



SEP 28 2018

MEMORANDUM FOR HEADS OF CONTRACTING ACTIVITIES,
CONTRACTING OFFICERS,
AGENCY/OFFICE PURCHASE CARD COORDINATORS, &
PURCHASE CARDHOLDERS

FROM:


AL STEWART
Acting Senior Procurement Executive

SUBJECT:

Class Deviation from the Federal Acquisition Regulation Increasing the
Micro-Purchase Threshold and Simplified Acquisition Threshold

This memorandum approves a class deviation from the Federal Acquisition Regulation (FAR) to increase the Micro-Purchase Threshold (MPT) from \$3,500 to \$10,000 and the Simplified Acquisition Threshold (SAT) from \$150,000 to \$250,000 in accordance with the Fiscal Year 2018 National Defense Authorization Act (Public Law 115-91), Sections 806 and 805. This class deviation is issued under the authority of FAR 1.404 and in consultation with the Chair of the Civilian Agency Acquisition Council in accordance with FAR 1.404(a).

BACKGROUND

This class deviation is issued to immediately implement statutory increases to the MPT and SAT thresholds for Department of Labor (DOL) Acquisitions while the FAR is updated through the FAR rulemaking process. This deviation provides significant administrative efficiencies and more flexibilities for DOL to support its customer agencies.

Note that not all thresholds are increased by this deviation. Some thresholds are set by statute, and as such, these do not change. For example, the thresholds for the Construction Wage Rate Requirements statute (previously known as Davis-Bacon Act), the Service Contract Labor Standards statute (previously known as Service Contract Act), the Anti-Kickback Act of 1986, the Fair Opportunity Procedures found in 16.505(b) and a few other statutorily established thresholds have not changed.

OVERARCHING IMPACT

Raising the MPT and SAT thresholds will require changes to government-wide systems such as the Federal Procurement Data System - Next Generation (FPDS-NG), Contractor Performance Assessment Reporting System (CPARS), and the Electronic Subcontracting System (eSRS). Until these system changes are made, users will find some short term inconsistencies, which may require manual correction, or may implicate data accuracy. These are known concerns and are more than offset by the administrative streamlining created through these raised thresholds. The business owners of these systems and programs are aware of the changes in thresholds and will work towards implementation, notifying stakeholders as the changes are effectuated.

Below is a brief explanation of the most significant overarching impacts. Please keep in mind that it is important to read the exact language of Attachment 1, "FAR Deviation Text", the changes to policy identified below, and Attachment 2, "Frequently Asked Questions", to get a complete understanding of the impacts.

1. The MPT increase significantly augments the purchase authority of government purchase cardholders and enables greater efficiency for those low value acquisitions.
2. FAR Part 13, Simplified Acquisition Procedures, are now applicable for acquisitions that have an anticipated value of \$10,000 to \$250,000. This change allows for the use of more efficient solicitation procedures.
3. Impacts to FAR Part 19, Small Business Programs:
 - a. Acquisitions between \$10,000 and \$250,000 are now automatically reserved exclusively for small business concerns and shall be set aside for small businesses 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.
 - b. Because the threshold for acquisitions reserved automatically for small business concerns has been increased to \$250,000, DOL form DL1-2004, which refers to the SAT, is now only required for acquisitions over \$250,000.
 - c. FAR Clause 52.219-14, Limitations on Subcontracting must be inserted in solicitations for acquisitions with an anticipated value expected to exceed \$250,000.

IMPACTS ON POLICY, GUIDES, AND TEMPLATES

The following information is provided to show the areas impacted by the deviation:

1. Government Purchase Card Program (GPC)

Existing GPC limits are not raised through this deviation. Note that the Office of Procurement Policy (OPP) has given Agency Organization Program Coordinators (A/OPCs) and agency point of contacts (POCs) the opportunity to determine whether or not a cardholder's threshold should be increased. This coordination with A/OPCs and POCs was conducted through email and A/OPC bi-weekly meetings. Coordination of cardholder thresholds has been completed, and card holders approved by their A/OPC or POCs to receive the GPC single purchase limit increase to \$10,000 per purchase will take effect on October 1, 2018. Necessary updates to both Citibank and the DOL New Core Financial Management System have been coordinated and will take effect on October 1, 2018. The thresholds for the Construction Wage Rate Requirements statute (\$2,000 threshold), and the Service Contract Labor Standards statute (\$2,500 threshold) remain unchanged as they apply to GPC purchases. OPP is making pertinent updates to the DOL Purchase Card Program Handbook.

