



(Billing Code 5001-06)

**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Parts 202, 203, 205, 207, 211, 212, 215, 217, 219, 225, 228, 234, 236, 237, 250, and 252**

**RIN 0750-AI43**

**Defense Federal Acquisition Regulation Supplement: Inflation Adjustment of Acquisition-Related Thresholds (DFARS Case 2014-D025)**

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the inflation adjustment of acquisition-related dollar thresholds. A statute requires an adjustment every five years of acquisition-related thresholds for inflation using the Consumer Price Index for all urban consumers, except for the Construction Wage Rate Requirements statute (formerly Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds. DoD also used the same methodology to adjust nonstatutory DFARS acquisition-related thresholds.

**DATES: Effective Date:** October 1, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy G. Williams, telephone 571-372-6106.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

This rule amends multiple DFARS parts to further implement 41 U.S.C. 1908. Section 1908 requires an adjustment every five years (on October 1 of each year evenly divisible by five) of statutory acquisition-related thresholds for inflation, using the Consumer Price Index (CPI) for all urban consumers, except for the Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds (see DFARS 201.109). As a matter of policy, DoD also uses the same methodology to adjust nonstatutory FAR acquisition-related thresholds.

DoD published a proposed rule in the Federal Register at 79 FR 65912 on November 6, 2014. The preamble to the proposed rule contained detailed explanation of—

- What an acquisition-related threshold is;
- What acquisition-related thresholds are not subject to escalation adjustment under this case; and
- How DoD analyzes statutory and non-statutory acquisition-related thresholds.

No respondents submitted public comments in response to the proposed rule.

Although there were no changes between the proposed rule and the final rule as the result of public comments, some of the thresholds in the final rule are lower than proposed, due to lower inflation than was projected at the time of publication of the proposed rule. The proposed rule was based on a projected CPI of 245 for March 2015. The final rule is based on an actual CPI of 236.119 for March 2015. The CPI as of the end of March, 6 months before the effective date of the rule, is used as the cutoff in order to allow time for approval and publication of the final rule.

Because the actual CPI index for March 2015 is about 10 points lower than the CPI index projected for that date at the time of the proposed rule, thresholds of at least 10 million dollars are generally proportionally lower than the proposed thresholds. Thresholds of less than \$10 million are frequently unchanged, due to rounding.

There were some baseline changes due to other DFARS cases. For example, there are baseline changes to subpart 217.1, and the clauses at DFARS 252.203-7004 and 252.209-7004 have been amended since publication of the proposed rule. DFARS 232.502-1(b)(1) and the clause at DFARS 252.225-7006, including the

associated thresholds, have been deleted under other DFARS cases.

## **II. 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.

## **III. Regulatory Flexibility Act**

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., and is summarized as follows:

This rule amends the Defense Federal Acquisition Regulation Supplement to implement 41 U.S.C. 1908 and to amend other acquisition-related dollar thresholds that are based on policy

rather than statute in order to adjust for the changing value of the dollar. 41 U.S.C. 1908 requires adjustment every five years of statutory acquisition-related dollar thresholds, except for Construction Wage Rate Requirements statute (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds. While reviewing all statutory acquisition-related thresholds, this case presented an opportunity to also review all nonstatutory acquisition-related thresholds in the DFARS that are based on policy. The objective of the case is to maintain the status quo, by adjusting acquisition-related thresholds for inflation.

This rule will likely affect to some extent all small business concerns that submit offers or are awarded contracts by the Federal Government. However, most of the threshold changes in this rule are not expected to have any significant economic impact on small business concerns because they are intended to maintain the status quo by adjusting for changes in the value of the dollar. Often any impact will be beneficial, by preventing burdensome requirements from applying to more and more acquisitions, as the dollar loses value.

The rule does not impose any new reporting, recordkeeping, or compliance requirements. Changes in thresholds for approved information collection requirements are intended to maintain the status quo and prevent those requirements from increasing over

time.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no practical alternatives that will accomplish the objectives of the statute.

#### **IV. Paperwork Reduction Act**

The Paperwork Reduction Act does apply. The changes to the DFARS do not impose new information collection requirements that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, et seq. By adjusting the thresholds for inflation, the status quo for the current information collection requirements is maintained under the following OMB clearance numbers:

OMB Control #	Title	DFARS Part
0704-0187	Information Collection in Support of the DOD Acquisition Process (Solicitation Phase)	208, 209, 226, 235
0704-0229	Defense Federal Acquisition Regulation Supplement Part 225, Foreign Acquisition, and related clauses	225
0704-0286	Defense FAR Supplement (DFARS) Part 205, Publicizing Contract Actions, and DFARS 252-205-7000, Provision of Information to Cooperative Agreement Holders	205
0704-0477	Organizational Conflicts of Interest in Major Defense	209.5

	Acquisition Programs	
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However, the rule contains one information collection requirement that required the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). This information collection requirement has been assigned OMB Control Number 0704-0533, titled: "Defense Federal Acquisition Regulation Supplement (DFARS) Part 249, Termination of Contracts, and a Related Clauses at DFARS 252.249, Notification of Anticipated Contract Termination or Reduction."

