

of the following statutory exceptions applies:

\* \* \* \* \*

(iii) The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order.

\* \* \* \* \*

(4) *Decision documentation for orders.* The contracting officer shall document in the contract file the rationale for placement and price of each order, including the basis for award and the rationale for any tradeoffs among cost or price and non-cost considerations in making the award decision. This documentation need not quantify the tradeoffs that led to the decision. The contract file shall also identify the basis for using an exception to the fair opportunity process. If the agency uses the logical follow-on exception, the rationale shall describe why the relationship between the initial order and the follow-on is logical (e.g., in terms of scope, period of performance, or value).

(5) *Task-order and delivery-order ombudsman.* The head of the agency shall designate a task-order and delivery-order ombudsman. \* \* \*

\* \* \* \* \*

## PART 17—SPECIAL CONTRACTING METHODS

12. Revise paragraph (b) of section 17.500 to read as follows:

### 17.500 Scope of subpart.

\* \* \* \* \*

(b) The Economy Act applies when more specific statutory authority does not exist. Examples of interagency acquisitions to which the Economy Act does not apply include—

(1) Acquisitions from required or optional sources of supplies prescribed in Part 8, which have separate statutory authority (e.g., Federal Supply Schedule contracts); and

(2) Acquisitions using Governmentwide acquisition contracts.

## PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

### 52.208–9 [Amended]

13. Amend section 52.208–9 by removing from the prescription “8.003” and adding “8.004” in its place.

[FR Doc. 02–21867 Filed 8–29–02; 8:45 am]

BILLING CODE 6820–EP–P

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 2, 12, 13, 19, and 25

[FAC 2001–09; FAR Case 2002–003; Item II]

RIN 9000–AJ40

#### Federal Acquisition Regulation; Temporary Emergency Procurement Authority

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement Section 836 of the Fiscal Year 2002 National Defense Authorization Act. Section 836 increases the amount of the micro-purchase threshold and the simplified acquisition threshold for procurements of supplies or services by or for DoD during fiscal years 2002 and 2003, where those procurements are to facilitate the defense against terrorism or biological or chemical attack against the United States.

**DATES:** *Effective Date:* August 30, 2002.

*Comment Date:* Interested parties should submit comments to the FAR Secretariat at the address shown below on or before October 29, 2002, to be considered in the formulation of a final rule.

**ADDRESSES:** Submit written comments to—General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to—[farcase.2002-003@gsa.gov](mailto:farcase.2002-003@gsa.gov)

Please submit comments only and cite FAC 2001–09, FAR case 2002–003, in all correspondence related to this case.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Victoria Moss, Procurement Analyst, at (202) 501–4764. Please cite FAC 2001–09, FAR case 2002–003.

**SUPPLEMENTARY INFORMATION:**

## A. Background

This interim rule implements Section 836 of the Fiscal Year 2002 National Defense Authorization Act (Pub. L. 107–107, 10 U.S.C. 2302 Note). Section 836 increases the amount of the micro-purchase threshold and the simplified acquisition threshold for procurements of supplies or services by or for DoD during fiscal years 2002 and 2003, where those procurements are to facilitate the defense against terrorism or biological or chemical attack against the United States.

For acquisitions of supplies and services to facilitate the defense against terrorism or biological or chemical attack against the United States, by or for the Department of Defense, the micro-purchase threshold is raised to \$15,000 (except for construction subject to the Davis-Bacon Act). The simplified acquisition threshold for such acquisitions in support of a contingency operation is raised to \$250,000 inside the United States and \$500,000 outside the United States.

Any acquisition by or for the Department of Defense of biotechnology supplies or biotechnology services to facilitate the defense against terrorism or biological or chemical attack against the United States shall be treated as being a procurement of commercial items.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

## B. Regulatory Flexibility Act

The changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* However, the increased thresholds are limited to procurements that are to facilitate the defense against terrorism or biological or chemical attack against the United States. There are no data available on the number of procurements that will be eligible. We expect the increased thresholds to this limited class of procurements will apply to a very small number of small entities.

This interim rule does not impose any data collection requirements on small business concerns. The rule does not duplicate, overlap, or conflict with other relevant Federal rules. There are no significant alternatives to the proposed rule that would accomplish the stated beneficial objective.

The FAR Secretariat has submitted a copy of the Initial Regulatory Flexibility

Analysis to the Chief Counsel for Advocacy of the Small Business Administration. Interested parties may obtain a copy from the FAR Secretariat. The Councils will consider comments from small entities concerning the affected FAR subparts in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 601, *et seq.* (FAC 2001-09, FAR case 2002-003), in correspondence.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

### D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the FAR coverage implements Section 836 of the Fiscal Year 2002 National Defense Authorization Act, signed on December 28, 2001, which provides for urgently needed authorities.

