

8(a) requirement outside the 8(a) program, and the impact of exiting the 8(a) program in terms of the firm's ability to receive future 8(a) requirements and its current contractual commitments.

This final rule does not place any new requirements, financial or otherwise, on small entities, and serves mainly to provide more explicit guidance to Federal contracting officials.

Item V—Prohibition on Reimbursement for Congressional Investigations and Inquiries (FAR Case 2015–016)

This rule amends the FAR to implement section 857 of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015. Section 857 imposes additional requirements relative to the allowability of costs incurred by a contractor in connection with a congressional investigation or inquiry. Contracting officers need to be aware of these new restrictions on certain costs, which cannot be charged under contracts. Although small businesses subject to FAR part 31 will need to maintain accounting records, this rule does not place any new requirements on small entities.

Dated: December 21, 2016.

William F. Clark,

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

Federal Acquisition Circular (FAC) 2005–95 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–95 is effective January 13, 2017 except for item III, which is effective January 19, 2017.

Dated: December 21, 2016.

Claire M. Grady,

Director, Defense Procurement and Acquisition Policy.

Dated: December 21, 2016.

William F. Clark,

Acting, Senior Procurement Executive, Office of Acquisition Policy, U.S. General Services Administration.

Dated: December 19, 2016.

William P. McNally,

Assistant Administrator, Office of Procurement National Aeronautics and Space Administration.

[FR Doc. 2016–31494 Filed 1–12–17; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 3, 4, 5, 7, 8, 9, 12, 14, 15, 16, 17, 27, 32, 42, 48, 49, and 52

[FAC 2005–95; FAR Case 2013–014; Item I; Docket No. 2013–0014, Sequence No. 1]

RIN 9000–AM73

Federal Acquisition Regulation; Uniform Use of Line Items

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

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to establish uniform use of line items in Federal procurement.

DATES: *Effective:* January 13, 2017. In order to provide agencies with time to transition their information systems, agencies have until October 1, 2019, to apply the requirements of FAR 4.1002 through 4.1008 of subpart 4.10.

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 FAC 2005–95, FAR Case 2013–014.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 79 FR 45408 on August 5, 2014, to establish uniform use of line items in Federal procurement. The uniform line item structure is designed to improve the accuracy, traceability, and usability of procurement data. The need for this rule stems from the lack of access to reliable and comprehensive data on Federal procurement actions that is essential to management and program decisions that result in delivering services to taxpayers in the most efficient and effective manner. Lack of standards for identifying and tracing tax dollars across the acquisition contributes to duplication in spending, gaps in reporting, and inefficiencies in management decisions. The implementation of these standards will facilitate the identification and traceability of spending from

appropriation through expenditure, supporting automated collection of information using key identifiers. Three respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes From the Proposed Rule

1. The rule provides agencies time to transition their information systems and appropriately train the workforce. Accordingly, agencies have until October 1, 2019, to apply the requirements of FAR 4.1002 through 4.1008 of subpart 4.10.

2. The term “line item unique identifier” was removed and replaced with “line item number” for consistency with the current version of the FAR text. The term “unique” is no longer necessary due to changes made by the Uniform Procurement Identification rule (FAR Case 2012–023) published in the **Federal Register** at 79 FR 61739 on October 14, 2014.

B. Analysis of Public Comments

1. Alternative Line Item Structure

Comment: One respondent suggested removing text that would allow offerors to propose their own alternative line item structure, because this would be counterproductive to the goal of standardized reporting.

Response: The language on alternative line items was intended to allow flexibility, consistent with the requirements at FAR subpart 4.10. To clarify that the Government is not requesting contractors to create line items inconsistent with the rule, the clause is renamed “Alternative Line Item Proposal” and the explanatory text will no longer use the term “structure,” as this seemed to be the cause of some confusion.

2. Accounting Classification Citation

Comment: One respondent asked if each subline item is expected to have its own accounting classification citation.

Response: It is not a requirement for each subline item to have its own accounting classification citation. However, each deliverable subline item is expected to have its own accounting classification citation. This should not be construed to mean that the same

accounting classification citation cannot apply to multiple line items.

Comment: One respondent opined that a contract line item number or subline item number should not be created for the sole purpose of addressing an accounting classification, because this information is already tracked in financial systems. The respondent also questioned the specificity of the required accounting data on subline item numbers, because this data could not be gathered effectively through automated means.

