

New rules

Proposed climate-related disclosures for federal suppliers

INTERVIEWED BY SUE OSTROWSKI

Under a proposed new rule, many federal suppliers would be required to annually disclose their greenhouse gas (GHG) emissions and climate-related financial risks, in addition to setting GHG emissions reduction targets. The result could be a significant impact on a business's reporting requirements.

"The proposed rule was published on Nov. 14, 2022, by the Department of Defense, General Services Administration and National Aeronautics and Space Administration," says Susanna Bagdasarova, an associate at Babst Calland. "The Federal Supplier Climate Risks and Resilience Rule directs some federal suppliers to address climate-related risks as part of the Biden administration's climate-change initiatives, including its goal of achieving a net-zero emissions economy by 2050.

"Businesses with government contracts should assess whether they need to comply," says Gina Falaschi, an associate at Babst Calland. "Assessing potential impacts will help businesses be prepared for compliance deadlines when and if the rule is finalized."

Companies can submit written comments on the proposed rule until Feb. 13, 2023, which will be reviewed prior to the federal agencies releasing the text of the final rule.

Smart Business spoke with Falaschi and Bagdasarova about how the Federal Supplier Climate Risks and Resilience Rule could impact federal suppliers.

WHAT DOES THE PROPOSED RULE REQUIRE?

It imposes GHG emissions disclosure and reporting requirements on certain federal suppliers. "Significant contractors," those receiving at least \$7.5 million but less than \$50 million in federal contract obligations during the previous fiscal year, would be

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required to report an annual inventory of their Scope 1 and Scope 2 emissions.

"Major contractors," those receiving more than \$50 million in federal contract obligations during the previous year, would be subject to the same requirements. They would also be required to publicly disclose an annual inventory of their Scope 3 emissions, an assessment of their climate-related financial risks and science-based targets to reduce their GHG emissions.

The first step is an internal review of contracts to determine whether this proposed rule applies and assess whether you already report GHG emissions or make voluntary climate-related disclosures. For companies not currently required to report emissions, compliance could be costly.

Under the proposed rule, companies that do not complete the required annual disclosures would become ineligible for federal contract awards until they are compliant. However, some organizations are excluded, including higher education institutions, nonprofit research entities, state and local governments, and federal management and operating contractors that get at least 80 percent of their revenue from those contracts.

WHAT IS THE TIMEFRAME FOR COMPLIANCE?

Significant and major contractors would be required to report Scope 1 and

Scope 2 emissions one year following publication of the final rule, while major contractors will be required to disclose Scope 3 emissions, climate-related risks and science-based targets two years after publication. Companies may be required to hire additional personnel or consultants to complete calculations and compile information for the required disclosures.

Even if your business doesn't fall into an impacted category, if your customers have government contracts and are required to make disclosures, they may ask your business to calculate your GHG emissions as part of their upstream supply chain.

WHAT ARE SOME TAKEAWAYS?

Companies may be required to report and make publicly available information they haven't before, leading to potential litigation risk. Some may decide not to bid for government contracts due to compliance obligations, or it could result in including the cost of compliance in bids, possibly making government procurement more expensive. In addition, as part of the effort of the Biden administration to implement a comprehensive, government-wide strategy to mitigate climate change, disclosures will likely lay the groundwork for future climate policy.

The comment period closes on Feb. 13, 2023, so review the proposed rule now to determine the possible impact on your business and make your voice heard. ●