



January 13, 2022

Via the Regulations.gov eFiling Portal
Docket No. FAR-2021-016

Re: Federal Acquisition Regulation: Minimizing the Risk of Climate Change in Federal Acquisitions

To Whom It May Concern:

Environmental Defense Fund (“EDF”) and the Initiative on Climate Risk and Resilience Law (“ICRRL”) respectfully submit the following materials to the Department of Defense (“DoD”), General Services Administration (“GSA”), and National Aeronautics and Space Administration (“NASA”), collectively, the Federal Acquisition Regulatory Council (the “FAR Council”),¹ in response to their advance notice of proposed rulemaking to revise the Federal Acquisition Regulation (the “FAR”).² EDF is a non-partisan, non-governmental environmental organization representing over two million members and supporters nationwide. Since 1967, EDF has linked law, policy, science, and economics to create innovative and cost-effective solutions to today’s most pressing environmental problems. ICRRL is a joint initiative of EDF, Columbia Law School’s Sabin Center for Climate Change Law, the Institute for Policy Integrity at New York University School of Law, and Vanderbilt Law School, focused on legal efforts on climate risk and resilience, particularly at the intersection of practice and scholarship.³

EDF strongly supports the FAR Council’s work to better understand how procurement officials and the federal government can manage climate-related financial risk. The U.S. Government

¹ The FAR Council is comprised of the Administrator for Federal Procurement Policy, the Secretary of Defense, the Administrator of National Aeronautics and Space, and the Administrator of General Services, or their designees. *See* 41 U.S.C. § 1302 (b).

² Federal Acquisition Regulation: Minimizing the Risk of Climate Change in Federal Acquisitions (FAR Case 2021-016), 86 Fed. Reg. 57,404 (Oct. 15, 2021) [hereinafter FAR ANPR]

³ This document does not necessarily represent the views of each ICRRL partner organization. For more information about ICRRL, see <https://icrri.org>.

Accountability Office found that climate change poses significant financial risk to the U.S. federal government.⁴ Over the last five years, climate-related disasters from extreme weather have resulted in at least \$600 billion in physical and economic damage in the United States alone.⁵ In 2020, there were twenty-two “billion dollar” extreme weather events, an unprecedented number.⁶ As the single largest purchaser in the world,⁷ the U.S. federal government should prudently safeguard expenditures. In the normal course of operation for federal procurement, care is taken to structure purchases and contracts consistent with principles of efficiency, risk management, and cost minimization.⁸ Existing procedures, however, do not yet incorporate and manage financial risks posed by the consequences of climate change. The FAR Council should not only consider managing climate risk by reducing drivers of climate change (i.e. greenhouse gas emissions) through procurement, but should also account for climate-related financial risk in its procurement decisions. The FAR Council is tasked with “assist[ing] in the direction and coordination of Government-wide procurement policy and Government-wide procurement regulatory activities in the Federal Government,”⁹ and “manag[ing], coordinat[ing], control[ing], and monitor[ing] the maintenance of, issuance of, and changes in, the Federal Acquisition Regulation.”¹⁰ In accordance with the FAR Council’s authority, we urge the FAR Council to amend the FAR with an eye towards creating processes that ensure all federal agencies assess their climate-related financial risks and better manage that risk during contracting.¹¹

Consistent with this recommendation, this filing is responsive in particular to question (c) in the FAR Council’s Advanced Notice of Proposed Rulemaking: “How can procurement and program officials of major Federal agency procurements better incorporate and mitigate climate-related financial risk? How else might the Federal Government consider and minimize climate-related financial risks through procurement decisions, both domestic and overseas?”¹² As explored in further detail below, we recommend the following for consideration:¹³

⁴ U.S. GOV’T ACCOUNTABILITY OFF., GAO-21-119SP, DEDICATED LEADERSHIP NEEDED TO ADDRESS LIMITED PROGRESS IN MOST HIGH-RISK AREAS 90 (2021), <https://www.gao.gov/assets/gao-21-119sp.pdf>; FIN. STABILITY OVERSIGHT COUNCIL, REPORT ON CLIMATE-RELATED FINANCIAL RISK 2021, at 12–13 (2021), <https://home.treasury.gov/system/files/261/FSOC-Climate-Report.pdf> [hereinafter FSOC REPORT].