Response: Only a deliverable subline item is expected to have its own accounting classification citation. While it is true that some Government systems are integrated to trace accounting classification citations to specific line items, this is not the case for all systems and this rule allows for linking accounting classification citations directly to line items in contract writing systems.

3. Exceptions

Comment: One respondent recommended adding exceptions to the text related to the requirement to include accounting classification citations on line items.

Response: There is no need for an exception to include accounting classification citations on line items, as this is not required, but is allowed. The text at FAR 4.1003(c) is modified to make it clear that multiple accounting classification citations can be provided on a line item.

4. Implementation

Comment: One respondent requested pushing the implementation date of the line item requirement further into the future, beyond October 1, 2016, due to the associated burden.

Response: The implementation date of this requirement for uniform line item use is now set for October 1, 2019.

5. Contract Milestone

Comment: One respondent inquired if a contact milestone will be considered a deliverable for the purpose of assigning contract line item numbers, based on the proposed definition of “line item” in FAR 2.101.

Response: Yes, a deliverable line item can be created for a contract milestone, but it is not required to be used for this purpose.

6. Existing Systems

Comment: One respondent challenged the background of the case “funding traceability is limited to contract-level information” by pointing out that NASA has systems in place that can capture

financial data with great detail, including units and prices, descriptions, and accounting line information.

Response: This may be the case for some existing systems; however, not all Government systems have these capabilities.

Comment: One respondent pointed out that accounting information is already collected in Federal Procurement Data System—Next Generation (FPDS-NG) for appropriated funds, and questioned the need to gather more explicit accounting information that would burden contractors with tracking Government accounting lines.

Response: FPDS-NG captures data related to the preponderance of the spending on a contract, not details on contract line items. This rule does not require contractors to track any new information.

7. Delete Text (FAR 4.1003 & 4.1005(a)(4))

Comment: One respondent suggested removing the proposed text at FAR 4.1003(c) and 4.1005-1(a)(4), because contractors do not need to be informed of Government accounting information and because this information is already available to the Government in accounting and contract reporting systems.

Response: While some Government systems are capable of tracing accounting data to specific line items through other means, most of them are not. The recommended text is not removed from the final rule.

8. Exhibit Line Item

Comment: One respondent asked if the FAR Council plans to address exhibit lines and formally define them as part of the Governmentwide initiative for standardized line item structures.

Response: No, not at this time.

9. Acronyms

Comment: One respondent asked if the FAR Council intends to minimize the use of acronyms, specifically CLIN, SLIN, and ELIN.

Response: The FAR currently does not use SLIN or ELIN. The instances where the FAR uses CLIN were removed by this rule. Accordingly, there is no intent to address the use of these acronyms in this rule.

10. Defense Federal Acquisition Regulation Supplement (DFARS) Procedure, Guidance, and Information (PGI)

Comment: One respondent asked if there is a plan to incorporate the entire

DFARS PGI in the FAR for Governmentwide use, beyond DoD.

Response: This is outside the scope of this rule.

C. Other Changes

1. The definition of “line item” is modified to clarify that this term is inclusive of subline items when it is applicable.

2. The term “line item number” is now defined to clarify that a line item may be identified in a numeric or alphanumeric format.

3. FAR 4.1003(c) and 4.1005-1(a)(4) are modified to note that multiple accounting classification citations can be provided on a single line item.

4. FAR 4.1004 is modified to clarify that the characteristics in 4.1003 apply to subline items that are deliverable but not informational subline items.

5. The requirement to include the national stock number or special item number at FAR 8.406-4(c)(3)(i)(C) is removed.

6. FAR 15.203(a)(2) is amended to clarify the process for allowing and evaluating proposals with alternative line item structures.

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

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This final rule establishes uniform use of line items in Federal procurement. The uniform use of line items is designed to improve the accuracy, traceability, and usability of procurement data. This rule continues Federal procurement efforts to more robustly implement the objectives of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), including promoting achievement of rigorous

accountability of procurement dollars and processes.

The requirements in this rule have the potential to have an impact on any entity, small or large, that does business with the Federal Government, because the rule would apply to purchases of items, including commercial items and commercially available off-the-shelf items, and purchases under the simplified acquisition threshold. However, line item pricing is a common commercial practice; therefore, the impact may not be significant.

None of the public comments addressed the initial regulatory flexibility analysis.

Any small business that contracts with a Federal agency could be impacted to at least some extent. Using data from the Federal Procurement Data System, there were 107,172 such small entities in fiscal year (FY) 2010, 97,626 in FY 2011, 85,749 in FY 2012, and 73,987 in FY 2013 doing business with the Federal Government.

