National Aeronautics and Space Administration

OSBP Learning Series: Updates from the FAR – Small Business Edition

Speakers
Dorice Kenely, NASA Office of Procurement

Dec. 16, 2020

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About the NASA Office of Small Business Programs

The NASA Office of Small Business Programs (OSBP) is located at Headquarters in Washington, D.C. and is under the leadership of Associate Administrator Glenn A. Delgado.

Our vision is to promote and integrate all small businesses into the competitive base of contractors that pioneer the future of space exploration, scientific discovery, and aeronautics research.

The NASA OSBP webinar series offers in-depth training relevant to small businesses; and provide the opportunity to ask questions directly to key points of contacts at the Agency.

Meet the Guest Speaker

Ms. Dorice Kenely has more than 17 years of experience in federal government acquisitions as a Contract Specialist, Grants Officer, Contracting Officer and Policy Analyst. Dorice worked with the Administrative Office of US Courts, Department of State, the Department of Navy's Office of Naval Research, and the U.S. Department of Transportation's Federal Transit Administration before joining NASA.

Dorice received a Master's in Public Communications from American University, Master's Certificate in Federal Government Contracting from the George Washington University School of Business and a Bachelor's in Business Administration from Marymount University.

Meet the Guest Speaker

During her government tenure, Dorice awarded inter and intra agency agreements, contracts, grants and cooperative agreements for a sundry of goods and services, including research and development, using all contract types, from pre-solicitation to close out. Ms. Kenely believes that continuous learning is the key to perpetual growth, which is why she has chosen a career in acquisitions management.

Featured Presentation

National Aeronautics and
Space Administration

EXPLORE PROCUREMENT

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NASA Office of Small Business Programs
Webinar Series, December 16, 2020
Small Business Open FAR Cases

Dorice Kenely
Procurement Analyst
Office of Procurement

Agenda

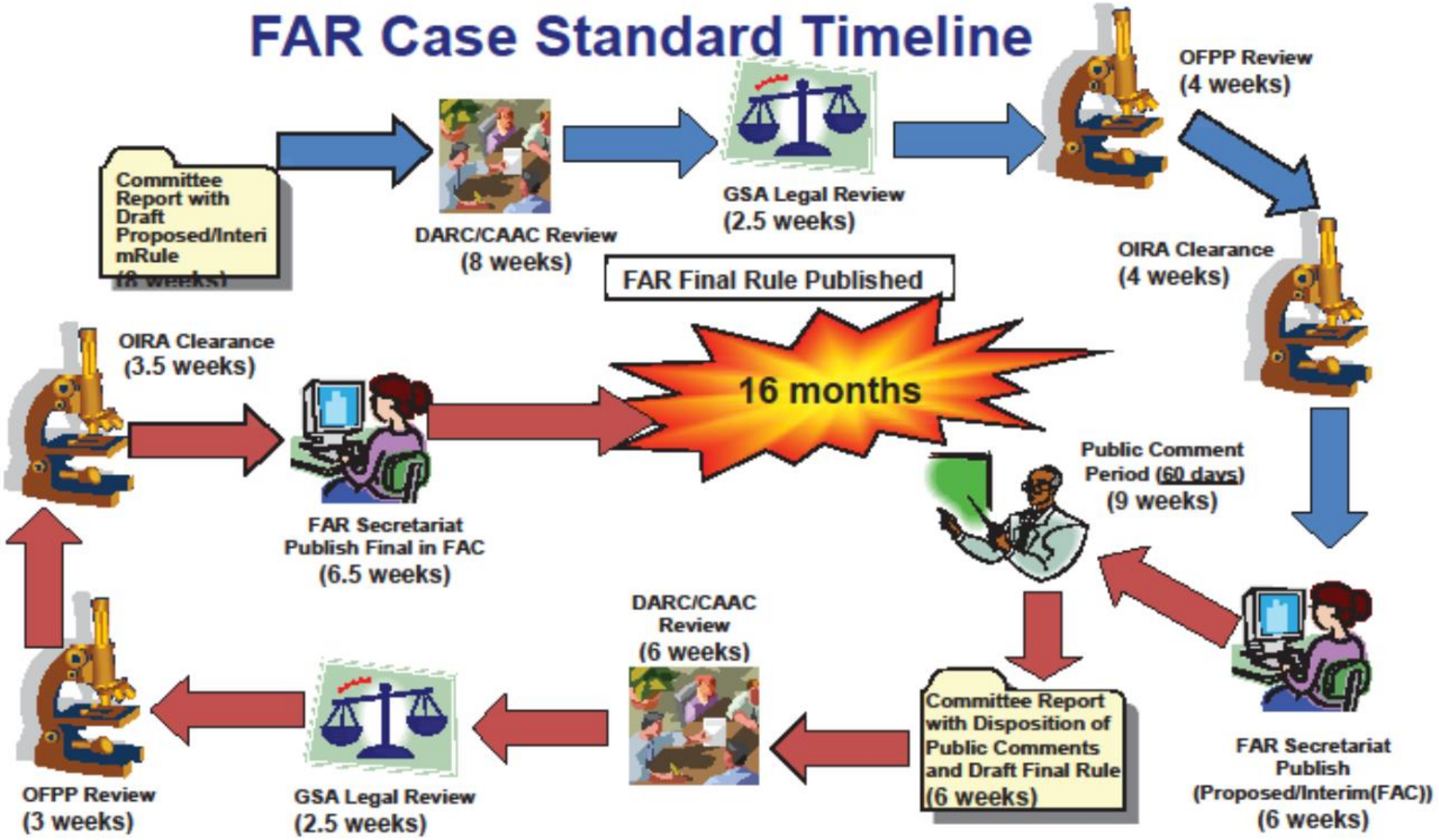
- Introduction
- Ground Rules
- Small Business Open FAR Cases and Status
- Questions

Ground Rules

Ground Rules

- FAR Case Standard Timeline
  - Provides estimated time frames and
  - Found in the FAR Operating Guide
- Impact vs. WIFM
  - Impact – how the rule will impact industry, government or both.
  - WIFM – What's in it for me? What can the Contracting Office, Small Business Specialists or industry gain from this rule?
- No napping/remain engage ☺!

