



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

September 27, 2019

MEMORANDUM TO: Mary C. Muessle  
Office of Administration

FROM: Monique B. Williams, Acting Director */RA/*  
Acquisition Management Division  
Office of Administration

SUBJECT: CLASS DEVIATION- THE FEDERAL ACQUISITION  
REGULATION TO IMPLEMENT CHANGES TO THE  
MICRO- PURCHASE THRESHOLD AND SIMPLIFIED  
ACQUISITION THERSHOLD.

1. **PURPOSE:** This class deviation is issued in accordance with Federal Acquisition Regulation (FAR) 1.404 to implement an increase in the micro-purchase threshold (MPT) and simplified acquisition threshold (SAT) as authorized by the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 (Public Law 115-91) (Sections 806 and 805 respectively) and to implement the requirements of Section 217(b) of the NDAA FY 2017 (Public Law 114-328) until such time the FAR is amended.
2. **EFFECTIVE DATE:** October 1, 2019
3. **EXPIRATION DATE:** Until superseded, incorporated in the FAR or otherwise rescinded.
4. **BACKGROUND:** The NDAA for FY18 (Public Law 115-91) (Sections 806 and 805 respectively) increased the MPT to \$10,000 and the SAT to \$250,000. In addition, Section 217(b) of the NDAA FY 2017 (Public Law 114-328) amended the definition of micro-purchase threshold as defined in FAR 2.101 to increase the MPT for acquisitions from institutions of higher education or related or affiliated nonprofit entities, or from nonprofit research organizations or independent research institutes, to \$10,000<sup>1</sup>.

[FAR Case 2018-004](#) has been opened by the FAR Council to implement these statutory changes in the FAR. However, it takes time for the FAR to be amended. As a result, the Chair of the Civilian Agency Acquisition Council (CAAC) issued [CAAC Letter 2018-02](#) on February 16, 2018 authorizing civilian agencies, to issue a deviation in order to implement these statutory changes prior to amendment of the FAR<sup>2</sup>. The Senior Procurement Executive (SPE) has determined issuance of a deviation provides substantial

---

<sup>1</sup> This amendment to the FAR was part of the now-closed FAR Case 2017-012. Instead, this amendment has been included within FAR Case 2018-004.

<sup>2</sup> The CAAC Letter constitutes consultation with the Chair of the CAAC as required by FAR 1.404(a)(1).

administrative efficiencies and flexibilities for U.S. Nuclear Regulatory Commission (NRC). Overall, this class deviation is authorized in accordance with FAR 1.404 and NRC Acquisition Regulation 2001.404.

5. **DESCRIPTION OF THE DEVIATION:** Attachment A of this Acquisition Bulletin (AB) provides the FAR citations being amended to implement the changes described in Section 1 above. The FAR baseline used for this class deviation is FAC Number 2005-97, effective January 24, 2018 (see <https://www.acquisition.gov>) and [AB 17-02](#) (Deviation No. 2017- 00002) issued August 31, 2017.
6. **IMPORTANT INFORMATION**
  - a. **General.** Not all thresholds related to the MPT and SAT are increased by this deviation. Some dollar amounts are set by statute and are therefore not affected by this deviation. For example, the thresholds for the Construction Wage Rate Requirements statute (previously known as the Davis-Bacon Act) (i.e., \$2,000), the Service Contract Labor Standards statute (previously known as the Service Contract Act) (i.e., \$2,500), the Anti-Kickback Act of 1986, the Fair Opportunity Procedures found in 16.505(b) and a few other statutorily established thresholds do not change as a result of this deviation.
  - b. **Government-wide Systems.** In conjunction with the actions being taken by the FAR Council to implement these changes, other stakeholders are working to address impacts to government-wide systems such as Federal Procurement Data System - Next Generation (FPDS-NG), Contractor Performance Assessment Reporting System (CPARS), Electronic Subcontracting Reporting System (eSRS) and the beta.sam.gov. Until these systems are updated, users will find some inconsistencies and may encounter some challenges with the data. Some of these inconsistencies may require manual correction by the user's organization. Treasury has been informed that system owners will provide notification to the acquisition community as these changes are implemented.
  - c. **Purchase Cardholders.** This deviation does not result in the automatic increase of a purchase cardholder's single purchase limit or modify any other prescribed purchase card holder limits or NRC Purchase Card Program policies and procedures.
7. **QUESTIONS:** Direct questions on this deviation to Jeffrey R. Mitchell at (301) 415-5074 or [Jeffrey.Mitchell@nrc.gov](mailto:Jeffrey.Mitchell@nrc.gov) .