The rule could require some contractors to restructure their proposal pricing process as well as their systems to accommodate the line item identification system. This change may also require contractors to make changes to their pricing and electronic systems. Contractors may also have to develop more extensive pricing data to conform to a new line item structure. However, this consistent line item identification policy should be beneficial to contractors doing business with executive branch agencies. This is especially true if contractors already have contracts with the Department of Defense (DoD), because these identification standards are already in use. Accordingly, contractors that currently contract with DoD will not be impacted. There is no data at this time on cost impacts to contractors in making this change.

The rule contains no reporting, recordkeeping, or other compliance requirements on the vendor community.

DoD, GSA, and NASA have not identified any significant alternatives to accomplish the stated objectives of this rule that would reduce impact on small entities.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The 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, 3, 4, 5, 7, 8, 9, 12, 14, 15, 16, 17, 27, 32, 42, 48, 49, and 52

Government procurement.

Dated: December 21, 2016.

William F. Clark,

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

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 3, 4, 5, 7, 8, 9, 12, 14, 15, 16, 17, 27, 32, 42, 48, 49, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 3, 4, 5, 7, 8, 9, 12, 14, 15, 16, 17, 27, 32, 42, 48, 49, and 52 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—DEFINITION OF WORDS AND TERMS

■ 2. Amend section 2.101 in paragraph (b)(2) by adding, in alphabetical order, the definitions “Line item”, “Line item number”, and “Subline item” to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

(2) * * *

Line item means the basic structural element in a procurement instrument that describes and organizes the required product or service for pricing, delivery, inspection, acceptance, invoicing, and payment. The use of the term “line item” includes “subline item,” as applicable.

Line item number means either a numeric or alphanumeric format to identify a line item.

* * * * *

Subline item means a subset of a line item.

* * * * *

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3.302 [Amended]

■ 3. Amend section 3.302 by removing the definition “Line item”.

PART 4—ADMINISTRATIVE MATTERS

■ 4. Revise subpart 4.10 to read as follows:

Subpart 4.10—Uniform Use of Line Items

Sec.

4.1000 Scope.

4.1001 Policy.

4.1002 Applicability.

4.1003 Establishing line items.

4.1004 Establishing subline items.

4.1005 Data elements for line items and subline items.

4.1005–1 Required data elements.

4.1005–2 Exceptions.

4.1006 Modifications.

4.1007 Solicitation alternative line item proposal.

4.1008 Solicitation provision.

SUBPART 4.10—Uniform Use of Line Items

4.1000 Scope.

This subpart prescribes policies and procedures for assigning line items and subline items and their identifiers. However, in order to provide agencies with time to transition their information systems, agencies have until October 1, 2019, to apply the requirements of 4.1002 through 4.1008.

4.1001 Policy.

In order to improve the accuracy, traceability, and usability of procurement data, procurement instruments shall identify the supplies or services to be acquired as separately identified line items and, as needed, subline items.

(a) Line items are established to define deliverables or organize information about deliverables. Each line item describes characteristics for the item purchased, e.g., pricing, delivery, and funding information.

(b) Each line item may be subdivided into separate unique subsets (called subline items) to ease administration. If a line item has deliverable subline items, the line item is informational. Subline items differentiate between or among certain characteristics of the line item, such as colors or sizes, dates of delivery, destinations, or places of performance. Subline items are established to define deliverables or organize information about deliverables.

4.1002 Applicability.

The policies of this subpart shall apply to the following procurement instruments, to include amendments, modifications, and change orders thereto:

(a) Solicitations.

(b) Contracts, including, but not limited to, Governmentwide acquisition contracts (GWACs), multi-agency contracts (MACs), Federal Supply Schedule (FSS) contracts, indefinite-delivery contracts, and purchase orders.

(c) Agreements that include pre-priced supplies or services.

(d) Task and delivery orders.

4.1003 Establishing line items.

Establish separate line items for deliverables that have the following characteristics except as provided at 4.1005–2:

(a) Separately identifiable.

(1) A supply is separately identifiable if it has its own identification (e.g., national stock number (NSN), item

description, manufacturer's part number).

(2) Services are separately identifiable if they have no more than one statement of work or performance work statement.

(3) If the procurement instrument involves a first article (see subpart 9.3), establish a separate line item for each item requiring a separate approval. If the first article consists of a lot composed of a mixture of items that will be approved as a single lot, a single line item may be used.

(b) Single unit price or total price.