FAR Case Standard Timeline



Small Business Open FAR Cases

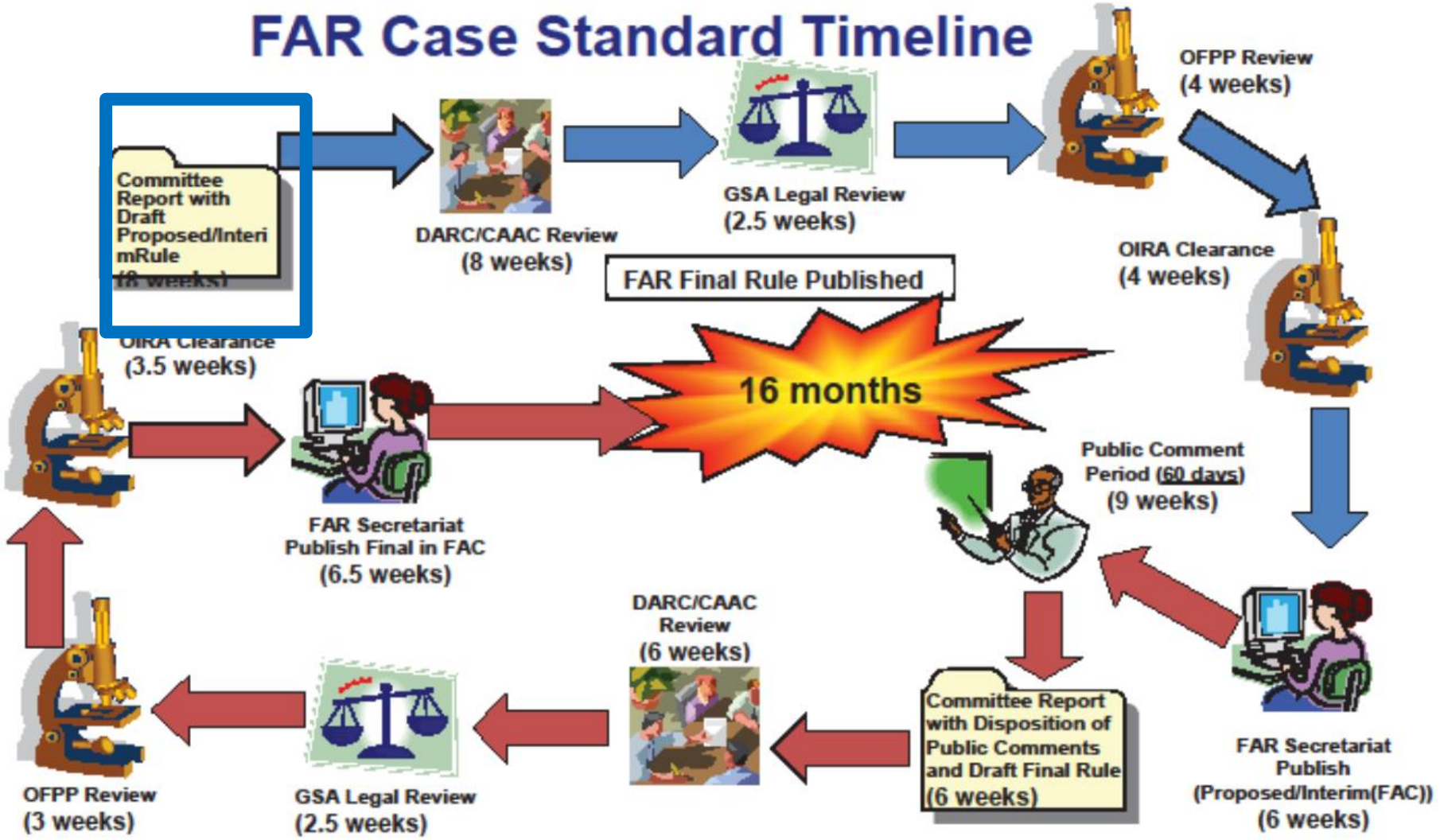
Open Small Business FAR Cases

1) 2020-016, Representation of Size and Socioeconomic Status
2) 2020-013, Certification of Women-Owned Small Business
3) 2020-012, Scope of Review by Procurement Center Representatives
4) 2019-008, Small Business Program Amendments
5) 2019-007 Update of HUB Zone Program
6) 2019-004, Good Faith in Subcontracting
7) 2019-003, Consolidation and Substantial Bundling
8) 2018-003, Credit for Lower-Tier Small Business Subcontracting
9) 2017-019, Policy on Joint Ventures
10) 2016-011, Revision of Limitations on Subcontracting
11) 2016-002, Applicability of Small Business Regulations Outside the United States

1) 2020-016, Representation of Size and Socioeconomic Status

- **Case Status:** Proposed Rule
- **Currently:** FAR Team Drafting Proposed Rule
- **Next Step:** DARC and CAAC Review
- **Synopsis:** Implements the requirement in SBA's proposed rule (84 FR 60846, November 8, 2019) for representation of size and socioeconomic status for orders under multiple-award contracts.
- **Impact/WIFM:** In accordance with SBA's rule, the rule will allow for size and/or socioeconomic protests at the order-level for set-aside orders issued against unrestricted MACs, or for set-aside orders based on a different socioeconomic status from the underlying set-aside MAC.

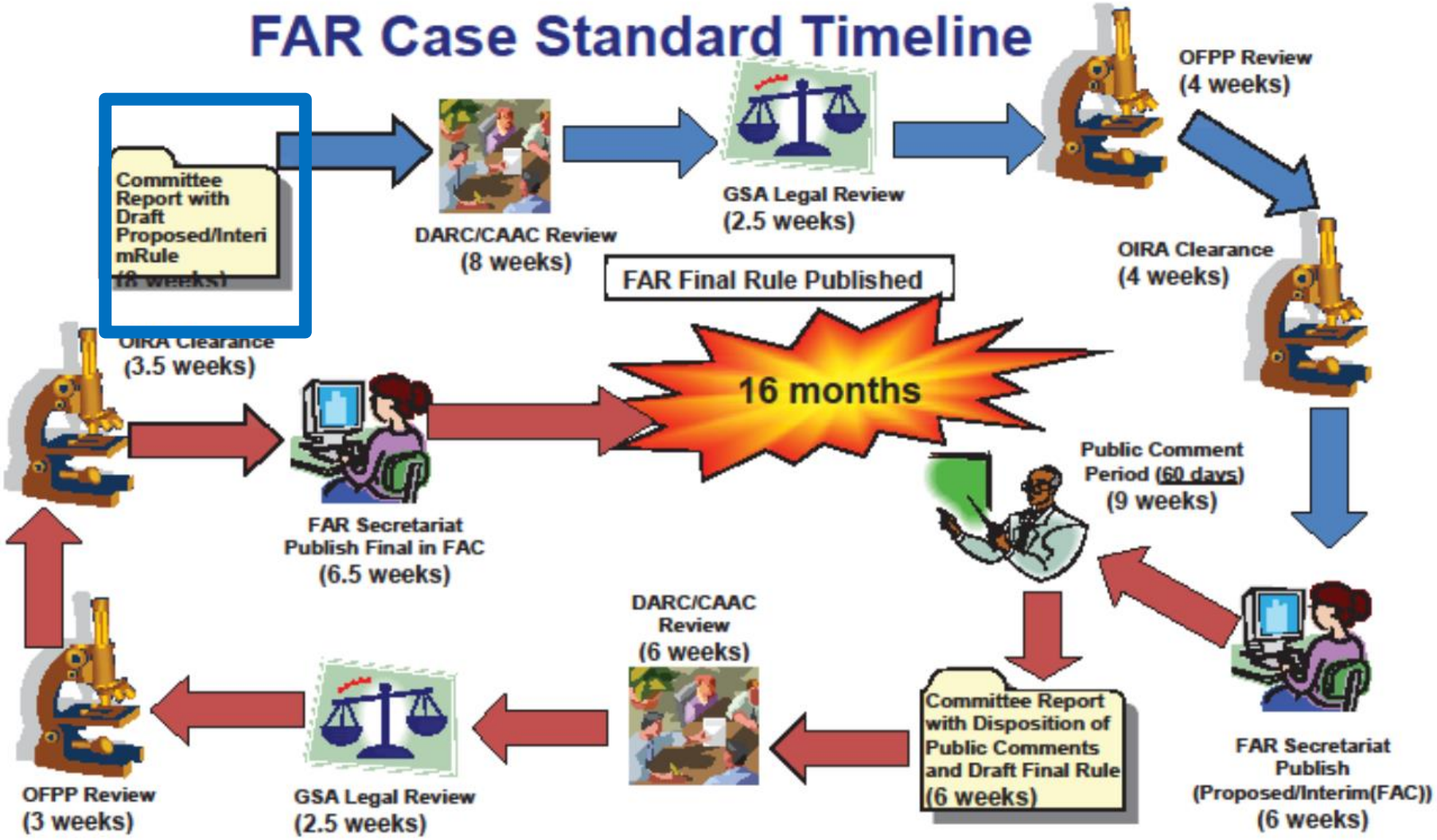
1) 2020-016, Representation of Size and Socioeconomic Status



