

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR-2020-0051, Sequence No. 6]

Federal Acquisition Regulation; Federal Acquisition Circular 2021-01; Introduction

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

ACTION: Summary presentation of a final rule.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rule agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2021-01. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC.

DATES: For effective date see the separate document, which follows.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, at 202-208-4949 or Michaelo.jackson@gsa.gov for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAC 2021-01, FAR Case 2019-013.

RULE LISTED IN FAC 2021-01

Table with 2 columns: Subject, FAR case. Row: Inflation Adjustment of Acquisition-Related Thresholds, 2019-013

ADDRESSES: The FAC, including the SECG, is available via the internet at https://www.regulations.gov.

SUPPLEMENTARY INFORMATION: A summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR case, refer to the specific subject set forth in the document following this summary. FAC 2021-01 amends the FAR as follows:

Inflation Adjustment of Acquisition-Related Thresholds (FAR Case 2019-013)

This final rule amends the Federal Acquisition Regulation (FAR) to further

implement 41 U.S.C. 1908. Section 1908 requires an adjustment every 5 years (in years evenly divisible by 5) of statutory acquisition-related thresholds for inflation using the Consumer Price Index for all urban consumers, except for the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds (see FAR 1.109). DoD, GSA, and NASA are also using the same methodology to change nonstatutory FAR acquisition-related thresholds for adjustment in 2020. This final rule will not have a significant economic impact on a substantial number of small entities.

William F. Clark, Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2021-01 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2021-01 is effective October 2, 2020 except for FAR Case 2019-013, which is effective October 1, 2020.

Linda W. Neilson, Director, Defense Acquisition Regulations System Department of Defense.

Jeffrey A. Koses, Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

William G. Roets, II, Acting Assistant Administrator, Office of Procurement, National Aeronautics and Space Administration.

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DEPARTMENT OF DEFENSE

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48 CFR Chapter 1

[Docket No. FAR-2020-0051, Sequence No. 6]

Federal Acquisition Regulation; Federal Acquisition Circular 2021-01; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This Small Entity Compliance Guide has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 2021-01, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2021-01, which precedes this document. These documents are also available via the internet at https://www.regulations.gov.

DATES: October 2, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, at 202-208-4949 or Michaelo.jackson@gsa.gov for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAC 2021-01, FAR case 2019-013.

RULE LISTED IN FAC 2021-01

Table with 2 columns: Subject, FAR case. Row: * Inflation Adjustment of Acquisition-Related Thresholds, 2019-013

ADDRESSES: The FAC, including the SECG, is available via the internet at https://www.regulations.gov.

SUPPLEMENTARY INFORMATION: A summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR case, refer to the specific subject set forth in the document following this summary. FAC 2021-01 amends the FAR as follows:

Inflation Adjustment of Acquisition-Related Thresholds (FAR Case 2019-013)

This final rule amends the Federal Acquisition Regulation (FAR) to further implement 41 U.S.C. 1908. Section 1908 requires an adjustment every 5 years (in years evenly divisible by 5) of statutory acquisition-related thresholds for inflation using the Consumer Price Index for all urban consumers, except for the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds

(see FAR 1.109). DoD, GSA, and NASA are also using the same methodology to change nonstatutory FAR acquisition-related thresholds for adjustment in 2020. This final rule will not have a significant economic impact on a substantial number of small entities.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2020-21691 Filed 10-1-20; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 3, 5, 6, 8, 9, 10, 12, 13, 15, 16, 17, 19, 22, 26, 32, 36, 42, 50, 52, and 53

[FAC 2021-01, FAR Case 2019-013, Docket No. FAR-2019-0013; Sequence No. 1]

RIN 9000-AN96

Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds

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

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to further implement the statute which requires an adjustment every five years of statutory acquisition-related thresholds for inflation. The adjustment uses the Consumer Price Index for all urban consumers, and does not apply to the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds. DoD, GSA, and NASA are also using the same methodology to adjust nonstatutory FAR acquisition-related thresholds in 2020.