(c) Single accounting classification citation. A single deliverable may be funded by multiple accounting classifications when the deliverable effort cannot be otherwise subdivided.

(d) Separate delivery schedule, destination, period of performance, or place of performance.

(e) Single contract pricing type (*e.g.*, fixed-price or cost-reimbursement).

4.1004 Establishing subline items.

Subline items may be used to facilitate tracking of performance, deliverables, payment, and contract funds accounting or for other management purposes. Subline items may be either deliverable or informational. The list of characteristics at 4.1003 applies to deliverable subline items, but it is not applicable to informational subline items. A line item with subline items shall contain only that information that is common to all subline items thereunder. All subline items under one line item shall be the same contract type as the line item.

(a) *Deliverable subline items.*

Deliverable subline items may be used for several related items that require separate identification. For example, instead of establishing multiple separate line items, subline items may be established for—

(1) Items that are basically the same, except for minor variations such as—

(i) Size or color;

(ii) Accounting classification, but see also 4.1005-1(a)(4); or

(iii) Date of delivery, destination, or period or place of performance;

(2) Separately priced collateral functions that relate to the primary product, such as packaging and handling, or transportation; or

(3) Items to be separately identified at the time of shipment or performance.

(b) *Informational subline items.* (1) Informational subline items may be used by agencies for administrative purposes. This type of subline item identifies information that relates directly to the line item and is an integral part of it (*e.g.*, parts of an assembly or parts of a kit).

(2) Position informational subline items within the line item description, not in the quantity or price fields.

4.1005 Data elements for line items and subline items.

4.1005-1 Required data elements.

(a) Except as provided in 4.1005-2, each line item or subline item shall include in the schedule (described at 12.303(b)(4), 14.201-2, or 15.204-2, or in a comparable section of the procurement instrument), at a minimum, the following information as separate, distinct data elements:

(1) Line item or subline item number established in accordance with agency procedures.

(2) Description of what is being purchased.

(3) Product or Service Code (PSC).

(4) Accounting classification citation.

(i) Line items or deliverable subline items. If multiple accounting classifications for a single deliverable apply, include the dollar amount for each accounting classification in the schedule (or a comparable section of the procurement instrument).

(ii) Informational subline items. An accounting classification citation is not required. (See 4.1004).

(5)(i) For fixed-price line items:

(A) Unit of measure.

(B) Quantity.

(C) Unit price.

(D) Total price.

(ii) For cost-reimbursement line items:

(A) Unit of measure.

(B) Quantity.

(C) Estimated cost.

(D) Fee (if any).

(E) Total estimated cost plus any fee.

(b) If a contract contains a combination of fixed-price, time-and-materials, labor-hour, or cost-reimbursable line items, identify the contract type for each line item in the schedule (or a comparable section of the procurement instrument) to facilitate payment.

(c) Each deliverable line item or deliverable subline item shall have its own delivery schedule, destination, period of performance, or place of performance expressly stated in the appropriate section of the procurement instrument ("as required" constitutes an expressly stated delivery term). When a line item has deliverable subline items, the delivery schedule, destination, period of performance, or place of performance shall be identified at the subline item level, rather than the line item level.

(d) Terms and conditions in other sections of the contract (such as contract clauses or payment instructions) shall

also specify applicability to individual line items if not applicable to the contract as a whole.

4.1005-2 Exceptions.

(a) *Indefinite-delivery contracts*—(1) *General.* The following required data elements are not known at time of issuance of an indefinite-delivery contract, but shall be provided in each order at the time of issuance: Accounting classification, delivery date and destination, or period and place of performance.

(2) *Indefinite-delivery indefinite-*

quantity (IDIQ) and requirements contracts. IDIQ and requirements contracts may omit the quantity at the line item level for the base award provided that the total contract minimum and maximum, or the estimate, respectively, is stated.

(b) *Item description and PSC.* These data elements are not required in the line item if there are associated deliverable subline items that include the actual detailed identification. When this exception applies, use a general narrative description for the line item.

(c) *Single unit price or single total price.* The requirement for a single unit price or single total price at the line item level does not apply if any of the following conditions are present:

(1) There are associated deliverable subline items that are priced.

(2) The line item or subline item is not separately priced.

(3) The supplies or services are being acquired on a cost-reimbursement, time-and-materials, or labor-hour basis.

(4) The procurement instrument is for services and firm prices have been established for elements of the total price, but the actual number of the elements is not known until performance (*e.g.*, a labor-hour contract for maintenance/repair). The contracting officer may structure these procurement instruments to reflect a firm or estimated total amount for each line item.

