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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 13, and 19

[FAR Case 2016-004; Docket No. 2016-0004, Sequence No. 1]

RIN 9000-AN18

**Federal Acquisition Regulation: Acquisition Threshold for
Special Emergency Procurement Authority**

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

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the National Defense Authorization Act for Fiscal Year 2016 to raise the simplified acquisition threshold for special emergency procurement authority.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at one of the addresses shown below on or before **[Insert date 60 days after the date of publication in the FEDERAL REGISTER]** to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR case 2016-004 by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for "FAR Case 2016-004". Select the link "Comment Now" that corresponds with "FAR Case 2016-004." Follow the instructions provided on the screen. Please include your name, company name (if any), and "FAR Case 2016-004" on your attached document.
- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F Street, NW., 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2016-004, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Camara Francis, Procurement Analyst, at 202-550-0935 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAR Case 2016-004.

SUPPLEMENTARY INFORMATION:

I. Background

DOD, GSA, and NASA are proposing to revise the FAR to implement section 816 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114-92). FAR 2.101, 13.003, 19.203, and 19.502-2 are being amended to increase the simplified acquisition threshold for special emergency procurement authority from \$300,000 to \$750,000 (within the United States) and from \$1 million to \$1.5 million (outside the United States). The threshold is used 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 nuclear, biological, chemical, or radiological attack.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a

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

III. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this proposed rule to 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 raises the simplified acquisition threshold for special emergency procurement authority, an arena in which a smaller percentage of small businesses participate, as compared to larger businesses. However, an initial regulatory flexibility analysis (IRFA) has been prepared consistent with 5 U.S.C. 603. The analysis is summarized as follows:

This proposed rule implements section 816 of the National Authorization Act for Fiscal Year (FY) 2016 Public Law 114-92. Therefore, the FAR is revised to raise the simplified acquisition thresholds for special emergency procurement authority.

The objective of this proposed rule is to increase the simplified acquisition thresholds for special emergency procurement authority from \$300,000 to \$750,000 (within the United States) and \$1 million to \$1.5 million (outside the United States) 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 nuclear, biological, chemical, or radiological attack.

DoD, GSA, and NASA do not expect this proposed rule to 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 raises the simplified acquisition threshold for special emergency procurements, an arena in which a smaller percentage of small businesses participate, as compared to larger businesses. Between \$300,000 and the increase to \$750,000, 188 total awards were made of which 45 or 24 percent were to small businesses in FY 2014, and 219 total awards were made of which 66 or 30 percent were to small businesses in FY 2015. Between \$1 million and the increase to \$1.5 million, 56 total awards were made of which 10 or 17 percent were small businesses in FY 2014, and 29 total awards were made of which 9 or 31 percent were to small businesses in FY 2015. The proposed rule imposes no reporting, recordkeeping, or other information collection requirements.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternatives to the rule. The impact of this proposed rule on small business is not expected to be significant.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the proposed rule consistent with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2016-004), in correspondence.

IV. Paperwork Reduction Act

The proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

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

Government procurement.

Dated: June 14, 2016.

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

Therefore, DoD, GSA, and NASA are proposing to amend 48 CFR parts 2, 13, and 19, as set forth below:

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

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 2—DEFINITIONS WORDS AND TERMS

2.101 [Amended]

2. Amend the definition "Simplified acquisition threshold" in paragraph (b) of section 2.101 by:

a. Removing from paragraph (1) "\$300,000" and adding in its place "\$750,000"; and

b. Removing from paragraph (2) "\$1 million" and adding in its place "\$1.5 million".

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.003 [Amended]

3. Amend section 13.003 by removing from paragraph (b) (1) "\$300,000" and adding "\$750,00" in its place.

PART 19—SMALL BUSINESS PROGRAMS

19.203 [Amended]

4. Amend section 19.203 by removing from paragraph (b) "\$300,000" and adding "\$750,000" in its place.

19.502-2 [Amended]

5. Amend section 19.502-2 by removing from paragraph
(a) "\$300,000" and adding "\$750,000" in its place.

Billing Code: 6820-EP

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