DATES: *Effective:* October 1, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, at 202-208-4949 or Michaelo.jackson@gsa.gov for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAC 2021-01, FAR Case 2019-013.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule at 85 FR 39146 on June 30, 2020, to further implement 41 U.S.C. 1908. Section 1908 requires an adjustment every five years (on October 1 of each year evenly divisible by five) of statutory acquisition-related thresholds for inflation, using the Consumer Price Index (CPI) for all urban consumers, except for the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds (see FAR 1.109). As a matter of policy, DoD, GSA, and NASA are also using the same methodology to adjust nonstatutory FAR acquisition-related thresholds on October 1, 2020.

The preamble to the proposed rule contained detailed explanations of—

- What an acquisition-related threshold is;
- What acquisition-related thresholds are not subject to escalation adjustment under this case;
- How the Defense Acquisition Regulations Council and the Civilian Agency Acquisition Council (Councils) analyze statutory and non-statutory acquisition-related thresholds; and
- The effect of this rule on the most heavily used thresholds.

DoD, GSA, and NASA implemented three rules that have reduced the complexity and impact of the October 1, 2020, threshold adjustments throughout the FAR. The changes implemented through these rules significantly reduced the number of cite-specific inflation adjustments in the FAR and associated matrix.

FAR Case 2018-004, published as a final rule on July 2, 2020 (85 FR 40064) implemented section 217(b) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114-328) and sections 805, 806, and 1702(a) of the NDAA for FY 2018 (Pub. L. 115-91), to increase the micro-purchase threshold (MPT) to \$10,000 and simplified acquisition threshold (SAT) to \$250,000 throughout the FAR. The case also changed some stated dollar thresholds to text to ensure continued alignment with the value defined in FAR subpart 2.101.

FAR Case 2018-005, published as a final rule on July 2, 2020 (85 FR 40071) implemented section 811 of the NDAA for FY 2018 that amended 10 U.S.C. 2306a, Cost or Pricing Data: Truth in Negotiations and 41 U.S.C. 3502, Required cost or pricing data and certification. The case increased the threshold for requesting certified cost or pricing data from \$750,000 to \$2 million

for contracts entered into after June 30, 2018.

FAR Case 2018-007, published as a final rule on May 6, 2020 (85 FR 27088) implemented section 821 of the NDAA for FY 2018 (Pub. L. 115-91) which made inflation adjustments of statutory acquisition-related thresholds under 41 U.S.C. 1908 applicable to existing contracts and subcontracts that contain the clause implementing section 821 and that are in effect on the date of the adjustment. The case replaced throughout FAR part 52 as appropriate, numerical values based on the value of the MPT or the SAT with the term “micro-purchase threshold” or “simplified acquisition threshold”. When such terms are used, there is a reference to the definition in FAR 2.101. In addition to the MPT and SAT, numerical values for certain thresholds have been replaced with a reference to the applicable FAR text that specifies the numerical threshold.

The following list identifies the impact of this rule on heavily-used thresholds.

- The micro-purchase threshold at FAR 2.101 was raised to \$10,000 by statute (see FAR Case 2018-004). No further increase to the basic threshold is made at this time, as there has been insufficient inflation. Paragraph 3(ii) of the definition, for acquisitions to support contingency operations or to facilitate defense against certain attacks, is increasing from \$30,000 to \$35,000.

- The simplified acquisition threshold was changed to \$250,000 by statute (see FAR Case 2018-004). No further increase in the basic threshold is proposed, as there has been insufficient inflation. Paragraph 1(i) of the definition for acquisitions to support contingency operations or to facilitate defense against certain attacks, is increasing from \$750,000 to \$800,000.

- The preaward and post-award notices (FAR part 5) remain at \$25,000 because of trade agreements.

- The requirements for limiting competition (FAR part 6) to eligible 8(a) awards over \$22 million is increased to \$25 million.

- The simplified procedures for certain commercial items ceiling (FAR 13.500) is increased from \$7 million to \$7.5 million. For acquisitions described at 13.500(c), the ceiling is increasing from \$13.5 million to \$15 million.

- The cost or pricing data threshold (FAR 15.403-4) was increased by statute from \$750,000 to \$2 million (see FAR Case 2018-005) and is not increasing in this case.

- The prime contractor subcontracting plan (FAR 19.702) threshold is increasing from \$700,000 to