⁵ *Billion-Dollar Weather and Climate Disasters: Summary Stats*, NAT’L OCEANIC & ATMOSPHERIC ADMIN. <https://www.ncdc.noaa.gov/billions/summary-stats> (last visited Nov. 5, 2021).

⁶ *Record number of billion-dollar disasters struck U.S. in 2020*, NAT’L OCEANIC & ATMOSPHERIC ADMIN. <https://www.noaa.gov/stories/record-number-of-billion-dollar-disasters-struck-us-in-2020> (last visited Nov. 25, 2021).

⁷ *Selling Greener Products and Services to the Federal Government*, U.S. ENV’T PROT. AGENCY, <https://www.epa.gov/sustainable-marketplace-greener-products-and-services/selling-greener-products-and-services-federal> (last visited Nov. 6, 2021).

⁸ See 48 C.F.R. § 1.102.2(a)-(d).

⁹ 41 U.S.C. §1302(a).

¹⁰ 41 U.S.C. §1303(d).

¹¹ The FAR is a regulation that governs the purchase of goods and services for nearly all federal agencies. See 48 C.F.R. §§ 1.104, 2.101(b).

¹² FAR ANPR, *supra* note 2, at 57,405.

¹³ Throughout these comments, “federal agency” refers to any agency using funds for procurement; “contracting officer” means a person with the authority to enter into, administer, and/or terminate contracts and make related

- The FAR Council should consider amendment to the FAR to require federal agencies to identify and manage risk in their procurements and supply chains, including physical risk, transition risk, and climate-related opportunities;
- The FAR Council should consider amendment to the FAR to require climate risk disclosures from potential contractors that are comparable, specific, and decision-useful and, in so doing, use and improve upon relevant existing frameworks;
- The FAR Council should consider amendment to the FAR to require federal agencies to consider maladaptation in making procurement decisions; and
- The FAR Council should consider coordinating with other agencies through an Interagency Working Group in order to take advantage of other agencies' expertise on risk scenario analysis.

I. The FAR Council should consider amendment to the FAR to require federal agencies to identify and manage risk in their procurements and supply chains, including physical risk, transition risk, and climate-related opportunities

Climate change poses financial risk across all U.S. regions and industries, but each region and industry will experience it differently.¹⁴ Similarly, each federal agency will be susceptible to different climate risks due to differences in each agency's critical industries, supply chains, and geographic reach.¹⁵ In order to manage otherwise hidden climate-related financial risk, the FAR Council should consider requiring agencies to examine their risk and vulnerabilities to climate change impacts and minimize those risks during procurement. In addition, the FAR Council should consider requiring agencies to leverage climate-related opportunities.

Climate-related financial risk falls into two broad categories: physical risk and transition risk. In the context of procurement, physical risk encompasses the harmful effects of climate change on the agency's procured assets or supply chains.¹⁶ These effects can stem from acute weather events (e.g., hurricanes, extreme heat, rising seas), and encompass both direct and indirect economic impacts (e.g., cost of repairing a damaged facility or costs arising from changes in baseline weather conditions).¹⁷ Transition risk arises from climate change-driven shifts in public policy, technology, or market changes.¹⁸

determinations on behalf of the federal agency; "contractor" means the entity providing goods or services to the federal government.

¹⁴ See, e.g., Al Shaw et al., *New Climate Maps Show a Transformed United States*, PROPUBLICA (Sept. 15, 2020), <https://projects.propublica.org/climate-migration/>.

¹⁵ See Datalab, *Contract Federal Explorer*, USASPENDING.GOV, <https://datalab.usaspending.gov/contract-explorer/> (last visited Nov. 9, 2021) (graphing federal spending by agency and category of items/services). As part of the Climate Adaptation Plans required by Executive Order 14,008, some agencies have already begun identifying risks in their procurements and supply chains. See, e.g., U.S. DEP'T OF JUSTICE, CLIMATE ACTION PLAN 15-16 (2021); U.S. DEP'T OF THE INTERIOR, DEPARTMENT OF THE INTERIOR CLIMATE ACTION PLAN 27-29 (2021); U.S. DEP'T. OF DEF., DEPARTMENT OF DEFENSE CLIMATE ADAPTATION PLAN 17, 25 (2021).

