

Date: March 22, 2018

From: Acting Deputy Senior Procurement Executive

Subj: Class Deviation from the Federal Acquisition Regulation (FAR) increasing the micro-purchase threshold and the simplified acquisition threshold (FAR Case 2018-004), (VAIQ # 7878590)

To: VA Heads of Contracting Activities

1. Purpose: To issue a class deviation in accordance with FAR subpart 1.404 to increase the micro-purchase threshold to \$10,000 and the simplified acquisition threshold (SAT) to \$250,000. The micro-purchase threshold for acquisitions from institutions of higher education or related or affiliated nonprofit entities, or from nonprofit research organizations or independent research institutes is also increased to \$10,000.

2. FAR Sections Impacted: This Class Deviation impacts FAR sections 2.101, 5.206, 13.003, 13.501, 19.203, 19.502-2, 19.508, 52.203-16, 52.212-1, 52.219-1, and 52.219-9.

3. Effective Date/Expiration Date: Effective immediately and expires when incorporated into the FAR or is otherwise rescinded.

4. Applicability: This Class Deviation applies to all VA contracting activities.

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

Section 217(b) of the NDAA FY2017 (Public Law 114-328) changed a portion of the micro-purchase threshold definition in FAR 2.101 to increase the micro-purchase threshold 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. This change was part of the now-closed FAR Case 2017-012, which was intended to implement section 217(b) of the NDAA FY2017.

The Civilian Agency Acquisition Council letter 2018-02 of February 16, 2018 authorizes issuance of this Class Deviation.

6. Need for Deviation: The deviation is needed to implement the increased micro-purchase and simplified acquisition thresholds authorized by the National Defense Authorization Act for Fiscal Year 2018 (NDAA FY18) (Public Law 115-91) Sections 806 and 805.

7. New Policy: Micro-purchase threshold and Simplified Acquisition Thresholds are changed in the appropriate FAR citations as shown on attachments 1 through 5.

8. Government Purchase Card/Convenience Checks: Procurement authority to purchase supplies and services at or below the micro-purchase threshold using a government purchase card or convenience checks has been delegated to the Assistant Secretary for Management and Chief Financial Officer (CFO). Additional guidance regarding the use of the purchase card and convenience checks with the increased micro-purchase threshold will be issued by the CFO.

9. Additional Information: Direct questions regarding this class deviation to Procurement Policy and Warrant Management Service via email to VA.Procurement.Policy@va.gov or (202) 632-5288.

/s/

Thomas A. Burgess

Attachments:

Attachment 1 — FAR 2.101, Definitions of Words and Terms

Attachment 2 — FAR 5.206, Notices of Subcontracting Opportunities

Attachment 3 — FAR 13.003, Policy

FAR 13.501, Special Document Requirements

Attachment 4 — FAR 19.203, Relationship among small business programs

FAR 19.502-1, Requirements for setting aside acquisitions

FAR 19.502-2, Total small business set-asides

FAR 19.508, Solicitation provisions and contract clauses

Attachment 5 — FAR 52.203-16, Preventing Personal Conflicts of Interest

FAR 52.212-1, Instructions to Offerors – Commercial Items

FAR 52.219-9, Small Business Subcontracting Plan

Attachment 1

CLASS DEVIATION FROM FAR 2.101 DEFINITIONS

* * * * *

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

Attachment 2

CLASS DEVIATION FROM FAR 5.206 NOTICES OF SUBCONTRACTING OPPORTUNITIES

5.206 Notices of subcontracting opportunities

- (a) * * * (1) A contractor awarded a contract exceeding \$250,000 that is likely to result in the award of any subcontracts.
- (2) A subcontractor or supplier, at any tier, under a contract exceeding \$250,000, that has a subcontracting opportunity exceeding \$15,000. * * * * *

Attachment 3

CLASS DEVIATION FROM FAR 13

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). * * * * *

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. * * * * *

Attachment 4

CLASS DEVIATION FROM FAR 19

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.

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).

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— *****

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).

Attachment 5

CLASS DEVIATION FROM FAR 52

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 * * *

52.212-1 Instructions to Offerors—Commercial Items.

* * * (j) *Unique entity identifier.* (Applies to all offers exceeding \$10,000, and offers of \$10,000 or less 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 \$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 \$250,000, indicating— * * * * *