contractor shall insert the following clause in all subcontracts at any tier for items supplied to the agency:

MATERIALITY OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES DETERMINATION
([MONTH] 2025)

(a) *Certification*. The contractor certifies that it has determined the maximum practicable extent to which it and its subcontractors at all levels can incorporate commercial services, commercial products, or nondevelopmental items other than commercial products as components of items supplied to the agency, and that it has incorporated those components to the maximum extent practicable, in accordance with 10 U.S.C. 3453(b)(2).

(b) *Materiality*. The contractor agrees that its certification is material to the government's payment decisions for the purposes of 31 U.S.C. 3729(b)(4).

(c) *Flowdown*. The contractor shall insert this clause, including this paragraph (c), in all subcontracts at any tier for items supplied to the agency.

(End of clause)