

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR-2019-0001, Sequence No. 9]

Federal Acquisition Regulation; Federal Acquisition Circular 2020-04; Introduction

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

and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of a final rule.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rule agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2020-04. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the internet at <http://www.regulations.gov>.

DATES: For effective date see the separate document, which follows.

FOR FURTHER INFORMATION CONTACT: Ms. Camara Francis, Procurement Analyst, at (202) 550-0935 or by email at camara.francis@gsa.gov for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAC 2020-04, FAR Case 2019-012.

RULE LISTED IN FAC 2020-04

Subject	FAR case	Analyst
Trade Agreements Thresholds	2019-012	Francis

SUPPLEMENTARY INFORMATION: A summary for the FAR rule follows. For the actual revisions and/or amendments made by this FAR case, refer to the specific subject set forth in the document following this item summary. FAC 2020-04 amends the FAR as follows:

Trade Agreements Thresholds (FAR Case 2019-012)

This final rule amends the Federal Acquisition Regulation to adjust the thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements as determined by the United States Trade Representative, according to predetermined formulae under the agreements.

William F. Clark,

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

Federal Acquisition Circular (FAC) 2020-04 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2020-04 is effective January 15, 2020.

Kim Herrington,

Acting Principal Director, Defense Pricing and Contracting, Department of Defense.

Jeffrey A. Koses,
Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

William G. Roets, II,
Acting Assistant Administrator, Office of Procurement, National Aeronautics and Space Administration.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22, 25, and 52

[FAC 2020-04; FAR Case 2019-012; Docket No. FAR-2019-0012; Sequence No. 1]

RIN 9000-AN95

Federal Acquisition Regulation; Trade Agreements Thresholds

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

incorporate revised 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: January 15, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Camara Francis, Procurement Analyst, at (202) 550-0935 or by email at camara.francis@gsa.gov for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at (202) 501-4755. Please cite FAC 2020-04, FAR case 2019-012.

SUPPLEMENTARY INFORMATION:

I. Background

Approximately every two years, the trade agreements thresholds for the World Trade Organization Government Procurement Agreement (WTO GPA) and the free trade agreements (FTAs) are adjusted according to predetermined formulae under the agreements. These thresholds become effective on January 1, 2020. On December 23, 2019 (84 FR 70615), the United States Trade Representative published new procurement thresholds. 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	\$182,000	\$182,000	\$7,008,000

Trade agreement	Supply contract (equal to or exceeding)	Service contract (equal to or exceeding)	Construction contract (equal to or exceeding)
FTAs:			
Australia FTA	83,099	83,099	7,008,000
Bahrain FTA	182,000	182,000	10,802,884
CAFTA-DR (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua)	83,099	83,099	7,008,000
Chile FTA	83,099	83,099	7,008,000
Colombia FTA	83,099	83,099	7,008,000
Korea FTA	100,000	100,000	7,008,000
Morocco FTA	182,000	182,000	7,008,000
NAFTA:			
—Canada	25,000	83,099	10,802,884
—Mexico	83,099	83,099	10,802,884
Oman FTA	182,000	182,000	10,802,884
Panama FTA	182,000	182,000	7,008,000
Peru FTA	182,000	182,000	7,008,000
Singapore FTA	83,099	83,099	7,008,000
Israeli Trade Act	50,000

II. Discussion and Analysis

This final rule implements the new thresholds in FAR subpart 25.4, Trade Agreements, and other sections in the FAR that include trade agreements thresholds (*i.e.*, 22.1503, 25.202, 25.603, 25.1101, and 25.1102).

In addition, changes are required to the provision at 52.204-8, Annual Representations and Certifications, and the clause at 52.222-19, Child Labor—Cooperation with Authorities and Remedies, with conforming changes to the clause dates in 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, and 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

III. Publication of This Final Rule for Public Comment Is Not Required by Statute

“Publication of proposed regulations,” 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it only adjusts the thresholds according to predetermined formulae to adjust for changes in economic conditions, thus maintaining the status

quo, without significant effect beyond the internal operating procedures of the Government.

IV. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule amends the FAR to make minor revisions in the thresholds for application of the WTO GPA and the FTAs. The revisions do not add any new burdens or, except for the thresholds changes themselves, impact applicability of clauses and provisions at or below the simplified acquisition threshold, or to commercial items.

V. 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.

VI. Executive Order 13771

This rule is not subject to E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, because this rule is not a significant regulatory action under E.O. 12866.

VII. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section III of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C chapter 35) does apply to this final rule, since the rule affects the prescriptions for use of the certification and information collection requirements in the provisions at FAR 52.225-4 and 52.225-6 and the clauses at FAR 52.225-9, 52.225-11, 52.225-21, and 52.225-23, currently approved under OMB Control Number 9000-0024, entitled “Buy American Act, Trade Agreements, and Duty-Free Entry.” The impact, however, is expected to be negligible, because the threshold changes are in line with inflation and maintain the status quo. As a result, there is no change to the estimated burden.