¹⁶ See, e.g., Madison Condon et al., *Mandating Disclosure of Climate-Related Financial Risk*, 23 N.Y.U. J. LEGIS. & PUB. POL'Y (forthcoming 2021) (manuscript at 3) (identifying types of risk corporations face).

¹⁷ *Id.*

¹⁸ *Id.* at 6.

Physical risk poses substantial financial risk for the United States. The National Oceanic and Atmospheric Association (“NOAA”) estimates that the United States has experienced over \$772 billion in direct economic costs and damages from extreme weather events since 2015.¹⁹ In 2020 alone, there were twenty-two extreme weather events that caused over \$1 billion each in direct economic damage, totaling \$100.2 billion.²⁰

Physical risk imposes significant risk to federal agencies’ physical assets. Consider, for example, the DoD, which accounts for over 60% of federal contract spending; the agency was responsible for \$421.8 billion of the \$665.1 billion spent cumulatively by the federal government on contracts in 2020.²¹ DoD has physical military installations around the world, and climate change is already necessitating infrastructure repair and requiring multi-billion dollar investments to remain viable.²² For example, in 2018, Hurricane Florence flooded three Marine Corps installations in North Carolina, costing taxpayers \$3.6 billion in damage.²³ That same year, Hurricane Michael caused approximately \$4.7 billion in damage at Tyndall Air Force Base.²⁴ In addition, rising temperatures are increasing the cost of ongoing operations at three of Alaska’s four major U.S. military bases.²⁵

Federal agency supply chains are also exposed to physical risk. Several agencies have identified extreme weather events and long-term climate change as a threat to their supply chains.²⁶ Failing to consider these disruptions in an agency’s supply chain in the acquisition process can result in costly risk management efforts.²⁷

Federal agencies will also be affected by transition risk. Transition risk includes risk that stems from agreements, rules, and regulations that address transitioning to a low- or net-zero-carbon

¹⁹ *Billion-Dollar Weather and Climate Disasters: Summary Stats*, NAT’L OCEANIC & ATMOSPHERIC ADMIN., <https://www.ncdc.noaa.gov/billions/summary-stats> (last visited Nov. 5, 2021).

²⁰ *Id.*

²¹ *A Snapshot of Government-Wide Spending for FY 2020*, U. S. GOV’T ACCOUNTABILITY OFF., <https://www.gao.gov/blog/snapshot-government-wide-contracting-fy-2020-infographic#:~:text=In%20fiscal%20year%202020%2C%20the,billion%20from%20fiscal%20year%202019> (last visited Nov. 8, 2021).

²² See, e.g., Andrew Eversden, ‘Climate Change Is Going to Cost Us’: How the US Military Is Preparing for Harsher Environments, DEFENSENEWS (Aug. 9, 2021), <https://www.defensenews.com/smr/energy-and-environment/2021/08/09/climate-change-is-going-to-cost-us-how-the-us-military-is-preparing-for-harsher-environments/>; See also AMY MYERS JAFFE ET AL., COUNCIL ON FOREIGN REL., IMPACT OF CLIMATE RISK ON THE ENERGY SYSTEM: EXAMINING THE FINANCIAL, SECURITY, AND TECHNOLOGY DIMENSIONS 56 (2019).

²³ Eversden, *supra* note 22.

²⁴ *Id.*

²⁵ Sara Karlovitch et al., *As the World Warms, Costs Rise for Alaska Military Bases*, ANCHORAGE DAILY NEWS (Aug. 1, 2020), <https://www.adn.com/alaska-news/military/2020/08/01/as-the-world-warms-costs-rise-for-alaska-military-bases/>.