4.1006 Modifications.

(a) When a new item (such as an increased quantity) is added to the procurement instrument, assign a new line item number.

(b) If the modification relates to existing line items, the modification shall refer to those items.

4.1007 Solicitation alternative line item proposal.

Solicitations should be structured to allow offerors to propose alternative line items (see 4.1008 and 52.212-1(e)). For example, when soliciting certain items using units of measure such as kit, set,

or lot, the offeror may not be able to group and deliver all items in a single shipment.

4.1008 Solicitation provision.

Insert the provision at 52.204–22, Alternative Line Item Proposal, in all solicitations.

PART 5—PUBLICIZING CONTRACT ACTIONS

5.207 [Amended]

■ 5. Amend section 5.207 by removing from paragraph (a)(13) the word “Contract”.

PART 7—ACQUISITION PLANNING

■ 6. Amend section 7.105 by revising paragraph (b)(5)(iv) to read as follows:

7.105 Contents of written acquisition plans.

* * * * *

(b) * * *

(5) * * *

(iv) For each contract (and order) contemplated, discuss the strategy to transition to firm-fixed-price contracts to the maximum extent practicable. During the requirements development stage, consider structuring the contract requirements, *i.e.*, line items, in a manner that will permit some, if not all, of the requirements to be awarded on a firm-fixed-price basis, either in the current contract, future option years, or follow-on contracts. This will facilitate an easier transition to a firm-fixed-price contract, because a cost history will be developed for a recurring definitive requirement.

* * * * *

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

■ 7. Amend section 8.402 by revising paragraph (f)(3) to read as follows:

8.402 General.

* * * * *

(f) * * *

(3) The items are clearly labeled on the order as items not on the Federal Supply Schedule and they conform to the rules for numbering line items at subpart 4.10; and

* * * * *

■ 8. Amend section 8.404 by adding paragraph (j) to read as follows:

8.404 Use of Federal Supply Schedules.

* * * * *

(j) *Line items.* When placing orders or establishing BPAs, ordering activities shall reference the special item number and the corresponding line or subline item awarded (established per 4.1005)

in the schedule. If an ordering activity contracting officer adds an item not on the Federal Supply Schedule in accordance with 8.402(f), establish a new line item in accordance with subpart 4.10.

■ 9. Amend section 8.406–1 by—
 ■ a. Redesignating paragraphs (d)(8) through (16) as paragraphs (d)(9) through (17), respectively; and
 ■ b. Adding a new paragraph (d)(8).
 The addition reads as follows:

8.406–1 Order placement.

* * * * *

(d) * * *

(8) Line item or subline item.

* * * * *

■ 10. Amend section 8.406–4 by revising paragraph (c)(3)(i)(C) to read as follows:

8.406–4 Termination for cause.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(C) Line item number(s) and a brief description of the item(s).

* * * * *

PART 9—CONTRACTOR QUALIFICATIONS

9.307 [Amended]

■ 11. Amend section 9.307 by removing from third sentence of paragraph (b) “contract line item number” and adding “line item number” in its place.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.303 [Amended]

■ 12. Amend section 12.303 by removing from paragraph (b)(3) the word “contract”.

■ 13. Amend section 12.603 by revising paragraph (c)(2)(v) to read as follows:

12.603 Streamlined solicitation for commercial items.

* * * * *

(c) * * *

(2) * * *

(v) A list of line item number(s) and items, quantities, and units of measure (including option(s), if applicable).

* * * * *

PART 14—SEALED BIDDING

■ 14. Amend section 14.201–2 by revising the first sentence of paragraph (b) to read as follows:

14.201–2 Part I—The Schedule.

* * * * *

(b) * * * Include a brief description of the supplies or services; *e.g.*, line

item number, national stock number/part number if applicable, title or name identifying the supplies or services, and quantities (see part 11). * * *

* * * * *

■ 15. Amend section 14.201–9 by revising paragraphs (b) introductory text and (b)(1) to read as follows:

14.201–9 Simplified contract format.

* * * * *

(b) *Contract schedule.* Include the following for each line item:

(1) Line item number.

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

■ 16. Amend section 15.203 by revising paragraph (a)(2) to read as follows:

15.203 Requests for proposals.

(a) * * *

(2) Anticipated terms and conditions that will apply to the contract. The solicitation may authorize offerors to propose alternative terms and conditions. If the solicitation permits offerors to submit one or more additional proposals with alternative line items (see 52.204–22 or 52.212–1(e)), the evaluation approach should consider the potential impact of the alternative line items on other terms and conditions or the requirement (*e.g.*, place of performance or payment and funding requirements) (see 15.206);

* * * * *

■ 17. Amend section 15.404–1 by revising the second sentence of paragraph (g)(1) to read as follows:

15.404–1 Proposal analysis techniques.