However, pursuant to Public Law 98-577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

### List of Subjects in 48 CFR Parts 2, 12, 13, 19, and 25

Government procurement.

Dated: August 21, 2002.

AL Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 12, 13, 19, and 25 as set forth below:

1. The authority citation for 48 CFR parts 2, 12, 13, 19, and 25 continues to read as follows:

**Authority:** 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

### PART 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101 by revising the definitions “Micro-purchase”, “Micro-purchase threshold”, and “Simplified acquisition threshold” to read as follows:

#### 2.101 Definitions.

\* \* \* \* \*

*Micro-purchase* means an acquisition of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold.

*Micro-purchase threshold* means \$2,500, except it means—

(1) \$2,000 for construction subject to the Davis-Bacon Act; and

(2) \$15,000 for acquisitions by or for the Department of Defense facilitating the defense against terrorism or biological or chemical attack as described in 13.201(g), except for construction subject to the Davis-Bacon Act.

\* \* \* \* \*

*Simplified acquisition threshold* means \$100,000, except that in the case of any contract to be awarded and performed, or purchase to be made—

(1) Outside the United States in support of a contingency operation (as defined in 10 U.S.C. 101(a)(13)) or a humanitarian or peacekeeping operation (as defined in 10 U.S.C. 2302(8) and 41 U.S.C. 259(d)), the term means \$200,000; or

(2) To facilitate the defense against terrorism or biological or chemical attack against the United States, for acquisitions—

(i) Inside the United States, by or for the Department of Defense, for which award is made and funds are obligated on or before September 30, 2003, in support of a contingency operation (as defined in 10 U.S.C. 101(a)(13)), the term means \$250,000; or

(ii) Outside the United States, by or for the Department of Defense, for which award is made and funds are obligated on or before September 30, 2003, in support of a contingency operation (as defined in 10 U.S.C. 101(a)(13)), the term means \$500,000.

\* \* \* \* \*

### PART 12—ACQUISITION OF COMMERCIAL ITEMS

3. Amend section 12.102 by adding paragraph (f) to read as follows:

#### 12.102 Applicability.

\* \* \* \* \*

(f) Contracting officers shall treat any acquisition by or for the Department of Defense of biotechnology supplies or biotechnology services, for use to facilitate the defense against terrorism or biological attack against the United States, as an acquisition of commercial items. The policies of this part shall apply to such acquisitions, including the requirement to use firm-fixed price contracts or fixed-price contracts with

economic price adjustments. Nothing in this paragraph shall preclude a contracting officer from treating an acquisition described in this paragraph as one for a non-commercial item if a determination is made by the contracting officer that the purchase cannot be made at a fair and reasonable price using the policies of this part. This paragraph applies only when award is made and funds are obligated on or before September 30, 2003.

### PART 13—SIMPLIFIED ACQUISITION PROCEDURES

#### 13.003 [Amended]

4. Amend section 13.003 in paragraph (b)(1) by adding “(\$15,000 for acquisitions as described in 13.201(g))” after “\$2,500”; and in paragraph (b)(2) by removing “\$2,500” and adding “the micro-purchase threshold” in its place.

5. Amend section 13.201 by adding paragraph (g) to read as follows:

#### 13.201 General.

\* \* \* \* \*

(g) There is a temporary \$15,000 micro-purchase threshold for the acquisition of supplies or services by or for the Department of Defense for which award is made and funds are obligated on or before September 30, 2003, facilitating the defense against terrorism or biological or chemical attack against the United States (see 2.101). Purchases using this authority must have a clear and direct relationship to the defense against terrorism or biological or chemical attack.

### PART 19—SMALL BUSINESS PROGRAMS

6. Amend section 19.502-1 by revising paragraph (b) to read as follows:

#### 19.502-1 Requirements for setting aside acquisitions.

\* \* \* \* \*

(b) This requirement does not apply to purchases of \$2,500 or less (\$15,000 or less for acquisitions as described in 13.201(g)), or purchases from required sources of supply under part 8 (*e.g.*, Federal Prison Industries, Committee for Purchase From People Who are Blind or Severely Disabled, and Federal Supply Schedule contracts).

#### 19.502-2 [Amended]

7. Amend section 19.502-2 in the first sentence of paragraph (a) by removing “\$2,500,” and adding “\$2,500 (\$15,000 for acquisitions as described in 13.202(g))” in its place.

8. Amend section 19.903 by—

a. Removing the word “or” from paragraph (b)(1);

b. Removing the period at the end of the sentence in paragraph (b)(2) and adding “; or” in its place; and

c. Adding paragraph (b)(3) to read as follows:

**19.903 Applicability.**

\* \* \* \* \*

(b) \* \* \*

(3) Acquisitions of \$15,000 or less facilitating the defense against terrorism or biological or chemical attack against the United States as described in 13.201(g).