²⁶ U.S. DEP’T OF JUSTICE, CLIMATE ACTION PLAN 15–16 (2021) (“Critical or priority supplies and services are vulnerable to acute extreme weather events and long-term climate change. Extreme weather events can disrupt telecommunications, power and energy supply, fuel supply, transportation and delivery routes which disrupt logistics and supply change activities and the availability and cost of critical supplies.”); U.S. DEP’T OF THE INTERIOR, DEPARTMENT OF INTERIOR CLIMATE ACTION PLAN 28 (2021) (“The reliance of the construction industry on the global supply chain makes it particularly sensitive to external factors such as extreme weather events. Physical damage to facilities, production equipment, and inventories can lead to shortages in supplies of materials such as steel, resulting in delayed or higher costs for construction projects managed by the Department.”).

²⁷ See U.S. GEN. SERV. ADMIN., GSA FRAMEWORK FOR MANAGING CLIMATE CHANGE RISKS TO FEDERAL AGENCY SUPPLY CHAINS 6–7 (2021).

economy, which could raise operating costs or inhibit the use of carbon-intensive products.²⁸ Contractors' costs in certain industries may increase due to these policies and could have an impact on federal agencies if the costs are passed to the industry's customers.²⁹ For example, a top government contractor reported that transition risk may impact future product affordability due to scarcity and carbon-based costs.³⁰

In addition to transition risk, federal agencies should also consider climate-related opportunities. The Task Force on Climate-Related Financial Disclosure ("TCFD") reports that efforts to mitigate and adapt to climate change will also produce opportunities for organizations through energy-efficient cost savings, access to new markets, and building resilience along the supply chain.³¹ Evidence shows that companies that invest in clean energy ultimately ended up spending less on energy and gaining more in profits.³²

In assessing risks and opportunities, the FAR Council should consider encouraging federal agencies to use scenario analysis. Scenario analysis is a process used to explore a range of hypothetical outcomes by considering various plausible scenarios under a given set of assumptions and constraints.³³ By considering different climate scenarios, an organization can understand their resilience to a variety of different future hypotheticals and better integrate resilience into their planning.³⁴ As noted below, an interagency working group can help to assist agencies determine how scenario analysis should be conducted and what scenarios agencies and contractors should consider.³⁵ The TCFD recommends that businesses apply scenario analysis by (1) ensuring governance is in place to assess risk; (2) assessing anticipated exposure to physical and transition risk and whether such exposure is material; (3) identifying a range of scenarios, given the agency's potential exposure; (4) evaluating the potential effects on the organization's strategic and financial position under each scenario and identifying the organization's key sensitivities; and (5) identifying potential responses to manage risk and opportunities.³⁶

²⁸ See FSOC Report, *supra* note 4, at 19; Jaffe et al., *supra* note 22, at 44.

²⁹ See FSOC REPORT, *supra* note 4, at 19 ("The shifts in economic and financial risks will likely be broadly felt, as, for example, sectors most directly affected by reductions in GHG emissions pass on increased costs through supply chains and to consumers.").

³⁰ LOCKHEED MARTIN CORPORATION, CLIMATE-RELATED RISKS AND OPPORTUNITIES 9 (2020), <https://www.lockheedmartin.com/content/dam/lockheed-martin/eo/documents/sustainability/LM%20Climate%20Risk%20and%20Opportunities%20Disclosure%202020.pdf>

³¹ See TASK FORCE ON CLIMATE-RELATED FIN. DISCLOSURES, FINAL REPORT: RECOMMENDATIONS OF THE TASK FORCE ON CLIMATE-RELATED FIN. DISCLOSURES 6–7 (2017), <https://assets.bbhub.io/company/sites/60/2020/10/FINAL-2017-TCFD-Report-11052018.pdf>

³² CERES ET AL, POWER FORWARD 3.0: HOW THE LARGEST U.S. COMPANIES ARE CAPTURING BUSINESS VALUE WHILE ADDRESSING CLIMATE CHANGE 29 (2017),

https://files.worldwildlife.org/wwfcmprod/files/Publication/file/9458htftwl_Power_Forward_3.0_April_2017_Digital_Second_Final.pdf?_ga=2.40205538.1710077894.1638485158-513305301.1638485158.

³³ See TASK FORCE ON CLIMATE-RELATED FIN. DISCLOSURES, TECHNICAL SUPPLEMENT: THE USE OF SCENARIO ANALYSIS IN DISCLOSURE OF CLIMATE-RELATED RISKS AND OPPORTUNITIES 2, 7 (2017), <https://assets.bbhub.io/company/sites/60/2020/10/FINAL-TCFD-Technical-Supplement-062917.pdf> [hereinafter TCFD Technical Report].