2) 2020-013, Certification of Women-Owned Small Businesses

- **Case Status:** Proposed Rule
- **Currently:** FAR Team Drafting Proposed Rule
- **Next Steps:** DARC and CAAC Review
- **Synopsis:** Implements the statutory requirement for certification of businesses participating in the Women-Owned Small Business Program (section 825 of the National Defense Authorization Act for Fiscal Year 2015), as implemented by the Small Business Administration in its final rule published May 11, 2020 (85 FR 27650).
- **Impact/WIFM:** WOSBs and EDWOSB will have a formal certification program detailed in the FAR with associated requirements.

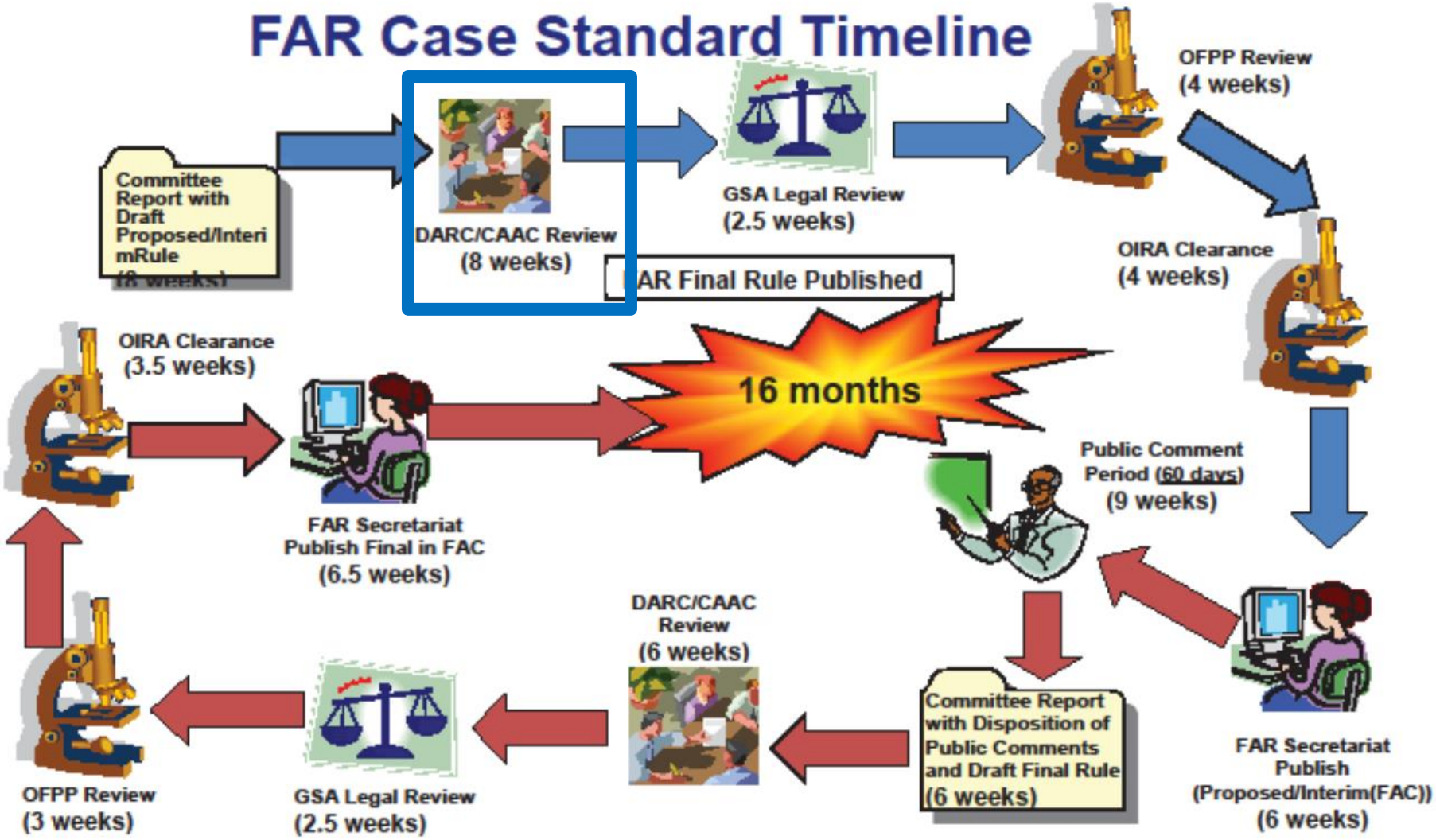
2) 2020-013, Certification of Women-Owned Small Businesses



3) 2020-012, Scope of Review by Procurement Center Representatives

- **Case Status:** Proposed Rule
- **Currently:** With the DARC
- **Next Steps:** CAAC Review
- **Synopsis:** Implements section 1811 of the National Defense Authorization Act for Fiscal Year 2017 (15 U.S.C. 644 (l)(9)(A)), as implemented by the Small Business Administration's final rule published November 29, 2019 (84 FR 65647).
- **Impact/WIFM:** PCRs have an added list of procurement actions that they can request for review along with additional tasks.

