

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): February 25, 2021

FARO TECHNOLOGIES, INC.
(Exact name of registrant as specified in its charter)

Florida
(State or other jurisdiction
of incorporation)

0-23081
(Commission
File Number)

59-3157093
(IRS Employer
Identification No.)

250 Technology Park, Lake Mary, Florida 32746
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (407) 333-9911

N/A
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$.001	FARO	Nasdaq Global Select Market LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01. Entry into a Material Definitive Agreement

Effective as of February 25, 2021, FARO Technologies, Inc. (the "Company") entered into a settlement agreement (the "Agreement") with the General Services Administration, an independent agency of the United States government (the "GSA"). The Agreement relates to the previously disclosed internal review and report submitted to the GSA and its Office of Inspector General setting forth the findings of the internal review conducted by the Company's outside legal counsel and forensic accountants (the "GSA Matter").

Pursuant to the Agreement, the Company has agreed to, among other things, pay to the GSA \$12.3 million in full and final satisfaction of any and all claims, causes of actions, appeals and the like, including damages, costs, attorney's fees and interest arising under or related to the GSA Matter.

As previously disclosed in our Annual Report on Form 10-K filed February 17, 2021, the Company has recorded an aggregate total liability for the GSA Matter of \$12.3 million. As it has since 2002, the Company expects to continue selling its products and related services to the United States Government under GSA Federal Supply Schedule contracts.

The foregoing description of this Agreement is qualified in its entirety by reference to the text of such Agreement, which is filed as Exhibit 10.1 to this Current Report on Form 8-K and incorporated herein by reference.

Forward-Looking Statements

This Current Report on Form 8-K contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995 that are subject to risks and uncertainties, such as statements about the Company's expectations regarding its business relationship with the GSA. Statements that are not historical facts or that describe the Company's plans, objectives, projections, expectations, assumptions, strategies, or goals are forward-looking statements. In addition, words such as "expects," "anticipates," "intends," "plans," "believes," "seeks," "estimates" or words of similar meaning or discussions of the Company's plans or other intentions identify forward-looking statements. Forward-looking statements are not guarantees of future performance and are subject to various known and unknown risks, uncertainties, and other factors that may cause actual results, performances, or achievements to differ materially from future results, performances, or achievements expressed or implied by such forward-looking statements. Consequently, undue reliance should not be placed on these forward-looking statements.

Factors that could cause actual results to differ materially from what is expressed or forecasted in such forward-looking statements include, but are not limited to, potential loss of future government sales and potential impacts on customer and supplier relationships and on the Company's reputation that may result from the GSA Matter; development by others of new or improved products, processes or technologies that make the Company's products less competitive or obsolete; the Company's inability to maintain its technological advantage by developing new products and enhancing its existing products; declines or other adverse changes, or lack of improvement, in industries that the Company serves or the domestic and international economies in the regions of the world where the Company operates and other general economic, business, and financial conditions; and other risks detailed in Part I, Item 1A. Risk Factors in the Company's Annual Report on Form 10-K for the year ended December 31, 2020 filed with the SEC on February 17, 2021.

Forward-looking statements in this Current Report on Form 8-K represent the Company's judgment as of the date hereof. The Company undertakes no obligation to update publicly any forward-looking statements, whether as a result of new information, future events, or otherwise, unless otherwise required by law.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

EXHIBIT INDEX

Exhibit Number	Description
10.1	Settlement Agreement between General Services Administration and FARO Technologies, Inc. executed February 25, 2021
104	Cover Page Interactive Data File - The cover page of this Current Report on Form 8-K filed on March 2, 2021, formatted in Inline XBRL

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

March 2, 2021

FARO Technologies, Inc.

/s/ Allen Muhich

By: Allen Muhich
Its: Chief Financial Officer
(Duly Authorized Officer and Principal Financial Officer)

SETTLEMENT AGREEMENT

This Settlement Agreement is between the General Services Administration (the “GSA” or the “Government”) represented by its contracting officers, Mary Ann Swearingen and Jonathan Woodcock, and FARO Technologies, Inc. (“FARO”), represented by Michael Burger, President and Chief Executive Officer. The Government and FARO will collectively be referred to as the “Parties.”

WHEREAS, on or about July 12, 2012, the GSA awarded Multiple Award Schedule 66, Scientific Equipment and Services, Contract No. GS-24F-0044M, to FARO. The period of performance runs through July 11, 2022, and the contracting officer is Mary Ann Swearingen;

WHEREAS, on or about September 29, 2017, GSA awarded Multiple Award Schedule 84, Total Solutions for Law Enforcement, Security, Facilities Management, Fire, Rescue, Clothing, Marine Craft and Emergency/Disaster Response, Contract No. GS-07F-197GA, to FARO. The period of performance runs through September 28, 2022, and the contracting officer is Jonathan Woodcock;