³⁴ *Id.* at 1.

³⁵ See Recommendation IV, below.

³⁶ TCFD Technical Report, *supra* note 33, at 7.

II. The FAR Council should consider amendment to the FAR to require climate risk disclosures from potential contractors that are comparable, specific, and decision-useful and, in so doing, use and improve upon relevant existing frameworks

In order to manage climate-related financial risk, federal agencies must be able to make informed decisions during the procurement process. In order for agencies to successfully evaluate their own risk and review contractor bids, the FAR Council should consider creating standards requiring contractors to disclose the climate-related financial risk associated with a particular project, as well as the risk that the contractor faces as a whole. In developing these standards, the FAR Council should consider crafting contractor disclosure requirements with small businesses in mind, perhaps by crafting separate standards or providing technical assistance.³⁷ The FAR Council should consider requiring project disclosures and contractor disclosures during solicitation for proposals.

For project disclosures, the FAR Council should consider requiring contractors to provide information on project-level physical and transition risk—that is, climate risk associated with the product or service to be supplied. The magnitude of physical risk for each project will depend upon the project’s location, size, asset life, and exposure to various climate hazards.³⁸

In addition, the FAR Council should consider requiring contractors to disclose information about the risks the contractor faces as an entity. An agency’s ability to anticipate and manage climate-related risk faced by its contractors will allow agencies to build resilience into its processes and supply chain.³⁹ For example, a contractor’s disclosure might reveal that their location puts it at risk of significant operation disruptions. This knowledge could inform an agency’s decision on whether to contract with only one supplier or to diversify its supply.⁴⁰ In addition, disclosures can ensure that the contractor responsible for fulfilling the project has the capabilities to understand and manage climate risk.⁴¹ Lastly, disclosures can more broadly inform the agency of the transition risk it may face in its critical industries and procurements.

In order to accurately assess and compare disclosures, the FAR Council should consider requiring disclosures from potential contractors that are comparable, specific, and decision-useful.⁴² *Comparable* disclosures will allow the federal agency to understand how potential contractors

³⁷ For example, for current greenhouse gas disclosures in the FAR, only offerors who received \$7.5 million or more in contract awards during the prior Federal fiscal year are required to represent whether they publicly disclose their greenhouse gas emissions. 48 C.F.R. § 23.802 (d). Disclosures are voluntary for those who received less than \$7.5 million. *Id.*

³⁸ See CAL. CLIMATE-RELATED RISK DISCLOSURE ADVISORY GRP., DEVELOPING CLIMATE RISK DISCLOSURE PRACTICES FOR THE STATE OF CALIFORNIA 29-30 (2021), <https://www-cdn.law.stanford.edu/wp-content/uploads/2021/09/Developing-Climate-Risk-Disclosure-Practices-for-the-State-of-California.pdf>.

³⁹ See U.S. GOV’T ACCOUNTABILITY OFF., GAO-20-511, ACTIONS NEEDED TO ENSURE DOD CONSIDERS CLIMATE RISKS TO CONTRACTORS AS PART OF ACQUISITION, SUPPLY, AND RISK ASSESSMENT 15 (2020), <https://www.gao.gov/assets/gao-20-511.pdf>.

⁴⁰ U.S. GEN. SERV. ADMIN., *supra* note 27, at 25-26.

⁴¹ See CAL. CLIMATE-RELATED RISK DISCLOSURE ADVISORY GRP., *supra* note 38, at 31.

