

6.302–5(b)(6)), before considering small business set-asides (see subpart 19.5) provided none of the exclusions of 19.1404 apply and—

(1) The contracting officer does not have a reasonable expectation that offers would be received from two or more service-disabled veteran-owned small business concerns;

(2) The anticipated award price of the contract, including options, will not exceed—

* * * * *

(3) The requirement is not currently being performed by an 8(a) participant under the provisions of subpart 19.8 or has been accepted as a requirement by SBA under subpart 19.8;

* * * * *

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22, 25, and 52

[FAC 2005–43; FAR Case 2009–040; Item V; Docket 2010–0092, Sequence 1]

RIN 9000–AL57

Federal Acquisition Regulation; FAR Case 2009–040, Trade Agreements Thresholds

AGENCIES: Department of Defense (DoD),
General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to incorporate increased thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements, as determined by the United States Trade Representative.

DATES: *Effective Date:* July 2, 2010.

Comment Date: Interested parties should submit written comments to the Regulatory Secretariat on or before August 31, 2010 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAC 2005–43, FAR Case 2009–040, by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by inputting “FAR Case 2009–040” under the heading “Enter Keyword or ID” and selecting “Search”. Select the link “Submit a Comment” that corresponds with “FAR Case 2009–040”. Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “FAR Case 2009–040” on your attached document.

- *Fax:* 202–501–4067.

• *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW., Room 4041, ATTN: Hada Flowers, Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2005–43, FAR case 2009–040, 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.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Cecelia L. Davis, Procurement Analyst, at (202) 219–0202. Please cite FAC 2005–43, FAR Case 2009–040. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Background

Every two years, the trade agreements thresholds are adjusted according to a pre-determined formula under the agreements. On December 29, 2009 (74 FR 68907), the United States Trade Representative established new procurement thresholds. These thresholds became effective on January 1, 2010. The United States Trade Representative has specified the following new thresholds:

Trade agreement	Supply contract (equal to or exceeding)	Service contract (equal to or exceeding)	Construction contract (equal to or exceeding)
WTO GPA	\$203,000	\$203,000	\$7,804,000
FTAs:			
Australia FTA	70,079	70,079	7,804,000
Bahrain FTA	203,000	203,000	9,110,318
CAFTA–DR (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua)	70,079	70,079	7,804,000
Chile FTA	70,079	70,079	7,804,000
Morocco FTA	203,000	203,000	7,804,000
NAFTA:			
—Canada	25,000	70,079	9,110,318
—Mexico	70,079	70,079	9,110,318
Oman FTA	203,000	203,000	9,110,318
Peru FTA	203,000	203,000	7,804,000
Singapore FTA	70,079	70,079	7,804,000
Israeli Trade Act	50,000

B. Executive Order 12866

This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review,

dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

The Councils do not expect this interim 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 dollar threshold changes are designed to keep pace with inflation and thus maintain the status quo. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. The Councils invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

The Councils will also consider comments from small entities concerning the existing regulations in parts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAC 2005–43, FAR Case 2009–040) in all correspondence.

D. Paperwork Reduction Act

The Paperwork Reduction Act does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Numbers 9000–0130 (FAR 52.225–4), 9000–0025 (FAR 52.225–6) and 9000–0141 (FAR 52.225–9, 52.225–11, 52.225–21, and 52.225–23). The interim rule affects the prescriptions for use of the certifications. However, there is no impact on the estimated burden hours, because the threshold changes are in

line with inflation and maintain the status quo.

E. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA), that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This interim rule incorporates increased dollar thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements, as determined by the United States Trade Representative. This action is necessary because the new thresholds became effective on January 1, 2010. However, pursuant to 41 U.S.C. 418b and FAR 1.501–3(b), the Councils will consider public comments received in response to this interim rule in the formation of the final rule. Absent this regulatory change, this requirement would not be incorporated into the FAR and implemented by the acquisition community.

List of Subjects in 48 CFR Parts 22, 25, and 52

Government procurement.

Dated: June 25, 2010.

Edward Loeb,

Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 22, 25, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 22, 25, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1503 [Amended]

■ 2. Amend section 22.1503 by removing from paragraph (b)(3) “\$67,826” and adding “\$70,079” in its place; and removing from paragraph (b)(4) “\$194,000” and adding “\$203,000” in its place.

PART 25—FOREIGN ACQUISITION

25.202 [Amended]

■ 3. Amend section 25.202 by removing from paragraph (c) “\$7,443,000” and adding “\$7,804,000” in its place.