2. Warrants
Contracting Officer warrant levels have been increased, as applicable, to account for the increase in the SAT. Warrants which state a threshold of "\$150,000" have been reissued to reflect "250,000".
3. Acquisition Management System (AMS)
Contracting Officer warrant levels in AMS have been increased, as applicable, to account for the increase in the SAT.
4. Acquisition Planning Guide and Templates
Minor changes have been incorporated into the Acquisition Plan Guide and templates.
 - a. Acquisition Plan Guide
Language in the plan guide stating that acquisition plans are required for all acquisitions over the SAT has been corrected to reflect that they are required for all acquisitions over the MPT.
 - b. Acquisition Plan Templates
Both the simple and complex acquisition plan templates have been revised to replace references to \$150,000 with "the Simplified Acquisition Threshold". The revised Acquisition Planning Guide and templates can be accessed on LaborNet at <https://labornet.dol.gov/workplaceresources/procurement/templates-checklists.htm>
 - c. CO Notices
Section 3(a) of CO Notice 2012-43, *Post-Award Contract Oversight and Surveillance*, has been updated to replace "\$150,000" with "Simplified Acquisition Threshold."
 - d. DOL Manual Series (DLMS)
Where this deviation conflicts with any DLMS chapters, appropriate changes will be made to those DLMS chapters during prospective updates.

Effective October 1, 2018, DOL contracting officers shall apply the FAR clause as revised (see Attachment 1). This deviation applies to all procurement actions as detailed in the Attachment 1, and does not expire until cancelled or the FAR is revised.

All questions related to this memorandum should be sent to OPP's general inquiry email address at: zzOASAM.BOC.OPPGeneralInquiry@dol.gov.

Attachments

cc: Bryan Slater, Chief Acquisition Officer
Carl V. Campbell, Chief Procurement Officer
DOL Administrative Officers

ATTACHMENT 1
FAR DEVIATION TEXT

The baseline for the following line-in/line-out text is Federal Acquisition Circular (FAC) 2005-97, effective January 24, 2018. Changes to the text are shown by **[additions]** and ~~deletions~~. Asterisks are used to show that the preceding or following text remains unchanged.

Part 2—Definitions of Words and Terms
Subpart 2.1—Definitions

2.101 Definitions.

(b) ***

“Micro-purchase threshold” means ~~\$3,500~~ **[\$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; **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)], 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 ~~\$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 2302), the term means ~~\$300,000~~ **[\$500,000]**¹ for any contract to be awarded and performed, or purchase to be made, outside the United States.

Part 13—Simplified Acquisition Procedures

13.003 Policy.

* * * (b)(1) Acquisitions of supplies or services that have an anticipated dollar value exceeding ~~\$3,500~~ **[\$10,000]** (\$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). * * * * *

Subpart 13.5—Simplified Procedures for Certain Commercial Items

13.501 Special documentation requirements.

(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. * * * * *

¹ In accordance with 41 U.S.C. 153, which states "...in the case of a contract to be awarded and performed, or purchased to be made, outside of the United States in support of a humanitarian or peacekeeping operation, the term means an amount equal to two times the amount specified for that term in section 134 of this title". Therefore, the threshold related to humanitarian or peacekeeping operations is double the amount of SAT. For example, ($\$250,000 \times 2 = \$500,000$).

Part 19—Small Business Programs
Subpart 19.2—Policies

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 ~~\$3,500~~ **[\$10,000]** (\$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)(1) 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. * * * * *

Subpart 19.5—Set Asides for Small Business

19.502 Setting aside acquisitions.

19.502-1 Requirements for setting aside acquisitions.

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

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 ~~\$3,500~~ **[\$10,000]** (\$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— * * * * *

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 ~~\$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).

**Part 52--Solicitation Provisions and Contract Clauses
Subpart 52.2--Text of Provisions and Clauses**

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 ~~\$150,000~~ **[\$250,000]**; and ***

52.212-1 Instructions to Offerors—Commercial Items.

*** (j) Unique entity identifier. (Applies to all offers exceeding ~~\$3,500~~ **[\$10,000]**, and offers of ~~\$3,500~~ **[\$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.) *****

52.219-9 Small Business Subcontracting Plan.

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

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

52.219-9 Small Business Subcontracting Plan.