⁴² See Condon et al. *supra* note 16, at 11. While forthcoming action by the Securities and Exchange Commission (“SEC”) may improve the information provided by publicly traded companies, the current guidance is not eliciting sufficient information. See *id.* at 21-22. Furthermore, even where disclosures are being made, there is a lack of standardization in the information provided that will make it difficult for agencies to accurately assess and compare risk amongst various contractors and supply chains. See U.S. GOV’T ACCOUNTABILITY OFF., *supra* note 39, at 15 (noting that that 15 out of 17 leading DoD contractors made climate-related disclosures in filings with SEC, 12 out of 20 leading DoD contractors responded to a CDP questionnaire about climate risk, and 11 out of 20 leading DoD contractors issued sustainability reports that included information on risk).

compare with one another in risk and performance. *Specific* disclosures will inform the federal agency of risks and opportunities that are unique to the project and contractor.⁴³ And *decision-useful* disclosures will provide the federal agency with information of sufficient quality to “integrate climate risk into [] decision-making.”⁴⁴

In creating these frameworks, the FAR Council should avoid duplicating efforts by using and improving upon disclosure frameworks developed by other agencies and existing voluntary frameworks. Reliance on these frameworks would also decrease the regulatory burden for contractors. Notably, for corporate disclosure, the Securities and Exchange Commission’s (“SEC”) call for public input to catalyze improved disclosure regarding climate-related financial risk will provide valuable insight.⁴⁵ The FAR Council should complement existing efforts and expertise and seek to identify avenues to leverage it. The FAR Council should likewise consider and review international voluntary frameworks, such as those developed by the TCFD and the Sustainability Accounting Standards Board (“SASB”). For project-specific risk, the SEC, TCFD, and SASB disclosure regimes may serve as useful guides in evaluating factors.⁴⁶ This does not mean, however, that wholesale adoption of existing voluntary standards is alone sufficient, and the FAR Council should also consider whether supplementary disclosure requirements would best ensure acquisition vulnerabilities to climate risk are robustly identified.

III. The FAR Council should consider amendment to the FAR to require federal agencies to consider maladaptation in making procurement decisions

Efforts to protect against harms posed by climate change should not lose sight of the underlying driver of climate change, greenhouse gas emissions. Failure to do so risks maladaptation, which refers to an adverse outcome where proposed solutions to a visible symptom exacerbate its underlying cause.⁴⁷ Reliance upon diesel backup generators in response to extreme weather events caused by climate change is one example of maladaptation, as the exhaust from diesel generators contains black carbon, the second largest contributor to climate change (after carbon dioxide).⁴⁸ By implementing a carbon-intensive solution, climate change and its effects are exacerbated, demanding further resilience action.⁴⁹

In the context of climate change, avoiding maladaptation requires that climate resilience measures also take into account the greenhouse gas emissions they create.⁵⁰ This approach is increasingly best practice—as part of its Climate Adaptation Plan required by Executive Order 14,008, the Department of Energy (“DOE”), for instance, recognizes that “implementation of effective climate

⁴³ See Condon et al. *supra* note 16, at 11.

⁴⁴ *Id.* (quoting COMMODITY FUTURES TRADING COMM’N CLIMATE-RELATED MARKET RISK SUBCOMM. OF THE MARKET RISK ADVISORY COMM., MANAGING CLIMATE RISK IN THE U.S. FINANCIAL SYSTEM 88 (2020)).

⁴⁵ See FSOC REPORT, *supra* note 4, at 33.

⁴⁶ A recent report issued by the California Climate-Related Disclosure Advisory Group can serve as an instructive tool. The report provides insight on translating TCFD and other disclosure standards to the state context. It includes a list of recommendations for assessing a project’s climate-related risk. See CAL. CLIMATE-RELATED RISK DISCLOSURE ADVISORY GRP., *supra* note 38, at 33–37.

⁴⁷ See U.N. ENV’T PROGRAMME, FRONTIERS 2018/19: EMERGING ISSUES OF ENVIRONMENTAL CONCERN 70 (2019).

⁴⁸ Michael Panfil & Romany Webb, *Extreme Weather Is a Climate Change Inevitability; Our Responses Shouldn’t Worsen the Problem*, THE HILL (Nov. 4, 2021), <https://thehill.com/opinion/energy-environment/580061-extreme-weather-is-a-climate-change-inevitability-our-responses>.

⁴⁹ *Id.*

⁵⁰ *Id.*

strategies must not only increase the resilience of DOE sites to climate impacts but also reduce the Department's GHG emissions."⁵¹ The FAR Council should similarly consider requiring all agencies to consider how best to identify and address maladaptive measures that address the effects of climate change while simultaneously contributing to its underlying cause.