■ 4. Amend section 25.402 by revising the table that follows paragraph (b) to read as follows:

25.402 General.

* * * * *

(b) * * *

Trade agreement	Supply contract (equal to or exceeding)	Service contract (equal to or exceeding)	Construction contract (equal to or exceeding)
WTO GPA	\$203,000	\$203,000	\$7,804,000
FTAs:			
Australia FTA	70,079	70,079	7,804,000
Bahrain FTA	203,000	203,000	9,110,318
CAFTA–DR (Costa Rica, El Salvador, Dominican Republic, Guatemala, Honduras, and Nicaragua)	70,079	70,079	7,804,000
Chile FTA	70,079	70,079	7,804,000
Morocco FTA	203,000	203,000	7,804,000
NAFTA:			
—Canada	25,000	70,079	9,110,318
—Mexico	70,079	70,079	9,110,318
Oman FTA	203,000	203,000	9,110,318
Peru FTA	203,000	203,000	7,804,000
Singapore FTA	70,079	70,079	7,804,000
Israeli Trade Act	50,000

■ 4. Amend section 25.504–2 by revising Example 1. to read as follows:

25.504–2 WTO GPA/Caribbean Basin Trade Initiative/FTAs.

Example 1.

Offer A	304,000	U.S.-made end product (not domestic).
Offer B	303,000	U.S.-made end product (domestic), small business.
Offer C	300,000	Eligible product.
Offer D	295,000	Noneligible product (not U.S.-made).

* * * * *

25.603 [Amended]

■ 5. Amend section 25.603 in paragraph (c) by removing “\$7,443,000” and adding “\$7,804,000” in its place.

25.1101 [Amended]

■ 6. Amend section 25.1101 by—
 ■ a. Removing from paragraph (b)(1)(i)(A) “\$194,000” and adding “\$203,000” in its place;
 ■ b. Removing from paragraphs (b)(1)(iii) and (b)(2)(iii) “\$67,826”, and adding “\$70,079” in its place;
 ■ c. Removing from paragraphs (c)(1) and (d) “\$194,000”, and adding “\$203,000” in its place.
 ■ 7. Amend section 25.1102 by removing from paragraphs (a) introductory text and (c) introductory text “\$7,443,000” and adding “\$7,804,000” in its place; revising the first sentence in paragraph (c)(3); and revising paragraph (d)(3) to read as follows:

25.1102 Acquisition of construction.

* * * * *

(c) * * *
 (3) For acquisitions valued at \$7,804,000 or more, but less than \$9,110,318, use the clause with its Alternate I. * * *

(d) * * *
 (3) For acquisitions valued at \$7,804,000 or more, but less than \$9,110,318, use the clause with its Alternate II.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 8. Amend section 52.212–5 by revising the date of the clause and paragraph (b)(20) to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (JUL 2010)

(b) * * *

—(20) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (Jul 2010) (E.O. 13126).

* * * * *

■ 9. Amend section 52.213–4 by revising the date of the clause and the first sentence of paragraph (b)(1)(i) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL ITEMS) (JUL 2010)

(b) * * *

(1) * * *

(i) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (Jul 2010) (E.O. 13126). * * *

* * * * *

■ 10. Amend section 52.222–19 by revising the date of the clause; removing from paragraph (a)(3) “\$67,826” and adding “\$70,079” in its place; and removing from paragraph (a)(4) “\$194,000” and adding “\$203,000” in its place.

The revised text reads as follows:

52.222–19 Child Labor—Cooperation with Authorities and Remedies.

* * * * *

CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES (JUL 2010)

* * * * *

[FR Doc. 2010–15901 Filed 7–1–10; 8:45 am]

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DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Chapter 1**

[Docket FAR 2010–0077, Sequence 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–43; Small Entity Compliance Guide

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

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2005–43 which amend the FAR. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005–31, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below. Please cite FAC 2005–43 and the specific FAR case number. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

LIST OF RULES IN FAC 2005–43

Item	Subject	FAR Case	Analyst
I	Government Property	2008–011	Parnell
II	Registry of Disaster Response Contractors	2008–035	Gary
III	Recovery Act Subcontract Reporting Procedures (Interim) *	2010–008	Morgan
IV	Clarification of Criteria for Sole Source Awards to Service-disabled Veteran-owned Small Business Concerns.	2008–023	Cundiff
V	Trade Agreements Thresholds (Interim)	2009–040	Davis

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item number and

subject set forth in the documents following these item summaries.

FAC 2005–43 amends the FAR as specified below:

Item I—Government Property (FAR Case 2008–011)

This final rule amends the FAR to revise FAR part 45 and its associated clauses. Changes are being made to FAR