* * * * *

(g) * * *

(1) * * * Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more line items is significantly over or understated as indicated by the application of cost or price analysis techniques. * * *

* * * * *

■ 18. Amend section 15.408 in Table 15–2 by—

■ a. Under the heading *I. General Instructions*, revising the first sentence of paragraph D. and removing from paragraph E. the word “contract”; and

■ b. Under the heading *II. Cost Elements*, removing from the first sentence of paragraph A. the word “contract”.

The revision reads as follows:

15.408 Solicitation provisions and contract clauses.

* * * * *

Table 15–2—Instructions for Submitting Cost/Price Proposals When Certified Cost or Pricing Data Are Required

* * * * *

I. General Instructions

* * * * *

D. You must show the relationship between line item prices and the total contract price. * * *

* * * * *

PART 16—TYPES OF CONTRACTS

16.203–4 [Amended]

■ 19. Amend section 16.203–4 by removing from paragraph (b)(4) “contract line items” and adding “line items” in its place.

■ 20. Amend section 16.505 by revising paragraph (a)(7)(iii) to read as follows:

16.505 Ordering.

(a) * * *

(7) * * *

(iii) For supplies and services, line item number, subline item number (if applicable), description, quantity, and unit price or estimated cost and fee (as applicable). The corresponding line item number and subline item number from the base contract shall also be included.

* * * * *

PART 17—SPECIAL CONTRACTING METHODS

17.106–1 [Amended]

■ 21. Amend section 17.106–1 by removing from the fifth sentence of paragraph (c)(1), “Table 15–2, Formats for Submission of Line Items” and adding “Table 15–2, III. Formats for Submission of Line Item” in its place.

17.203 [Amended]

■ 22. Amend section 17.203 by removing from paragraph (g)(2) “contract line item” and adding “line item” in its place.

17.208 [Amended]

■ 23. Amend section 17.208 by removing from paragraph (e) “basic contract line item” and adding “line item” in its place.

PART 27—PATENTS, DATA, AND COPYRIGHTS

27.406–1 [Amended]

■ 24. Amend section 27.406–1 by removing from the second sentence of paragraph (b) “contract line items” and adding “line items” in its place.

PART 32—CONTRACT FINANCING

32.903 [Amended]

■ 25. Amend section 32.903 by removing from paragraph (b) introductory text “contract line item” and adding “line item” in its place.

32.905 [Amended]

■ 26. Amend section 32.905 by removing from paragraph (b)(1)(iii) “contract line item” and adding “line item” in its place.

32.1004 [Amended]

■ 27. Amend section 32.1004 by removing from the introductory text and paragraph (a)(2)(v) “contract line item” and adding “line item” in their places (three times).

32.1110 [Amended]

■ 28. Amend section 32.1110 by removing from paragraph (f) “contract line item” and adding “line item” in its place.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

42.302 [Amended]

■ 29. Amend section 42.302 by removing from paragraph (b)(9) “contract line item” and adding “line item” in its place.

PART 48—VALUE ENGINEERING

48.104–2 [Amended]

■ 30. Amend section 48.104–2 by removing from paragraph (a)(4) “contract line item” and adding “line item” in its place.

PART 49—TERMINATION OF CONTRACTS

49.601–2 [Amended]

■ 31. Amend section 49.601–2 by removing from the introductory text of the Notice of Termination to Prime Contractors “items, etc.” and adding “line items, etc.” in its place.

49.603–2 [Amended]

■ 32. Amend section 49.603–2 by removing from paragraph (b)(1) “(i) item” and adding “(i) line item” in its place.

49.603–5 [Amended]

■ 33. Amend section 49.603–5 by removing from paragraph (b)(1) “(i) item” and adding “(i) line item” in its place.

49.603–7 [Amended]

■ 34. Amend section 49.603–7 by removing from paragraph (b)(1) “(i) item” and adding “(i) line item” in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 35. Add section 52.204–22 to read as follows:

52.204–22 Alternative Line Item Proposal.