Alternate IV

*** (d)*** (11)*** (iii) Records on each subcontract solicitation resulting in an award of more than ~~\$150,000~~ **[\$250,000]**, Indicating— *****

ATTACHMENT 2

FREQUENTLY ASKED QUESTIONS

1. Why did DOL issue a deviation rather than wait for the FAR case to raise the MPT and SAT thresholds?

Answer: The CAAC now estimates that the FAR change will not be ready until late 2018/early 2019. In the meantime, DOL can achieve administrative efficiencies by implementing the new authority now. It offers more flexibilities for DOL to best support its customer agencies.

2. How would the changes in MPT and SAT affect FAR Subpart 22.4—Labor Standards for Contracts Involving Construction?

Answer: The changes in the MPT and SAT have no effect on the Construction Wage Rate Requirements statute, previously known as the Davis-Bacon Act (DBA). The DBA threshold remains at \$2,000 for construction, alteration, or repair (including painting and decorating) of public buildings or public works within the United States. Contracting Officers should refer to FAR Subpart 22.4 and ensure that any necessary clauses are included in the contract.

3. How would the changes in MPT and SAT affect FAR Subpart 22.10—Service Contract Labor Standards?

Answer: The changes in the MPT and SAT have no effect on the Service Contract Labor Standards statute, previously known as the Service Contract Act (SCA). The SCA threshold remains at \$2,500 for services. Contracting Officers should refer to FAR Subpart 22.10 and ensure that any necessary clauses are included in the contract.

However, the change in the SAT does impact clauses related to the Fair Labor Standards Act. The changes in SAT does require the Contracting Officer to review procurements to determine if he/she should or should not:

- a) Insert the clause at 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts), or another clause which accomplishes the same purpose, in solicitations and contracts if the contract is expected to be a fixed-price, time-and-materials, or labor-hour service contract containing the clause at 52.222-41, Service Contract Labor Standards, and is a multiple year contract or is a contract with options to renew which exceeds the SAT.
- b) Insert the clause at 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment, in solicitations and contracts if the contract is expected to be a fixed-price, time-and-materials, or labor-hour service contract containing the clause at 52.222-41, Service Contract Labor Standards, exceeds the simplified acquisition threshold, and is not a multiple year contract or is not

a contract with options to renew. The clause may also be used in contracts that do not exceed the SAT.

4. **Will the increase in SAT change the threshold for using simplified procedures for commercial items?**

Answer: The SAT in FAR Subpart 13.5—Simplified Procedures for Certain Commercial Items is identified as text that is tied to the definition in FAR 2.101 and is changed accordingly to \$250,000. However simplified procedures are authorized for the acquisition of supplies and services in amounts greater than the \$250,000 but not exceeding \$7 million. FAR Subpart 13.500(c) and FAR Subpart 12.102(f)(1).

5. **I have requested quotes from vendors for products and services estimated at \$5,000 and have received several quotes, what should I do?**

Answer: You are authorized to proceed or to cancel and reissue. Use your best business judgment based on the specifics of the situation.

6. **The technical evaluation team has completed its evaluation of a service procurement estimated at \$200,000 and the Contracting Officer has notified the successful offeror (an other than small business or a small business) of the award decision, does the procurement need to be cancelled and re-procured to comply with FAR Subpart 19.5—Set-Asides for Small Business?**

Answer: There is no requirement to cancel and start over. Do so only if you believe that to be in DOL's best interest.

7. **Does this deviation supersede all DOL published guidance or policy that state the MPT at \$3,500 and/or SAT at \$150,000?**

Answer: Yes, this deviation will supersede all references to MPT being at or below \$3,500 and SAT being at or below \$150,000 in DOL publications, policies, and training materials. However, this deviation does not supersede existing contract language unless or until the contract is modified to reflect the changes in the MPT and/or SAT.

8. **Will the increases in MPT and SAT affect emergency procedures?**

Answer: No, the flexibilities authorized during emergency situations are covered in FAR Part 18—Emergency Acquisitions are not affected by the increase to the MPT or the SAT. FAR Subpart 18.2 provides flexibility for the Senior Procurement Executive to increase thresholds specific to each emergency situation.

9. **It is my understanding that Government Purchase Cards only authorize purchases or services at the \$3,500 cap. So, how can we make purchases at the \$10,000 level?**

Answer: OPP manages the DOL Government Purchase Card program. OPP has coordinated with appropriate GPC authorities to establish new single purchase limits for card holders to take effect October 1, 2018. Note that not all cardholder thresholds have been increased per the request of their agency. Guidance has been provided through the

Senior Procurement Executive MPT and SAT Deviation memo, and a Purchase Card notice will be disseminated soon after October 1, 2018.