**PART 25—FOREIGN ACQUISITION**

**25.1101 [Amended]**

9. Amend section 25.1101 in the introductory text of paragraph (a)(1) by adding “(\$15,000 for acquisitions as described in 13.201(g))” after “\$2,500”.

**25.1103 [Amended]**

10. Amend section 25.1103 in paragraph (a) by removing “\$2,500,” and adding “\$2,500 (\$15,000 for acquisitions as described in 13.201(g)),” in its place.

[FR Doc. 02–21868 Filed 8–29–02; 8:45 am]

BILLING CODE 6820–EP–U

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES  
ADMINISTRATION**

**NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION**

**48 CFR Parts 2, 4, 5, 7, 19, 52, and 53**

[FAC 2001–09; FAR Case 2000–302; Item III]

RIN 9000–A193

**Federal Acquisition Regulation;  
Veterans Entrepreneurship and Small  
Business Development Act of 1999**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to adopt, as final, the first interim rule published at 65 FR 60542, October 11, 2000, which implemented portions of the Veterans Entrepreneurship and Small Business Development Act of 1999 which added a subcontracting plan goal for veteran-owned small businesses and a 3 percent

Governmentwide agency goal for service-disabled veteran-owned small businesses, and the second interim rule published at 66 FR 53492, October 22, 2001, which implemented Section 803 of the Small Business Reauthorization Act of 2000 (part of the Consolidated Appropriations Act, 2001), which added an additional subcontracting plan goal for service-disabled veteran-owned small business concerns. Both rules, and the correction published January 14, 2002, are adopted as final without change.

**DATES:** Effective Date: August 30, 2002.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Rhonda Cundiff, Procurement Analyst, at (202) 501–0044. Please cite FAC 2001–09, FAR case 2000–302.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

The final rule amends the FAR to implement portions of the Veterans Entrepreneurship and Small Business Development Act of 1999 (Pub. L. 106–50) and section 803 of the Small Business Reauthorization Act of 2000 (part of the Consolidated Appropriations Act, 2001, Pub. L. 106–554). The Veterans Entrepreneurship and Small Business Development Act of 1999 established new assistance programs for veterans and service-disabled veterans who own and operate small businesses. Specifically, the Act—

- Defines the terms “small business concern owned and controlled by service-disabled veterans”; and “small business concern owned and controlled by service-disabled veterans”;

- Establishes that veteran-owned and service-disabled veteran-owned small businesses be afforded maximum practical opportunity to participate in the performance of contracts and subcontracts awarded by any Federal agency;

- Establishes a requirement to include a goal for veteran-owned small businesses in subcontracting plans under the clause at 52.219–9;

- Establishes a 3 percent Governmentwide goal (based on the total value of all prime contract and subcontract awards) for participation by service-disabled veteran-owned small businesses; and

- Adds data collection requirements for prime and subcontract awards to veteran-owned small businesses and service disabled veteran-owned small business concerns.

DoD, GSA, and NASA published in the **Federal Register** two interim rules (65 FR 60542, October 11, 2000 (FAC 97–20) and 66 FR 53492, October 22, 2001 (FAC 2001–01), respectively); and a correction to the second interim rule (67 FR 1858, January 14, 2002 (FAC 2001–01 Correction)), to implement the statutes.

Four respondents submitted comments in response to the interim rule. The Councils considered all comments and made no changes as a result. However, three of the comments merit noting. The first comment was that the interim rule, as published on October 11, 2001, is flawed as 19.704(a)(1) and the clause at 52.219–9(d)(1) still contain the phrase “a separate goal for service-disabled veteran-owned small business concerns is not required.” *Response:* The appearance of that phrase in the **Federal Register** was an error and was subsequently corrected by the January 14, 2002, **Federal Register** notice.

The second comment consists of several suggestions of policy steps that should be taken to implement the legislation. *Response:* The comment is outside the scope of the case, as it does not address any existing or proposed FAR coverage.

The third comment suggests that the rule be modified to provide service-disabled veteran-owned small business concerns “the benefit of every contracting preference afforded SDBs and women-owned small businesses \* \* \*”. The comment also suggests limiting of competition for certain commodities or service that may be furnished by service-disabled veteran-owned small business concerns. *Response:* Existing legislation does not permit adopting any of the suggestions contained in the comment.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

**B. Regulatory Flexibility Act**

The changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule adds a new statutory subcontracting plan goal requirement for service-disabled veteran-owned small business concerns. A Final Regulatory Flexibility Analysis (FRFA) has been prepared and is summarized as follows:

This final rule revises the Federal Acquisition Regulation to implement