As prescribed in 4.1008, insert the following provision:

Alternative Line Item Proposal (JAN 2017)

(a) The Government recognizes that the line items established in this solicitation may not conform to the Offeror’s practices. Failure to correct these issues can result in difficulties in acceptance of deliverables and processing payments. Therefore, the Offeror is invited to propose alternative line items for which bids, proposals, or quotes are requested in this solicitation to ensure that the resulting contract is economically and administratively advantageous to the Government and the Offeror.

(b) The Offeror may submit one or more additional proposals with alternative line items, provided that alternative line items are consistent with subpart 4.10 of the Federal Acquisition Regulation. However, acceptance of an alternative proposal is a unilateral decision made solely at the discretion of the Government. Offers that do not comply with the line items specified in this solicitation may be determined to be nonresponsive or unacceptable.

(End of provision)

■ 36. Amend section 52.212–1 by revising the date of the provision and paragraph (e) to read as follows:

52.212–1 Instructions to Offerors—Commercial Items.

* * * * *

Instructions to Offerors—Commercial Items (JAN 2017)

* * * * *

(e) *Multiple offers.* Offerors are encouraged to submit multiple offers presenting alternative terms and conditions, including alternative line items (provided that the alternative line items are consistent with subpart 4.10 of the Federal Acquisition Regulation), or alternative commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

* * * * *

- 37. Amend section 52.212–4 by—
- a. Revising the date of the clause;
- b. Removing from paragraph (g)(1)(iii) “contract line item” and adding “line item” in its place;
- c. Removing from paragraph (i)(5)(i)(C) the word “contract”; and
- d. In Alternate I—
- 1. Revising the date of Alternate I; and
- 2. Removing from paragraph (i)(5)(i)(C) the word “contract”.

The revisions read as follows:

52.212-4 Contract Terms and Conditions—Commercial Items.

* * * * *

Contract Terms and Conditions—Commercial Items (JAN 2017)

* * * * *

Alternate I (JAN 2017) * **

* * * * *

■ 38. Amend section 52.212-5 by revising the date of the clause and paragraph (b)(55) 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 (JAN 2017)

* * * * *

(b) * * *

_____(55) 52.232-30, Installment Payments for Commercial Items (JAN 2017) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

* * * * *

■ 39. Amend section 52.213-4 by revising the date of the clause and paragraph (a)(2)(iv) 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 (JAN 2017)

* * * * *

(a) * * *

(2) * * *

(iv) 52.232-25, Prompt Payment (JAN 2017)

* * * * *

■ 40. Amend section 52.214-21 in Alternate I by revising the date of the alternate and removing from paragraph (f) “Contract line” and adding “Line” in its place to read as follows:

52.214-21 Descriptive Literature.

* * * * *

Alternate I (JAN 2017) * **

* * * * *

■ 41. Amend section 52.215-1 by revising the date of the provision and removing from the second sentence of paragraph (f)(8) the word “contract” to read as follows:

52.215-1 Instructions to Offerors—Competitive Acquisition.

* * * * *

Instructions to Offerors—Competitive Acquisition (JAN 2017)

* * * * *

■ 42. Amend section 52.216-4 by revising the date of the clause and removing from the second sentence of paragraph (c)(3) the word “contract” to read as follows:

52.216-4 Economic Price Adjustment—Labor and Material.

* * * * *

Economic Price Adjustment—Labor and Material (JAN 2017)

* * * * *

■ 43. Amend section 52.222-32 by revising the date of the clause and removing from the fourth sentence of paragraph (f)(2) “contract line item” and adding “line item” in its place” to read as follows:

52.222-32 Construction Wage Rate Requirements—Price Adjustment (Actual Method).

* * * * *

Construction Wage Rate Requirements—Price Adjustment (Actual Method) (JAN 2017)

* * * * *

■ 44. Amend section 52.232-25 by—

- a. Revising the date of the clause;
- b. Removing from paragraph (a)(3)(iii) “contract line item” and adding “line item” in its place; and
- c. Removing from paragraph (d)(1)(iii) “contract line item” and adding “line item” in its place.

The revision reads as follows:

52.232-25 Prompt Payment.

* * * * *

Prompt Payment (JAN 2017)

* * * * *

■ 45. Amend section 52.232-26 by—

- a. Revising the section heading and the date of the clause;
- b. Removing from paragraph (a)(2)(iii) “contract line item” and adding “line item” in its place; and
- c. Removing from paragraph (c)(1)(iii) “contract line item” and adding “line item” in its place.

The revision reads as follows:

52.232-26 Prompt Payment for Fixed-Price Architect-Engineer Contracts.