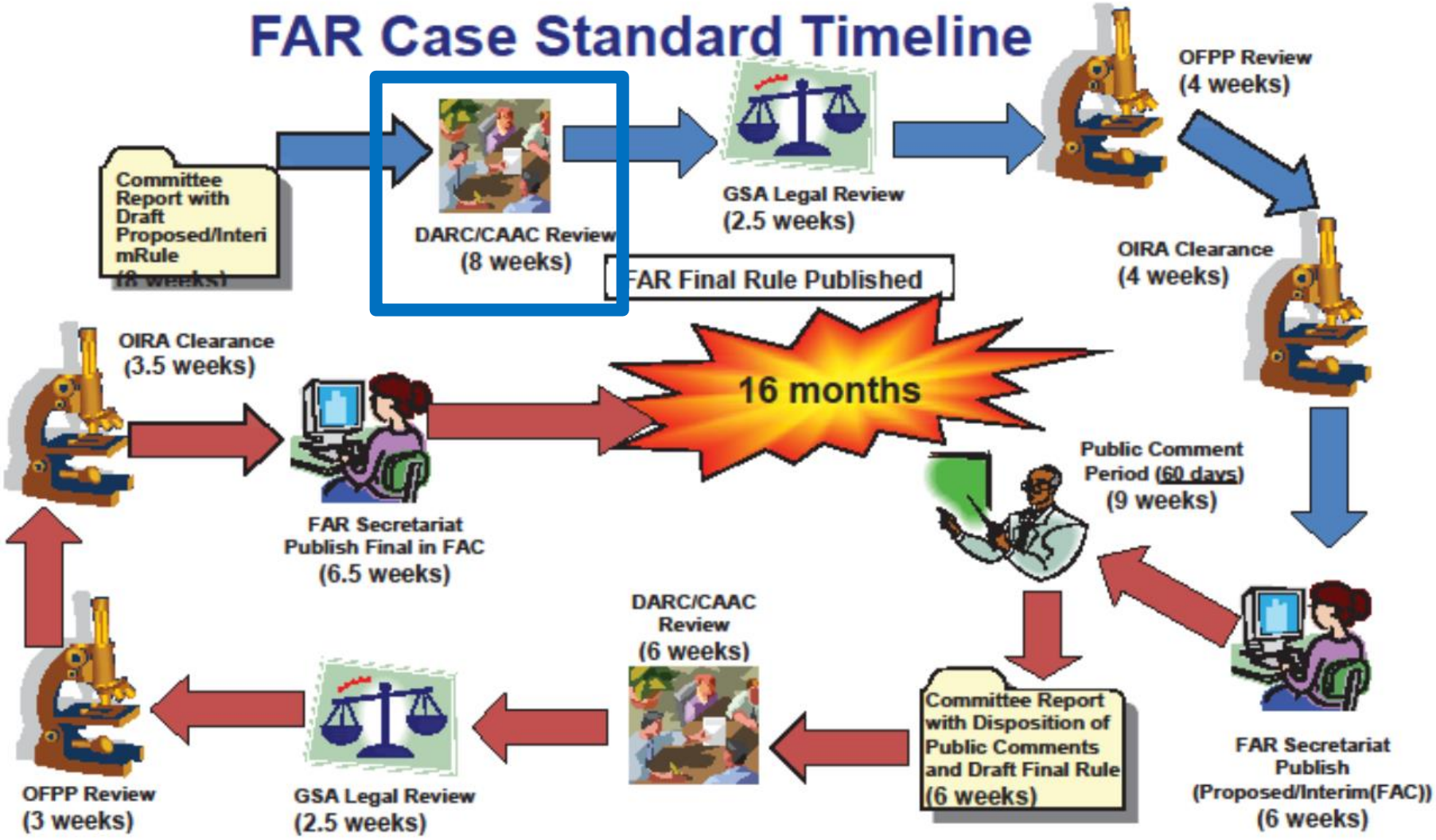
3) 2020-012, Scope of Review by Procurement Center Representatives



4) 2019-008, Small Business Program Amendments

- **Case Status:** Proposed Rule
- **Currently:** DARC and FAR Staff Resolving Draft Proposed FAR Rule Issues
- **Next Step:** DARC/CAAC
- **Synopsis:** Implements regulatory changes proposed by the Small Business Administration (83 FR 62516) regarding small business programs. The proposed regulatory changes include the timing of the determination of size status for multiple-award contracts for which price is not evaluated at the contract level; the grounds for size status protests; and the grounds for socioeconomic status protests.
- **Impact/WIFM:** Provides information and clarity on several matters, e.g. the grounds for size status protests; and the grounds for socioeconomic status protests.

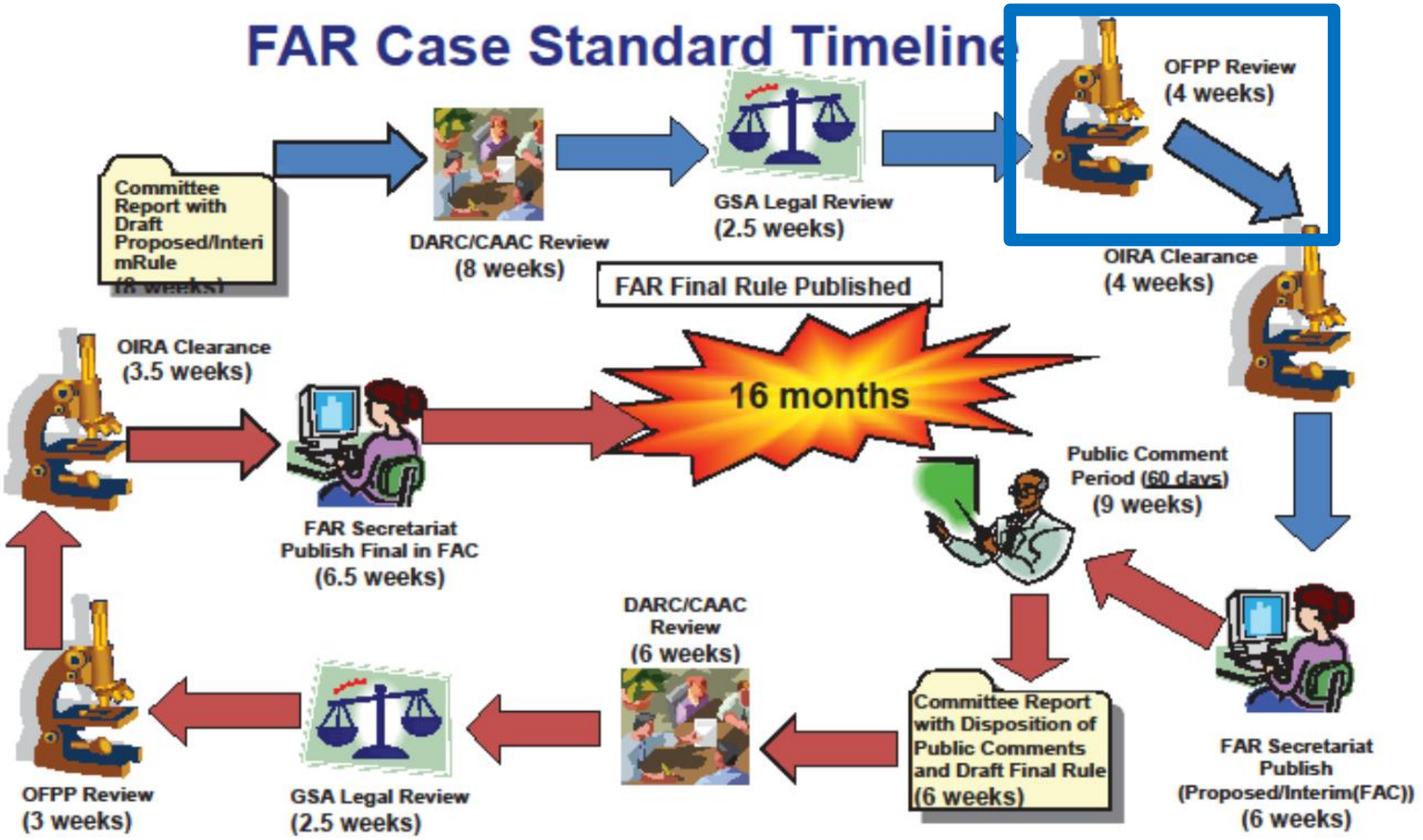
4) 2019-008, Small Business Program Amendments



5) 2019-007, Update of HUB Zone Program

- **Case Status:** Proposed Rule
- **Currently:** OFPP Reviewing
- **Next Step:** OIRA Clearance
- **Synopsis:** Implements regulatory changes proposed by the Small Business Administration (83 FR 54812) regarding the Historically Underutilized Business Zone (HUB Zone) Program. The proposed regulatory changes are intended to reduce the regulatory burden associated with the HUB Zone Program.
- **Impact/WIFM:** Provides information on the use of DSBS, removal of unnecessary words and phrases and provides consistency with this subpart to the rest of the FAR.