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

Government procurement.

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 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 51 U.S.C. 20113.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1503 [Amended]

■ 2. Amend section 22.1503 by—

■ a. Removing from paragraph (b)(3) “\$80,317” and adding “\$83,099” in its place; and

■ b. Removing from paragraph (b)(4) “\$180,000” and adding “\$182,000” in its place.

PART 25—FOREIGN ACQUISITION

25.202 [Amended]

■ 3. Amend section 25.202 by removing from paragraph (c) “\$6,932,000” and adding “\$7,008,000” in its place.

■ 4. Amend section 25.402(b) by adding a heading for the table and revising the table to read as follows:

25.402 General.
* * * * *
(b) * * *

TABLE 1 TO PARAGRAPH (b)

Trade agreement	Supply contract (equal to or exceeding)	Service contract (equal to or exceeding)	Construction contract (equal to or exceeding)
WTO GPA	\$182,000	\$182,000	\$7,008,000
FTAs:			
Australia FTA	83,099	83,099	7,008,000
Bahrain FTA	182,000	182,000	10,802,884
CAFTA—DR (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua)	83,099	83,099	7,008,000
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Korea FTA	100,000	100,000	7,008,000
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NAFTA:			
—Canada	25,000	83,099	10,802,884
—Mexico	83,099	83,099	10,802,884
Oman FTA	182,000	182,000	10,802,884
Panama FTA	182,000	182,000	7,008,000
Peru FTA	182,000	182,000	7,008,000
Singapore FTA	83,099	83,099	7,008,000
Israeli Trade Act	50,000

25.603 [Amended]

■ 5. Amend section 25.603 by removing from paragraph (c)(1) “\$6,932,000” and adding “\$7,008,000” in its place.

25.1101 [Amended]

■ 6. Amend section 25.1101 by—

■ a. Removing from paragraph (b)(1)(i)(A) “\$180,000” and adding “\$182,000” in its place;

■ b. Removing from paragraphs (b)(1)(iii) and (iv) and (b)(2)(iii) and (iv) “\$80,317” and adding “\$83,099” in its place; and

■ c. Removing from paragraphs (c)(1) and (d) “\$180,000” and adding “\$182,000” in its place.

25.1102 [Amended]

■ 7. Amend section 25.1102 by—

■ a. Removing from the introductory text of paragraphs (a) and (c) introductory text “\$6,932,000” and adding “\$7,008,000” in its place;

■ b. Removing from paragraph (c)(3) “\$6,932,000” and “\$10,441,216” and adding “\$7,008,000” and “\$10,802,884” in their places, respectively; and

■ c. Removing from paragraph (d)(3) “\$6,932,000” and “\$10,441,216” and

adding “\$7,008,000” and “\$10,802,884” in their places, respectively.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 8. Amend section 52.204–8 by—

■ a. Revising the date of the provision; and

■ b. Removing from paragraphs (c)(1)(xxi)(C) and (D) “\$80,317” and adding “\$83,099” in its place.

The revision reads as follows:

52.204–8 Annual Representations and Certifications.

* * * * *

Annual Representations and Certifications (JAN 2020)

* * * * *

■ 9. Amend section 52.212–5 by revising the date of the clause and removing from paragraph (b)(26) “(OCT 2019)” and adding “(JAN 2020)” in its place 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 2020)

* * * * *

■ 10. Amend section 52.213–4 by revising the date of the clause and removing from paragraph (b)(1)(ii) “(OCT 2019)” and adding “(JAN 2020)” in its place to read as follows:

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

* * * * *

Terms and Conditions—Simplified Acquisition (Other Than Commercial Items) (JAN 2020)

* * * * *

■ 11. Amend section 52.222–19 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (a)(3) “\$80,317” and adding “\$83,099” in its place; and

■ c. Removing from paragraph (a)(4) “\$180,000” and adding “\$182,000” in its place.

The revision reads as follows:

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

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Child Labor—Cooperation With Authorities and Remedies (JAN 2020)

* * * * *

[FR Doc. 2020-00025 Filed 1-14-20; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR-2019-0001, Sequence No. 9]

Federal Acquisition Regulation; Federal Acquisition Circular 2020-04; Small Entity Compliance Guide

AGENCY: 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 DOD, GSA, and NASA. 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 the rule appearing in Federal Acquisition Circular (FAC) 2020-04, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2020-04, which precedes this document. These documents are also available via the internet at <http://www.regulations.gov>.

DATES: January 15, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Camara Francis, Procurement Analyst, at (202) 550-0935 or by email at camara.francis@gsa.gov for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAC 2020-04, FAR Case 2019-012.

RULE LISTED IN FAC 2020-04

Subject	FAR Case	Analyst
Trade Agreements Thresholds	2019-012	Francis

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specific subject set forth in the document following this item summary. FAC 2020-04 amends the FAR as follows:

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William F. Clark,
Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

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