**ENCLOSURE:**

- a. Acquisition Bulletin No. 18-02 – Class Deviation (Deviation No. 2018- 00002)

**DISTRIBUTION:**

Public  
JMitchell, AMD  
JDaly, AMD  
MWilliams, AMD  
RBAum, OGC

ADAMS Accession No.: ML19268D104

\*via e-mail

OFFICE	AMD/APPSB (A)	AMD/OBB (A)	OGC
NAME	JMitchell	JDaly	RBAum*
DATE	09/09/2019	09/10/2019	09/24/2019
OFFICE	AMD/AMD:D		
NAME	MWilliams (A)		
DATE	9/27/19		

**OFFICIAL RECORD COPY**

**Enclosure**  
**Acquisition Bulletin No. 18-02 –**  
**Class Deviation (Deviation No. 2018-00002)**

The following represent the FAR citations being amended by this class deviation to implement an increase in the micro-purchase threshold and simplified acquisition threshold as authorized by the National Defense Authorization Act for Fiscal Year 2018 (NDAA FY18) (Public Law 115-91) (Sections 806 and 805 respectively) as well as the change to the micro-purchase threshold definition found in FAR 2.101(b) as authorized by Section 217(b) of the NDAA FY 2017 (Public Law 114-328) until such time the FAR is amended.

The FAR baseline used for this class deviation is FAC Number 2005-97, effective January 24, 2018 (see <https://www.acquisition.gov>) and [AB 17-02](#) (Deviation No. 2017-00002) issued August 31, 2017. Changes to the FAR text as authorized by this deviation are shown by yellow highlighted text. Changes to the FAR text as authorized by AB No. 17-02 are shown by light grey highlighted text. \*\*\*\*\* are used to show there is no change in the FAR text proceeding or following as a result of this deviation.

**Additional instruction.** For provisions or clauses being amended by this deviation Contracting Officer shall ensure that the following text is inserted after the title of the clauses/provision and before the month year: (Deviation No. 2018-00002). For example, the clause title for “Small Business Subcontracting Plan (Jan 2017)” which is being amended by this deviation would now read “Small Business Subcontracting Plan (Deviation No. 2018-00002) (Jan 2017)”

**1. FAR 2.101(b) is amended to revise the existing definitions for “micro-purchase threshold” and “simplified acquisition threshold” as follows:**

**2.101 Definitions.**

\*\*\*\*\*

(b) \*\*\*\*\*

“Micro-purchase threshold” means **\$10,000**, except it means—

(1) For acquisitions of construction subject to 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction), \$2,000;

(2) For acquisitions of services subject to 41 U.S.C. chapter 67, Service Contract Labor Standards, \$2,500; and

(3) For acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from cyber, nuclear, biological, chemical or radiological attack; international disaster assistance (22 U.S.C. 2292 et seq.); an emergency, or major disaster (42 U.S.C. 5122), as described in 13.201(g)(1), except for construction subject to 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction) (41 U.S.C. 1903)—

(i) \$20,000 in the case of any contract to be awarded and performed, or purchase to be made, inside the United States; and

(ii) \$30,000 in the case of any contract to be awarded and performed, or purchase

to be made, outside the United States; and

(4) For acquisitions of supplies or services from institutions of higher education (20 U.S.C. 1001(a)) or related or affiliated nonprofit entities, or from nonprofit research organizations or independent research institutes—

(i) \$10,000; or

(ii) A higher threshold, as determined appropriate by the head of the agency and consistent with clean audit findings under 31 U.S.C. chapter 75, Requirements for Single Audits; an internal institutional risk assessment; or State law.

“Simplified acquisition threshold” means \$250,000 (41 U.S.C. 134), except for—

(1) Acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; international disaster assistance (22 U.S.C. 2292 et seq.); an emergency or major disaster (42 U.S.C. 5122), (41 U.S.C. 1903), the term means—

(i) \$750,000 for any contract to be awarded and performed, or purchase to be made, inside the United States; and

(ii) \$1.5 million for any contract to be awarded and performed, or purchase to be made, outside the United States; and

(2) Acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a humanitarian or peacekeeping operation (10 U.S.C. 2302), the term means

\$500,000 for any contract to be awarded and performed, or purchase to be made, outside the United States.

\* \* \* \* \*

## 2. FAR 13.003(b)(1) is amended as follows:

### 13.003 Policy.

\* \* \* \* \*

(b)(1) Acquisitions of supplies or services that have an anticipated dollar value exceeding \$10,000 (\$20,000 for acquisitions as described in 13.201(g)(1)) but not exceeding \$250,000 (\$750,000 for acquisitions described in paragraph (1)(i) of the simplified acquisition threshold definition at 2.101) are reserved exclusively for small business concerns and shall be set aside (see 19.000, 19.203, and subpart 19.5).