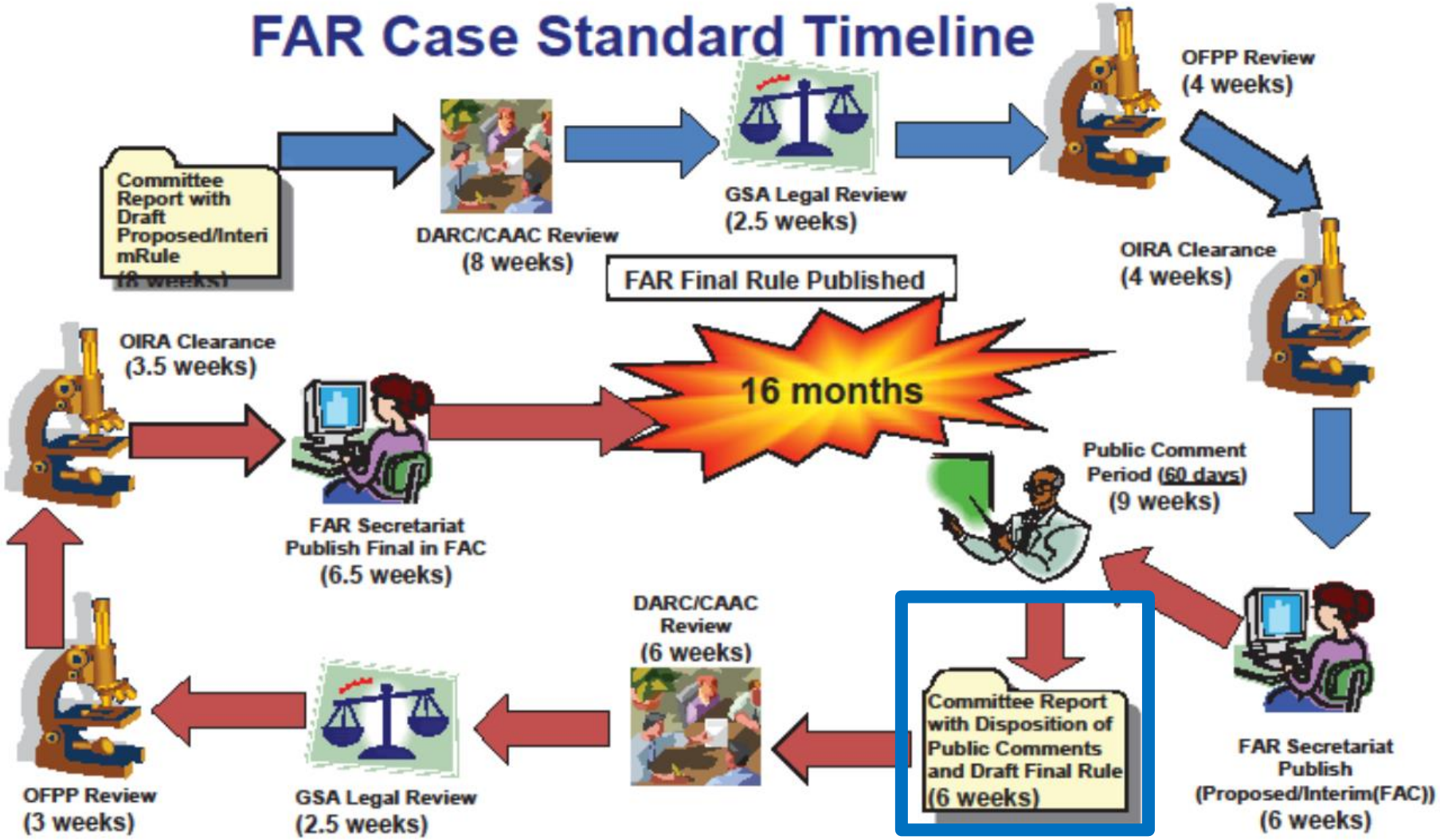
5) 2019-007, Update of HUB Zone Program



6) 2019-004, Good Faith in Small Business Subcontracting

- **Case Status:** Final Rule
- **Currently:** With the Team for Public Comment Responses and *Final Rule Draft*
- **Next Steps:** DARC and CAAC Review
- **Synopsis:** Implements section 1821 of the NDAA for FY 2017 (Pub. L. 114-328) and SBA implementing regulations. Section 1821 requires SBA to provide examples of activities that would be considered a failure to make a good faith effort to comply with a small business subcontracting plan.
- **Impact/WIFM:** Contractors will have more information to assist them in complying with the requirement of making a good faith effort in meeting their subcontracting plan goals.

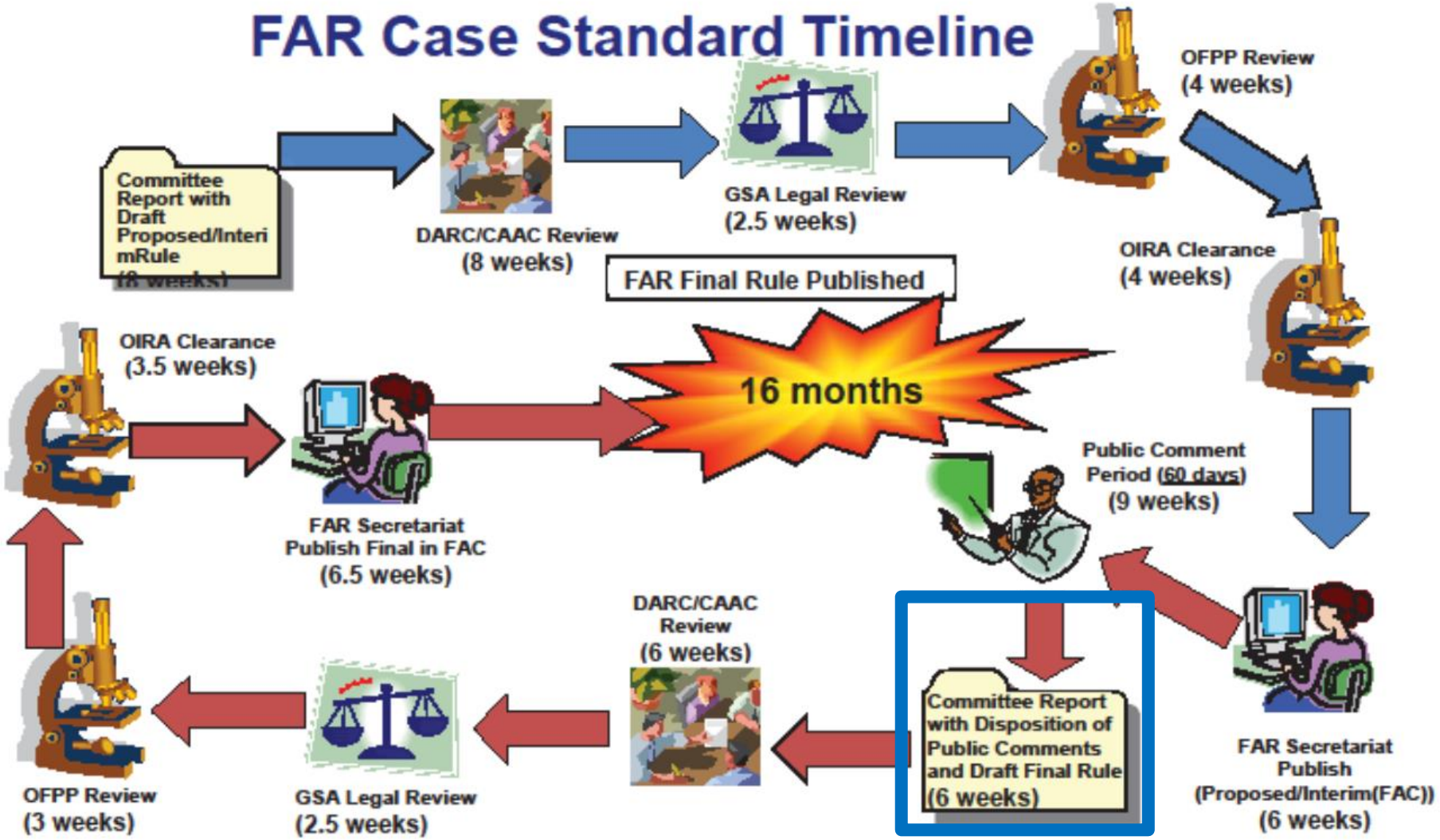
6) 2019-004, Good Faith in Small Business Subcontracting