WHEREAS, pursuant to the terms of FARO’s Contract Nos. GS-24F-0044M and GS-07F-197GA (collectively referred to hereinafter as the “Contracts”), FARO was obligated to comply with the Price Reductions Clause (“PRC”), GSAR 552.238-75, the Price Adjustment Clause (“PAC”), GSAR 552.215-72, the Trade Agreements Act (“TAA”), and laws and regulations related to small businesses;

WHEREAS, FARO discovered that for orders placed under the Contracts from July 12, 2012 through December 31, 2018, it was not in compliance with certain of the aforementioned clauses, laws and regulations, which resulted in inadvertent overpayments by the Government, sales of products from non-TAA compliant countries, the fulfillment of orders to FARO that

were set-aside for small businesses and the reporting of inaccurate information concerning FARO's fulfillment of its small business subcontracting goals (hereinafter collectively referred to as the "Covered Conduct");

WHEREAS, FARO voluntarily made a Preliminary Disclosure of the Covered Conduct to the GSA Office of Inspector General ("OIG") on February 14, 2019 and a Final Disclosure Report on July 15, 2019 (hereinafter collectively referred to as "Contractor Disclosure No. 201902150745-Multiple");

WHEREAS, the GSA OIG performed a review and evaluated the facts relating to Contractor Disclosure No. 201902150745-Multiple, and FARO fully cooperated with the review by producing documents and data in response to multiple GSA OIG Requests for Information;

WHEREAS, on December 3, 2020, the GSA OIG referred the matter to the responsible GSA contracting officers with a recommendation to resolve contractually the matters stated in Contractor Disclosure No. 201902150745-Multiple;

WHEREAS, the Parties have determined that it is in their best interests to settle all matters relating to the Covered Conduct in Contractor Disclosure No. 201902150745-Multiple; and

WHEREAS, the GSA OIG intends to close its review of the Covered Conduct stated in Contractor Disclosure No. 201902150745-Multiple after the Parties have executed the Settlement Agreement and the Government has received payment from FARO.

NOW THEREFORE, in consideration of the promises set forth herein and for good and valuable consideration, the Parties mutually agree as follows:

1. **Settlement Amount and Payment:** FARO agrees to pay the Government twelve million, three hundred and twenty-four thousand, seven hundred and seventy dollars and sixty-

one cents (\$12,324,770.61) in full and final satisfaction of any and all claims, causes of actions, appeals and the like, including damages, costs, attorney's fees and interest arising under or related to Contractor Disclosure No. 201902150745-Multiple.

2. The Parties' Responsibilities:

A. FARO:

1. Agrees to pay the Government the total amount of \$12,324,770.61.
2. Agrees to make the payment under this Agreement within thirty (30) calendar days from the receipt of the demand letter, payable and sent to the following:

General Services Administration
Miscellaneous Receipt for Non-Federal Claims
Claim No. XXXXXXXX
GSA Lockbox 979009
PO Box 979009
Saint Louis, MO 63197-9009

Please ensure the claim number from the demand letter is on the check or the remittance with the check.

or

by Automated Clearing House ("ACH"). If you are paying via ACH, please contact GSA for payment instructions if needed.

3. Agrees to forward to Contracting Officers Mary Ann Swearingen and Jonathan Woodcock a copy of FARO's check or receipt when payment has been made in full.

B. The Government:

1. Agrees to accept the sum of \$12,324,770.61 as an accord and satisfaction of all of its claims, causes of actions, appeals and the like, including damages, costs, attorney's fees and interest arising under or related to Contractor Disclosure No. 201902150745-Multiple.
2. Agrees to issue a demand letter within ten (10) calendar days of execution of this Agreement.

3. Agrees to deem repayment from FARO as being both reasonable and timely. No additional interest shall be assessed to FARO if payment under this Agreement is made in full to the GSA by the time set forth in Section A.

3. Releases: Subject to the exception contained in this Settlement Agreement at paragraph 5 (below), FARO hereby releases, remises, waives and forever discharges GSA from any and all claims, rights, demands, damages, lawsuits, or causes of action, actual or perceived, known or unknown, arising under or related to Contractor Disclosure No. 201902150745-Multiple. FARO remises, releases, and discharges the Government, its officers, agents, and employees of and from all civil liabilities, obligations, claims, appeals and demands arising under or related to Contractor Disclosure No. 201902150745-Multiple which it now has or hereafter may have, whether known or unknown, administrative or judicial, legal or equitable, to include all claims for interest. Subject to the exception contained in this Settlement Agreement at paragraph 5 (below), effective upon execution of this Settlement Agreement, the Government hereby releases, remises, waives and forever discharges FARO, its officers, agents, and employees of and from any and all claims, rights, demands, damages, law suits, appeals, causes of action, and demands which it now has or hereafter may have, whether known or unknown, foreseeable or unforeseeable, administrative, contractual, judicial, legal, or equitable, arising under or in any way related to Contractor Disclosure No. 201902150745-Multiple. Nothing contained in this Agreement is intended to limit the Parties' contractual rights (including, with respect to the Government, audit rights and any non-monetary administrative remedies) or obligations beyond the issues under or relating to the subject matter of Contractor Disclosure No. 201902150745-Multiple.

