



UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

PROCUREMENT MEMORANDUM 2019-03

ACTION

MEMORANDUM FOR: Senior Bureau Procurement Officials

FROM: Barry E. Berkowitz
Senior Procurement Executive
and Director for Acquisition Management

SUBJECT: Class Deviation to the Federal Acquisition Regulation (FAR) to Increase the Simplified Acquisition Threshold to \$250,000

Purpose

The purpose of this Procurement Memorandum (PM) is to issue a class deviation in accordance with Federal Acquisition Regulation (FAR) 1.404 to increase the simplified acquisition threshold (SAT) from \$150,000 to \$250,000.

Background

The National Defense Authorization Act for Fiscal Year 2018 (NDAA FY18) (Public Law 115- 91), Sections 806 and 805 respectively, increased the micro-purchase threshold (MPT) to \$10,000 and the SAT to \$250,000.

Additionally, Section 217(b) of the NDAA for FY 2017 (Public Law 114-328) changed a portion of the MPT definition 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.

FAR Case 2018-004 has been opened to implement the above statutory changes in the FAR and the Civilian Agency Acquisition Council has authorized civilian agencies to issue class deviations. The Department of Commerce desires to use the increased SAT threshold prior to publication of the FAR changes and is accordingly approving a class deviation to increase the threshold for the SAT from \$150,000 to \$250,000. The MPT and Section 217(b) thresholds are not increased by this deviation.

Description of the Deviation

The attached deviation revises FAR Parts 2, 13, 19, and 52 to increase the SAT.

Required Actions

- a. Contracting Officers shall use the text and revised FAR clauses provided in the Attachment to this PM.
- b. For contracting actions in process on the effective date of this deviation, Contracting Officers may proceed with the procurement using the old threshold, amend the Request for Proposal/Request for Quotation, or cancel and resolicit using the new threshold. Nothing in this deviation requires a Contracting Officer to cancel, extend the closing date, amend an RFP/RFQ, or modify any contract action.
- c. Contracting Officers are reminded that this deviation does not supersede existing contract language unless or until a contract/order is modified to reflect the increased threshold.

Impacts to Warrants

The maximum authority of Level I warrants for Contracting Officers employed within the acquisition office is raised to \$250,000. The maximum authority of Level 1 warrants for Contracting Officers employed outside the acquisition office remains \$150,000. Commerce Acquisition Manual 1301.6 will be updated to reflect these changes. No individual warrants are changed based on this deviation.

Effective Date

This deviation is effective upon issuance and remains in effect until incorporated into the FAR or otherwise rescinded.

Additional Information

Please direct any questions regarding this Procurement Memorandum to Nancy Barrere at nbarrere@doc.gov.

Attachment: Deviated FAR Text and Clauses

Attachment to Procurement Memorandum 2019-03
Deviated FAR Text and Clauses
(Class Deviation to the Federal Acquisition Regulation (FAR)
to Increase the Simplified Acquisition Threshold to \$250,000)

Additions to Baseline: **[bold text and brackets]**

- Deletions by strikethrough

PART 2—DEFINITIONS OF WORDS AND TERMS

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2.101 Definitions. [(DEVIATION)]

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Simplified acquisition threshold means ~~\$150,000~~ **[\$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[; **to**] facilitate defense against or recovery from **[cyber]** nuclear, biological, chemical, or radiological attack[; **to support a request from the Secretary of State or the Administrator of the United States Agency for International Development to facilitate provision of international disaster assistance pursuant to 22 U.S.C. 2292 et seq.; or to support response to 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. 2303), the term means \$300,000 **[\$500,000]** for any contract outside the United States.

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PART 13—SIMPLIFIED ACQUISITION PROCEDURES

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13.003 Policy. [(DEVIATION)]

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- (b)(1) Acquisitions of supplies or services that have an anticipated dollar value exceeding \$3,500 (\$20,000 for acquisitions as described in 13.201(g)(1)) but not exceeding ~~\$150,000~~ **[\$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).

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13.501 Special documentation requirements. [(DEVIATION)]

(a) * * *

(2) * * *

(i) For a proposed contract exceeding ~~\$150,000~~ [**\$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.

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PART 19—SMALL BUSINESS PROGRAMS

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19.203 Relationship among small business programs. [(DEVIATION)]

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(b) At or below the simplified acquisition threshold. For acquisitions of supplies or services that have an anticipated dollar value exceeding \$3,500 (\$20,000 for acquisitions as described in 13.201(g)(1)), but not exceeding ~~\$150,000~~ [**\$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.

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19.502-1 Requirements for setting aside acquisitions.

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(b) This requirement does not apply to purchases of \$3,500 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).

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19.502-2 Total small business set-asides. [(DEVIATION)]

- (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 \$3,500 (\$20,000 for acquisitions as described in 13.201(g)(1)), but not over ~~\$150,000~~ **[\$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 ~~\$150,000~~ **[\$250,000]** for small business participation when there is a reasonable expectation that—

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19.508 Solicitation provisions and contract clauses. [(DEVIATION)]

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- (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 ~~\$150,000~~ **[\$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).

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PART 52 – SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.203-16 Preventing Personal Conflicts of Interest. [(DEVIATION)]

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

(1) That exceed \$150,000 [**\$250,000**]; and

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52.212-1 Instructions to Offerors—Commercial Items. [(DEVIATION)]

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(j) *Unique entity identifier.* (Applies to all offers exceeding \$3,500, [**and offers at any dollar level**] if the solicitation requires the Contractor to be registered in the System for Award Management (SAM) database.)

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52.219-9 Small Business Subcontracting Plan. [(DEVIATION)]

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(d) * * *

(11) * * *

(iii) Records on each subcontract solicitation resulting in an award of more than \$150,000 [**\$250,000**], indicating—

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52.219-9 Small Business Subcontracting Plan. Alternate IV [(DEVIATION)]

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(d) * * *

(11) * * *

(iii) Records on each subcontract solicitation resulting in an award of more than ~~\$150,000~~
[\$250,000]. indicating—

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