7) 2019-003, Consolidation and Substantial Bundling

- **Case Status:** Final Rule
- **Currently:** With the Team for Public Comment Responses and *Final Rule Draft*
- **Next Step:** CAAC/DARC Review
- **Synopsis:** Implements section 863 of the NDAA for FY 2016 (Pub. L. 114-92) and SBA implementing regulations. Section 863 requires publication of notices concerning consolidation and substantial bundling of contract requirements.
- **Impact/WIFM:** Provides offerors notifications of consolidated and substantial bundling requirements allowing businesses to consider strategies, e.g. joint ventures, SB teaming arrangement, subcontracting opportunities. Requires the government to post 3 notices: 1) a list and rationale for bundled requirements - existing requirement; 2) notice of an acq. plan that involves substantial bundling and 3) a justification for the determination of the substantial bundling.

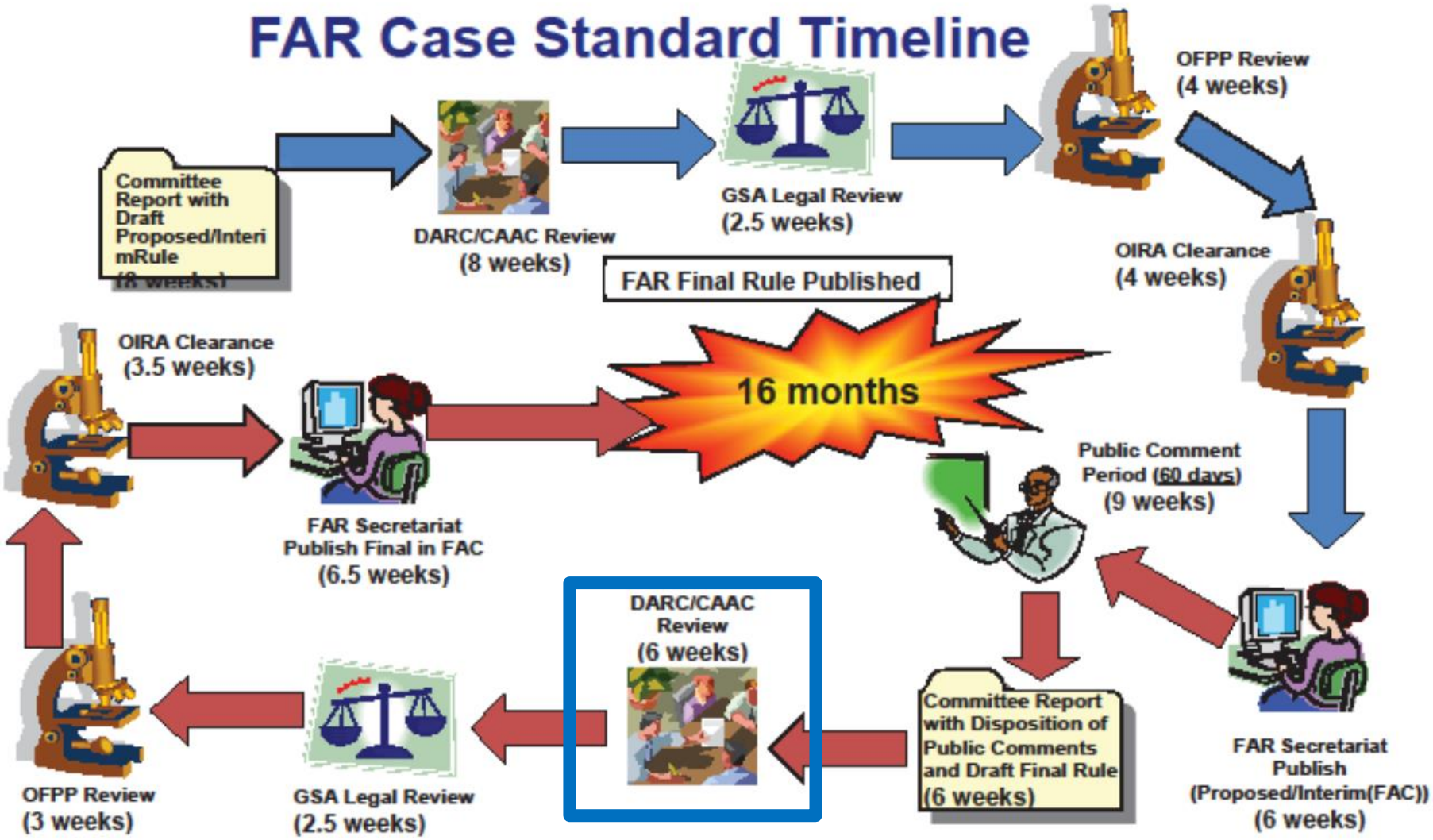
7) 2019-003, Consolidation and Substantial Bundling



8) 2018-003, Credit for Lower-Tier Small Business Subcontracting

- **Case Status:** Final Rule
- **Currently:** Case on Hold Pending Publication of a Proposed Rule by SBA
- **Next Steps:** Make Conforming Changes IAW SBAs Proposed Rule
- **Synopsis:** Implements section 1614 of the NDAA for FY 2014, as implemented in the SBA regulations on 12/23/2016 (81 FR 94246), which allows prime contractors to receive credit toward goals in their small business subcontracting plans for subcontracts awarded by their subcontractors.
- **Impact/WIFM:** Allows prime contractors to receive credit toward goals in their small business subcontracting plans for subcontracts awarded by their subcontractors.