IV. The FAR Council should consider coordinating with other agencies through an Interagency Working Group in order to take advantage of other agencies' expertise on risk scenario analysis

Interagency working groups are best suited for addressing technical issues that require a unified regulatory approach. This approach would benefit the FAR Council's need here in at least one important respect: establishing climate scenario analysis guidance for federal agencies, their respective contracting officers, and prospective contractors. As noted above, scenario analysis is a process used to explore a range of hypothetical outcomes by considering various plausible scenarios under a given set of assumptions and constraints.⁵² By considering different climate scenarios, an organization can understand their resilience to a variety of different future hypotheticals and better integrate resilience into their planning.⁵³ Such analysis is relevant to decisions made by federal agencies by level-setting scenario bands for risk, in turn helping to ground exposure to harm for prospective procurements and supply chains. Further, an interagency working group can standardize scenarios, re-evaluate scenarios as necessary, and efficiently implement best emerging practices governmentwide. Such analysis and guidance should be publicized and accessible.

In practice, detailed guidance on scenario analysis will also support efforts of contracting officers and contractors to effectively analyze risk. Scenario analysis is not typically conducted at the company level, and those that do employ it vary widely in their modeling techniques.⁵⁴ In addition, high-level directives on climate risk may provide insufficient direction for contracting officers to effectively implement risk management practices in their acquisition strategies.⁵⁵

Recently issued climate adaptation plans recognize the need to coordinate with other agencies, including through groups like the National Climate Taskforce, the Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization, the Interagency Working Group on Extreme Heat, the Interagency Working Group on Flood Resilience, and the White House

⁵¹ U.S. DEP'T OF ENERGY, 2021 CLIMATE ADAPTATION AND RESILIENCE PLAN 11 (2021); *see also* U.S. DEP'T OF HOUS. & URBAN DEV., CLIMATE ADAPTATION PLAN 4 (2021) ("It is the policy of the Department to organize and deploy the full capacity of its offices to combat the climate crisis and implement a department-wide approach that reduces climate pollution; increases resilience to the impacts of climate change; protects public health; delivers environmental justice; and spurs well-paying union jobs and economic growth.").

⁵² *See* TCFD Technical Report, *supra* note 33, at 2, 7.

⁵³ *Id.* at 1.

⁵⁴ CHARLOTTE VAILLES & CLÉMENT MÉTIVIER, INST. FOR CLIMATE ECON., VERY FEW COMPANIES MAKE GOOD USE OF SCENARIOS TO ANTICIPATE THEIR CLIMATE-CONSTRAINED FUTURE (2019), <https://www.i4ce.org/wp-core/wp-content/uploads/2019/02/Very-few-companies-make-good-use-of-scenarios-to-anticipate-their-climate-constrained-future.pdf>.

⁵⁵ U.S. GOV'T ACCOUNTABILITY OFF., *supra* note 39, at 13–14 ("[O]fficials responsible for acquisition and supply in DOD told us they have not implemented the provisions of the department's climate change directive related to acquisition and supply processes, in part due to the directive being ambiguous and identifying only high-level requirements. Department officials stated that it was unclear to them how the directive, given its ambiguous nature, could be implemented.").

Environmental Justice Interagency Council.⁵⁶ The FAR Council should collaborate at minimum with Financial Stability Oversight Council, NOAA, and the Environmental Protection Agency—all of which have relevant expertise—in order to determine which scenarios are most useful, which modeling assumptions are most reasonable, and how such data can be integrated into financial models.⁵⁷ In addition, the FAR Council should coordinate with senior procurement officials from each agency to ensure that models can be effectively applied to procurement.

Respectfully Submitted,

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Attachment (1):

1. Madison Condon et al., *Mandating Disclosure of Climate-Related Financial Risk*, N.Y.U. J. LEGIS. & PUB. POL'Y (forthcoming 2021)

⁵⁶ See, e.g., U.S. DEP'T OF LABOR, CLIMATE ACTION PLAN 4 (2021).

⁵⁷ See Condon et al., *supra* note 16, at 38 (citing Tanya Fiedler et al., *Business Risk and the Emergence of Climate Analytics*, NATURE CLIMATE CHANGE (2021) (discussing use of climate models in financial risk assessment)).