10. How does the increase in SAT affect my Contracting Officer Warrant?

Answer: Contracting Officer Warrants which state a threshold of “\$150,000” are being reissued to read “Simplified Acquisition Threshold”. Once the warrants are issued, Contracting Officers whose warrant levels go to the SAT will be authorized to make purchases up to \$250,000. It should be noted that until a Contracting Officer’s warrant is reissued, the current warrant is in effect as written.

11. Will increasing the MPT and the SAT have any impact on acquisition systems?

Answer: The increase to the MPT and SAT will not have a significant impact on DOL’s AMS.

However, raising the MPT and SAT will impact government-wide acquisition systems such as the Federal Procurement Data System - Next Generation (FPDS-NG), CPARS, Electronic Subcontracting Reporting System (eSRS) and the beta.sam.gov environment. Specifically, the systems will require modification to their business rules to use the new values, remove any text/screen references to the exact dollar thresholds, and update user documentation (user guides, help material, data dictionaries, etc.). These systems rely on text prescribed by the FAR as part of its programming logic; therefore, changes will not be made until the FAR changes are implemented.

Currently, GSA is working to resolve the system issues. However, until the systems are updated, computer generated reports from the FPDS-NG, CPARS, eSRS, etc. may not reflect accurate information. This may result in error messages, over-reporting actions due to possible double counting of actions, or under-reporting actions due to not capturing actions that fall between the \$150,000 and \$250,000 threshold.

There is not an automated work-around for the requirement to modify the business rules for the government-wide systems.

The impact on the DOL acquisition workforce is that we would not be able to provide accurate compliance reports or metrics because the new thresholds would not be programmed in the system. Some manual adjustments may later be required.

Despite the systems limitations, there are significant benefits in raising the limits now. Over time, the acquisition systems will catch up.

12. How does the new threshold impact my existing contracts, especially my Indefinite Delivery Indefinite Quantity (IDIQ) contracts for work below the \$150K? Can I increase the thresholds?

Answer: The answers to the questions depend on the language used in the existing contracts:

- a. Where the master contract has an ordering limit expressed only as "up to the SAT", there is no need to modify the contract: once the impending regulations are in place, the change in the SAT becomes self-executing.
- b. Where the master contract expressed the order in limit in dollars tied to the SAT ("up to the SAT\$150,000), you will need to modify the contract.
- c. Where the ordering limit is expressed only in dollars without any reference to the SAT ("up to \$150,000), you will need to work with your assigned counsel to see if you should modify the contract.

13. Do we have to prepare past performance evaluations per FAR 42.15 for existing awards that were awarded under the previous SAT procedures?

Answer: Existing awards will not be impacted by the increase to SAT; therefore, the requirement to perform past performance reports for existing awards above \$150,000 is still in effect and must be completed by DOL's acquisition workforce.

However, if an Indefinite Delivery Indefinite Quantity contract is modified to incorporate the new SAT, any new task orders below the \$250,000 threshold will not be required to complete past performance reports.

14. How will the increase in the MPT and SAT affect the fair opportunity requirements under FAR 16.505(b)?

Answer: The SAT in FAR 16.505(b) is identified as text that is tied to the definition in FAR 2.101 and is changed accordingly to \$250,000. However, the MPT in FAR 16.505 is set by Statute at \$2,500 and increased to \$3,500 for inflation. Therefore, the identified dollar amount remains at \$3,500.

So, now orders between \$3,500 and \$250,000 must "provide each awardee a fair opportunity to be considered" (FAR 16.505(b)(1)(i)). And orders above \$250,000 must "provide a fair notice of the intent to make a purchase...to all contractors offering the required supplies or services under the multiple-award contract" (FAR 16.505(b)(1)(iii)).

15. How will the increase in the MPT and SAT affect the Federal Supply Schedule ordering procedures under FAR 8.405?

Answer: The MPT and SAT in FAR 8.405 are identified as text that is tied to the definitions in FAR 2.101 and are changed accordingly to \$10,000 and \$250,000. Other than these dollar threshold increases, there is no impact to the ordering procedures to be followed under FAR 8.405.

16. How will the increase in the MPT and SAT affect VETS 4212 Compliance under FAR 22.13?

Answer: The increase in the MPT and SAT have no effect on VETS 4212. FAR 22.13 is set by Statute at \$100,000 and increased to \$150,000 for inflation. Therefore, the identified dollar amount remains at \$150,000.