\* \* \* \* \*

## 3. FAR 13.501(a)(2)(i) is amended as follows:

### 13.501 Special documentation requirements.

(a) \* \* \* \* \*(2) \* \* \* \* \*

(i) For a proposed contract exceeding \$250,000, but not exceeding \$700,000, the contracting officer’s certification that the justification is accurate and complete to the best of the contracting officer’s knowledge and belief will serve as approval, unless a higher approval level is established in accordance with agency procedures.

\* \* \* \* \*

**4. FAR 19.203(b) is amended as follows:**

**19.203 Relationship among small business programs.**

\* \* \* \* \*

(b) At or below the simplified acquisition threshold. For acquisitions of supplies or services that have an anticipated dollar value exceeding \$10,000 (\$20,000 for acquisitions as described in 13.201(g)(1)), but not exceeding \$250,000 (\$750,000 for acquisitions described in paragraph (1)(i) of the simplified acquisition threshold definition at 2.101), the requirement at 19.502-2(a) to exclusively reserve acquisitions for small business concerns does not preclude the contracting officer from awarding a contract to a small business under the 8(a) Program, HUBZone Program, SDVOSB Program, or WOSB Program.

\* \* \* \* \*

**5. FAR 19.2502-1(b) is amended as follows:**

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

\* \* \* \* \*

(b) This requirement does not apply to purchases of \$10,000 or less (\$20,000 or less for acquisitions as described in 13.201(g)(1)), or purchases from required sources of supply under Part 8 (e.g., Committee for Purchase From People Who are Blind or Severely Disabled, and Federal Supply Schedule contracts).

**6. FAR 19.502-2 is amended as follows:**

**19.502-2 Total small business set-**

**asides.**

(a) Before setting aside an acquisition under this paragraph, refer to 19.203(b). Each acquisition of supplies or services that has an anticipated dollar value exceeding \$10,000 (\$20,000 for acquisitions as described in 13.201(g)(1)), but not over \$250,000 (\$750,000 for acquisitions described in paragraph (1) (i) of the simplified acquisition threshold definition at 2.101), is automatically reserved exclusively for small business concerns and shall be set aside for small business unless the contracting officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery. If the contracting officer does not proceed with the small business set-aside and purchases on an unrestricted basis, the contracting officer shall include in the contract file the reason for this unrestricted purchase. If the contracting officer receives only one acceptable offer from a responsible small business concern in response to a set-aside, the contracting officer should make an award to that firm. If the contracting officer receives no acceptable offers from responsible small business concerns, the set-aside shall be withdrawn and the requirement, if still valid, shall be resolicited on an unrestricted basis. The small business reservation does not preclude the award of a contract as described in 19.203.

(b) Before setting aside an acquisition under this paragraph, refer to 19.203(c). The contracting officer shall set aside any acquisition over \$250,000 for small business participation when there is a reasonable expectation that—

\* \* \* \* \*

**7. FAR 19.508(e) is amended as follows:**

**19.508 Solicitation provisions and contract clauses.**

\* \* \* \* \*

(e) The contracting officer shall insert the clause at 52.219-14, Limitations on Subcontracting, in solicitations and contracts for supplies, services, and construction, if any portion of the requirement is to be set aside or reserved for small business and the contract amount is expected to exceed \$250,000. This includes multiple-award contracts when orders may be set aside for small business concerns, as described in 8.405-5 and 16.505(b)(2)(i)(F).

\* \* \* \* \*

**8. FAR 52.203-16 is amended as follows:**

**52.203-16 Preventing Personal Conflicts of Interest.**

\* \* \* \* \*

(d) Subcontract flowdown. The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts—

(1) That exceed \$250,000; and

\* \* \* \* \*

**9. FAR 52.212-1 is amended as follows:**

**52.212-1 Instructions to Offerors—Commercial Items.**

\* \* \* \* \*

(j) Unique entity identifier. (Applies to all offers exceeding \$10,000, and offers at any dollar level if the solicitation requires the Contractor to be registered in the System for Award Management (SAM) database.)

\* \* \* \* \*

**10. FAR 52.219-9 is amended as follows:**

**52.219-9 Small Business Subcontracting**

**Plan.**

\* \* \* \* \*

(d) \* \* \* \* \* (11) \* \* \* \* \*

(iii) Records on each subcontract solicitation resulting in an award of more than \$250,000, indicating—

\* \* \* \* \*

\* \* \* \* \*

Alternate IV (Jan 2017). \* \* \* \* \*

\* \* \* \* \*

(d) \* \* \* \* \* (11) \* \* \* \* \*

(iii) Records on each subcontract solicitation resulting in an award of more than \$250,000, indicating—

\* \* \*