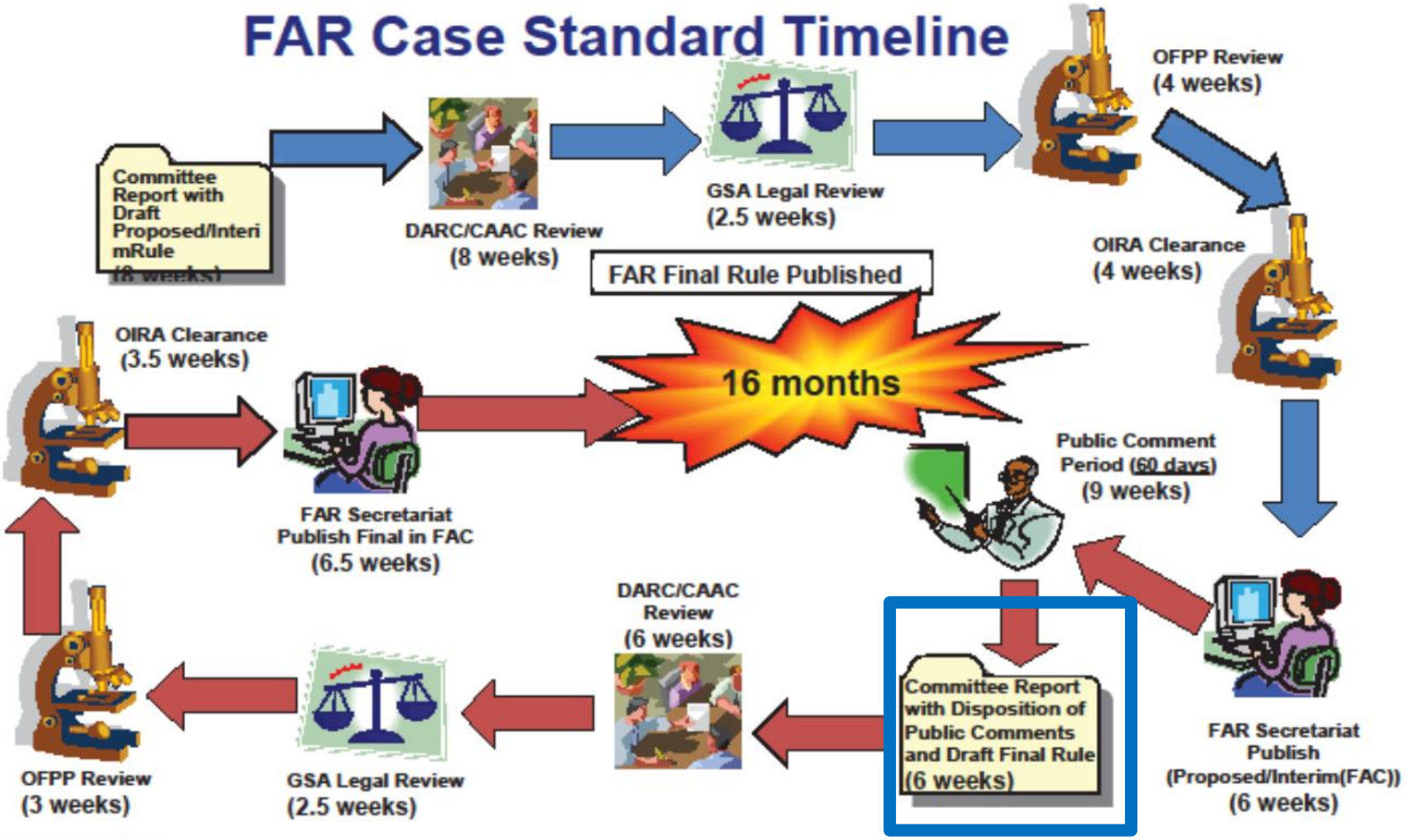
8) 2018-003, Credit for Lower-Tier Small Business Subcontracting



9) 2017-019, Policy on Joint Ventures

- **Case Status:** Final Rule
- **Currently:** With the Team for Public Comment Responses and *Final Rule Draft*
- **Next Steps:** DARC and CAAC Review
- **Synopsis:** Implements regulatory changes regarding joint ventures made by the Small Business Administration(SBA) in their final rule published in the Federal Register on July 25, 2016 (81 FR 48558). Also clarifies that 8(a) joint ventures are not "certified" in the 8(a) Program and that 8(a) joint venture agreements must be approved by SBA prior to award of an 8(a) contract.
- **Impact/WIFM:** Provide industry with a new way to compete for small business or socioeconomic set-asides using a joint venture made up of a mentor and a protégé. The 8(a) joint venture clarification prevents confusion on an 8(a) joint venture's eligibility to compete for an 8(a) competitive procurement.