4. Subcontractor and Suppliers: FARO agrees that it will not authorize any of its subcontractors and/or suppliers on the Contracts to file an appeal on its behalf, for it, or in its name and will object to the prosecution of any such appeal in FARO's name for matters known up to the date of final execution of this Settlement Agreement. If such objection is not filed by FARO within ten (10) calendar days after a subcontractor files any such appeal, the Government may move to dismiss the appeal with prejudice, using this Settlement Agreement as evidence of the lack of the subcontractor's authority to file the subcontractor's appeal and FARO's objection to the same.

5. Reservation: Notwithstanding any terms of this Settlement Agreement, specifically reserved and excluded from the scope and terms of this Settlement Agreement as to any entity or person (including FARO) is any liability outside the scope of either Contracting Officer's authority to release, including: (a) any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code); (b) any criminal liability; (c) any liability for fraud or under the False Claims Act; (d) any liability for personal injury, property, or liability to third parties; and (e) the suspension and debarment rights of any federal agency. The undersigned represent that he/she is unaware of any facts that would form the basis for any of the above claims. Further, the Parties reserve and exclude from this Settlement Agreement any liability based upon such obligations as are created by this Settlement Agreement.

6. Cooperation: The Parties agree to take any and all further action reasonably necessary or appropriate to fully effect the provisions of this Settlement Agreement, including but not limited to executing any additional documents necessary to effectuate the provisions of this Settlement Agreement.

7. Severability: If any provision of this Settlement Agreement or the application thereof is held invalid or unenforceable, that invalidity shall not affect other provisions of this Settlement Agreement that can be given effect without the invalid provisions or application, and to this end, the provisions of this Settlement Agreement are declared to be severable. This Settlement Agreement may be executed in separate counterparts all of which, when taken together, shall constitute the entire agreement.

8. Waiver: The waiver of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any other term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition contained herein.

9. Authority: The Parties represent and warrant that they have entered into this Settlement Agreement voluntarily, with proper authority, and without reservation. The only consideration for this Settlement Agreement is expressly set forth within this Settlement Agreement, and no further inducements or representations, written or oral, have been exchanged in connection herewith. Each Party acknowledges that it has had adequate time to reflect upon and consider the terms of this Settlement Agreement; agrees that neither this Settlement Agreement, nor the settlement set forth herein, is the result of fraud, duress, coercion, or undue influence on the part of either Party; acknowledges that each has received all information and documents necessary to permit the Party to make fully informed decisions with respect to all aspects of this Agreement; and expressly understands that this Settlement Agreement represents the final agreement between the Parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements or understandings between the Parties.

10. Binding on the Parties in Interest: This Settlement Agreement, upon complete execution, is binding upon, and shall inure to the benefit of, the Parties hereto and their

respective agents, employees, representatives, officers, directors, subsidiaries, assigns, heirs and successors in interest.

11. Execution in Counterparts: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties agree that electronic facsimile or .pdf signatures shall have full force and effect of original signatures.

12. Entire Agreement: This Settlement Agreement constitutes the entire agreement and understanding between the Parties concerning the subject matter hereof, and supersedes and replaces all prior negotiations, proposed agreements and agreements, written and oral, relating thereto, and the obligations set forth hereunder may not be altered, amended or modified in any respect unless in writing, and duly executed by the Parties. There are no collateral agreements, reservations, or understandings between the Government and FARO, express or implied, oral or written, except as specifically set forth herein. No modification to this Settlement Agreement shall be binding unless it is reduced to writing and signed by the Parties to this Settlement Agreement.

13. Governing Law: This Settlement Agreement is to be governed in accordance with Federal law, including the Contract Disputes Act of 1978. Nothing in this Agreement is intended to conflict with current law or regulation or the directives of the GSA. If a term of this Agreement is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions will remain in full force and effect.

14. Effective Date: The effective date of this Agreement shall be the latest of execution by any signatory thereof.

15. No Admission of Liability: This Settlement Agreement does not constitute an admission of liability by either the Government or FARO. Rather, this settlement is merely a negotiated settlement between the Parties.

16. Jurisdiction: The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the District of Columbia unless that Court determines that venue or jurisdiction is lacking over any such dispute.

FOR THE GOVERNMENT:

MARY
SWEARINGEN Digitally signed by MARY
SWEARINGEN
Date: 2021.02.25 06:30:02
-06'00'

Mary Ann Swearingen
Contracting Officer
General Services Administration
United States of America

Dated: _____

JONATHAN
WOODCOCK Digitally signed by
JONATHAN
WOODCOCK
Date: 2021.02.23
15:52:28 -06'00'

Jonathan Woodcock
Contracting Officer
General Services Administration
United States of America

Dated: 2-23-21

FOR CONTRACTOR:



Michael Burger
President and Chief Executive Officer
FARO Technologies, Inc.

Dated: February 19, 2021

AMY COOK Digitally signed by AMY
COOK
Date: 2021.02.25
08:07:05 -06'00'

Amy Cook
Assistant Regional Counsel (7L)

Dated: _____