* * * * *

Prompt Payment for Fixed-Price Architect-Engineer Contracts (JAN 2017)

* * * * *

■ 46. Amend section 52.232-27 by—

- a. Revising the section heading and the date of the clause;
- b. Removing from paragraph (a)(2)(iii) “contract line item” and adding “line item” in its place; and

■ c. Removing from paragraph (l)(1)(iii) “contract line item” and adding “line item” in its place.

The revision reads as follows:

52.232-27 Prompt Payment for Construction Contracts.

* * * * *

Prompt Payment for Construction Contracts (JAN 2017)

* * * * *

- 47. Amend section 52.232-30 by—
 - a. Revising the date of the clause;
 - b. Removing from paragraph (b) introductory text “contract line item” and adding “line item” in its place;
 - c. Removing from paragraph (b)(1) “contract line item” and adding “line item” in their places (six times);
 - d. Removing from paragraph (b)(2) “contract line item” and adding “line item” in its place;
 - e. Removing from paragraph (b)(3) “contract line item” and adding “line item” in their places (three times);
 - f. Removing from paragraph (b)(4) “contract line item” and adding “line item” in its place;
 - g. Removing from paragraph (e) “contract line item” and adding “line item” in its place; and
 - h. Removing from paragraph (i)(4) “contract line item” and adding “line item” in its place;

The revision reads as follows:

52.232-30 Installment Payments for Commercial Items.

* * * * *

Installment Payments for Commercial Items (JAN 2017)

* * * * *

■ 48. Amend section 52.243-7 by revising the date of the clause and removing from paragraph (b)(5)(i) “contract line items” and adding “line items” in its place to read as follows:

52.243-7 Notification of Changes.

* * * * *

Notification of Changes (JAN 2017)

* * * * *

■ 49. Amend section 52.245-1 by revising the date of the clause and removing from paragraph (e)(3) “contract line items” and adding “line items” in its place to read as follows:

52.245-1 Government Property.

* * * * *

Government Property (JAN 2017)

* * * * *

■ 50. Amend section 52.247-60 by revising the date of the clause and adding a sentence to the end of paragraph (a)(1)(xi) to read as follows:

52.247-60 Guaranteed Shipping Characteristics.

* * * * *

Guaranteed Shipping Characteristics (JAN 2017)

- (a) * * *
 (1) * * *
 (xi) * * *

Number of complete units (line item) to be shipped in carrier's equipment.

* * * * *

■ 51. Amend section 52.248-1 in Alternate II by revising the date of the alternate and removing from paragraph (a) "contract line items" and adding "line items" in its place to read as follows:

52.248-1 Value Engineering.

* * * * *

Alternate II (JAN 2017) * * *

* * * * *

[FR Doc. 2016-31495 Filed 1-12-17; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Parts 2, 13, and 19**

[FAC 2005-95; FAR Case 2016-004; Item II; 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 National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act for Fiscal Year 2016 to raise the simplified acquisition threshold for special emergency procurement authority.

DATES: *Effective:* January 13, 2017.

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 FAC 2005-95, FAR Case 2016-004.

SUPPLEMENTARY INFORMATION:**I. Background**

DOD, GSA, and NASA published a proposed rule in the **Federal Register** at 81 FR 39882 on June 20, 2016, 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 revised 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 rule would apply to 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. Two respondents provided comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments is provided.

A. Summary of Changes

There was no change made to the rule as a result of the comments received. There were no comments on the Initial Regulatory Flexibility Analysis.

B. Analysis of Public Comments**1. Small Business**

Comment: The respondent identified that the proposed rule did not recognize that the automatic set-asides for small business would apply up to the threshold in paragraph (1)(ii) of the simplified acquisition threshold definition at FAR 2.101 in the case of an emergency acquisition in an outlying area as defined in FAR 2.101.

Response: The proposed rule did not address the issue of the outlying areas. While the comment is out of scope of this rule, the Councils will take the comment under consideration.

2. Increased Simplified Acquisition Threshold

Comment: The respondent opposes the increase in the special emergency procurement threshold, because increases to the acquisition threshold threaten to compromise the integrity of the Berry amendment, outsource critical portions of the domestic industrial base, and hurt American manufacturers.

Response: The Councils appreciate the comment and acknowledge the concern; however, the increase in the

special emergency procurement threshold is statutory in nature.

III. 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 rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This final 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 final 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.

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule.

There was no change made to the rule as a result of the comments received. There were no comments on the Regulatory Flexibility Analysis.

DoD, GSA, and NASA do not expect this final 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