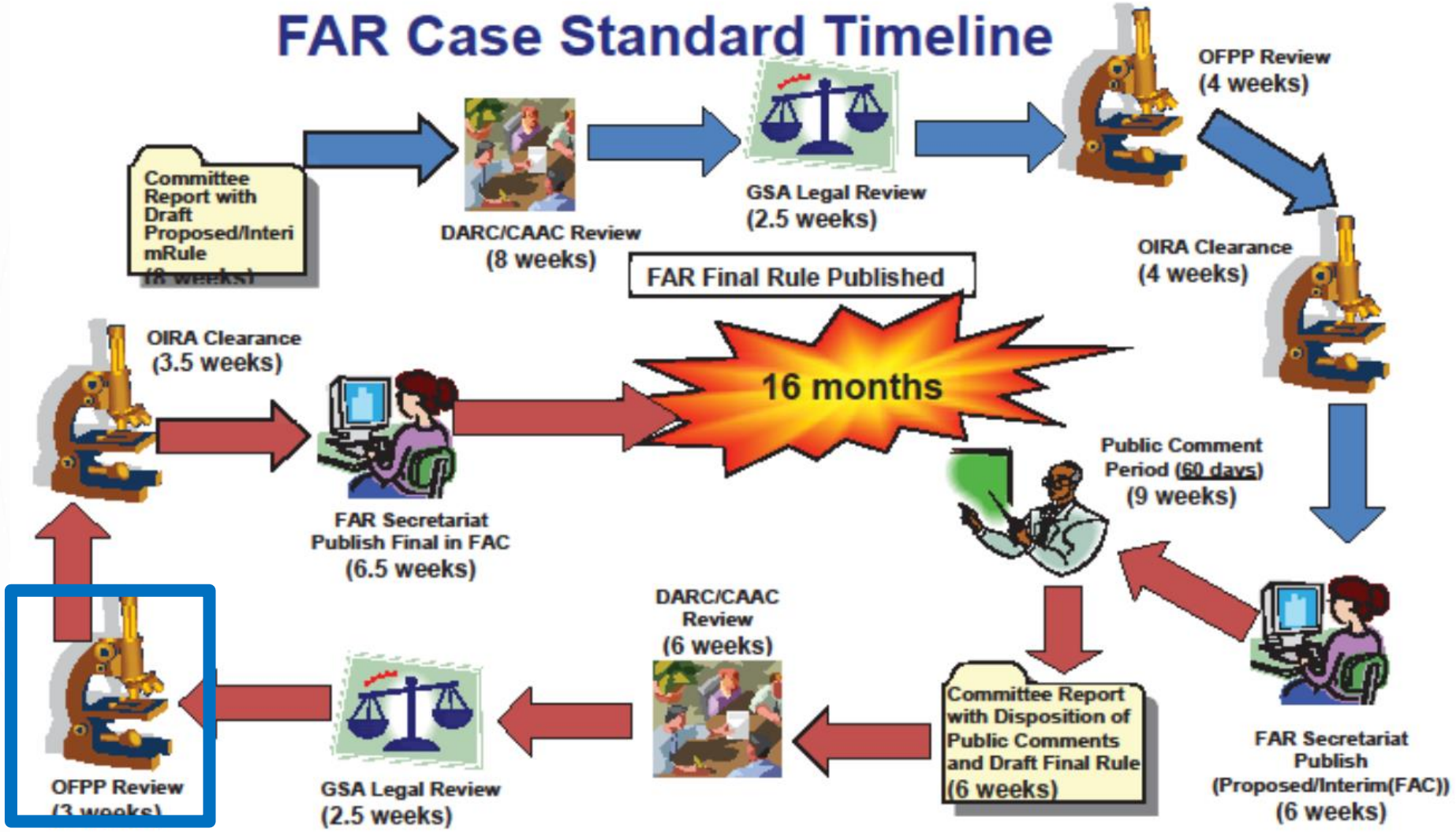
9) 2017-019, Policy on Joint Ventures



10) 2016-011, Revision of Limitations on Subcontracting

- **Case Status:** Final Rule
- **Currently:** OFPP is Reviewing
- **Next Steps:** OIRA Review and Publishing
- **Synopsis:** Implements SBA's final rule (81 FR 34243) for section 1651 of the NDAA for FY 2013 (Pub. L. 112-239), which revised the limitations on subcontracting and the nonmanufacturer rule. Also implements SBA's regulatory clarifications concerning application of the limitations on subcontracting, nonmanufacturer rule, and size determination of joint ventures.
- **Impact/WIFM:** Shift of focus from percentage of work to be performed by prime to percentage of the award to be spent on subcontractors, lessens the burden of tracking/compliance. The percentage of the award spent on subcontractors who are similarly situated entities is not considered subcontracted for purposes of compliance.

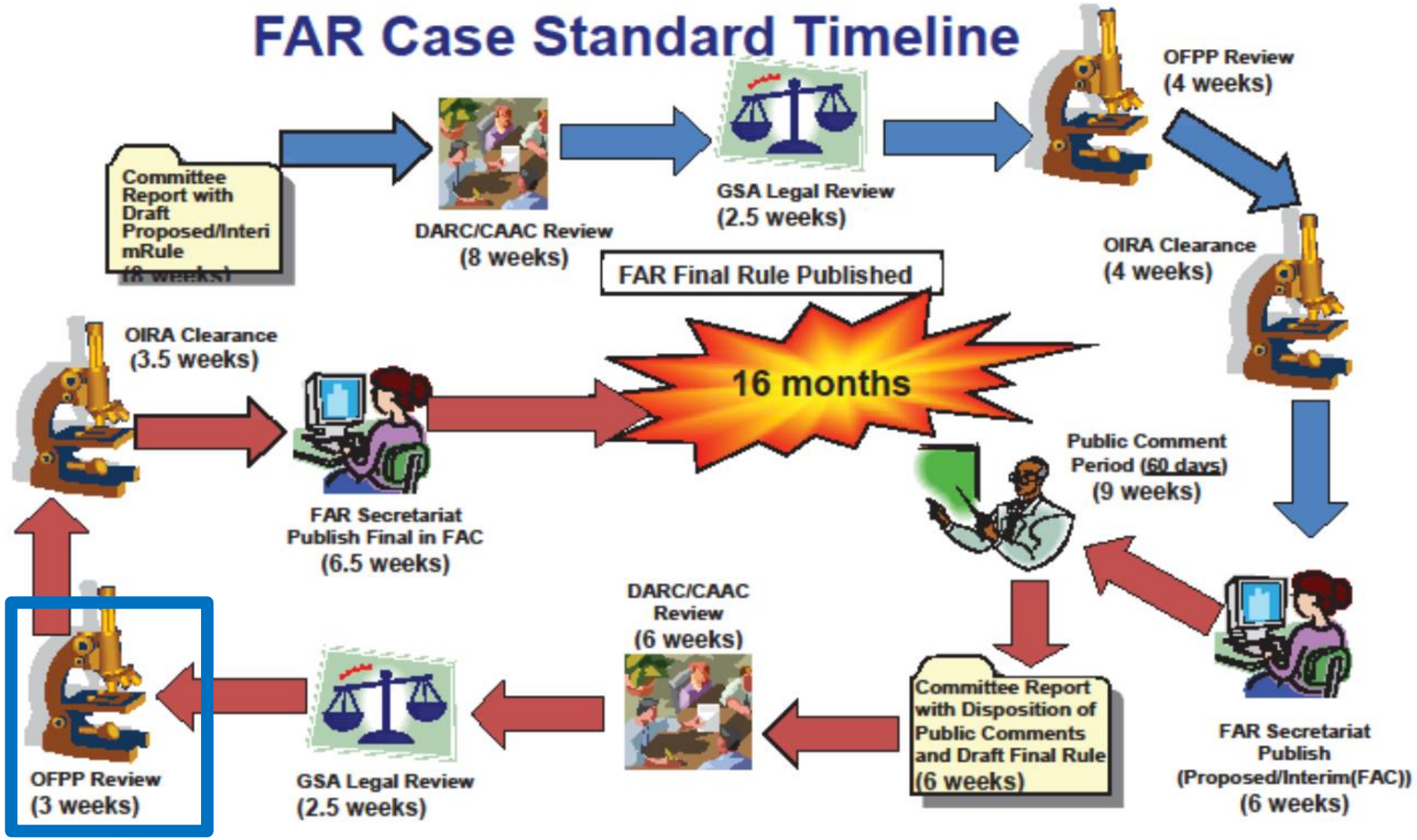
10) 2016-011, Revision of Limitations on Subcontracting



11) 2016-002, Applicability of Small Business Regulations OCONUS

- **Case Status:** Final Rule
- **Currently:** OFPP is Reviewing
- **Next Steps:** OIRA Review and Publishing
- **Synopsis:** Considers applicability of small business regulations to contracts performed outside the United States.
- **Impact/WIFM:** While not required to, agencies can receive credit towards small business goals for contracted work performed outside of the United States.

11) 2016-002, Applicability of Small Business Regulations OCONUS



References

References

- To check the status of open FAR Cases use the following link https://www.acq.osd.mil/dpap/dars/far_case_status.html.

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Q&A Session

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Upcoming Webinars

Date	Topic	Speakers
1/20/2021	How to Do Business with NASA Langley Research Center	Robert O. Betts, Langley Research Center
2/17/2021	Doing Business with Charleston County, South Carolina	TBD
3/17/2021	How to Do Business with NASA Shared Services Center	Troy E. Miller NASA Shared Services Center
4/21/2021	TBD	TBD
5/19/2021	How to Do Business with NASA Stennis Space Center	Kay S. Doane NASA Stennis Space Center

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