**List of Subjects in 48 CFR Parts 202, 203, 205, 207, 211, 212, 215, 217, 219, 225, 228, 234, 236, 237, 250, and 252**

Government procurement.

**Amy G. Williams,**

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 202, 203, 205, 207, 211, 212, 215, 217, 219, 225, 228, 234, 236, 237, 250, and 252 are amended as follows:

1. The authority citation for 48 CFR parts 202, 203, 205, 211, 212, 215, 217, 219, 225, 234, 236, 237, and 252 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

## **PART 202—DEFINITIONS OF WORDS AND TERMS**

### **202.101 [Amended]**

2. Amend section 202.101 by designating the definition of “Simplified acquisition threshold” in alphabetical order in the list of definitions.

## **PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST**

### **203.1004 [Amended]**

3. Amend section 203.1004 in paragraph (b)(2)(ii) by removing “\$5 million” and adding “\$5.5 million” in its place.

## **PART 205—PUBLICIZING CONTRACT ACTIONS**

### **205.303 [Amended]**

4. Amend section 205.303 by removing “\$6.5 million” everywhere it appears and adding “\$7 million” in its place.

## **PART 207—ACQUISITION PLANNING**

5. The authority citation for part 207 is revised to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

### **207.170-3 [Amended]**

6. Amend section 207.170-3 in paragraph (a) introductory text by removing “\$6 million” and adding “\$6.5 million” in its place.

## **PART 211—DESCRIBING AGENCY NEEDS**

### **211.503 [Amended]**

7. Amend section 211.503 in paragraph (b) by removing "\$650,000" and adding "\$700,000" in its place in two places.

#### **PART 212—ACQUISITION OF COMMERCIAL ITEMS**

##### **212.7102-1 [Amended]**

8. Amend section 212.7102-1 in paragraph (c) by removing "\$50 million" and adding "\$53.5 million" in its place.

#### **PART 215—CONTRACTING BY NEGOTIATION**

##### **215.403-1 [Amended]**

9. Amend section 215.403-1 in paragraphs (c) (3) (B) and (c) (4) (B) by removing "\$15,000,000" and adding "\$19.5 million" in its place.

#### **PART 217—SPECIAL CONTRACTING METHODS**

##### **217.170 [Amended]**

10. Amend section 217.170 in paragraphs (d) (1) (iv) and (d) (5) by removing "\$125 million" and adding "\$135.5 million" in both places it appears.

##### **217.171 [Amended]**

11. Amend section 217.171 in paragraph (d) by removing "\$625.5 million" and adding "\$678.5 million" in its place.

##### **217.172 [Amended]**

12. Amend section 217.172 in paragraphs (c), (d), (f) (1), and (f) (2) by removing "\$500 million" and adding "\$678.5 million" in its place.

#### **PART 219—SMALL BUSINESS PROGRAMS**

**219.502-1 [Amended]**

13. Amend section 219.502-1 in paragraph (2) by removing "\$350,000" and adding "\$400,000" in its place in both places.

**219.502-2 [Amended]**

14. Amend section 219.502-2 in paragraph (a)(iii) by removing "\$350,000" and adding "\$400,000" in its place.

**PART 225—FOREIGN ACQUISITION**

**225.7204 [Amended]**

15. Amend section 225.7204 in paragraphs (a) and (b) by removing "\$12.5 million" and adding "\$13.5 million" in both places it appears.

**225.7703-2 [Amended]**

16. Amend section 225.7703-2 in paragraphs (b)(2)(i) and (ii) by removing "\$85.5 million" and adding "\$93 million" in its place in both places.

**PART 228—BONDS AND INSURANCE**

17. The authority citation for part 228 is revised to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

**228.102-1 [Amended]**

18. Amend section 228.102-1 by—

a. In the introductory text and paragraph (1), removing "\$30,000" and adding "\$35,000" in its place in both places; and

b. In paragraph (2) introductory text, removing "\$100,000" and adding "\$150,000" in its place.

#### **PART 234—MAJOR SYSTEM ACQUISITION**

19. Revise section 234.7001 to read as follows:

##### **234.7001 Definition.**

Major weapon system, as used in this subpart, means a weapon system acquired pursuant to a major defense acquisition program.

#### **PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**

##### **236.601 [Amended]**

20. Amend section 236.601 in paragraph (1) by removing "\$1,000,000" and adding "\$1.5 million" in its place.

#### **PART 237—SERVICE CONTRACTING**

##### **237.170-2 [Amended]**

21. Amend section 237.170-2 in paragraphs (a)(1) and (2) by removing "\$85.5 million" and adding "\$93 million" in its place in both places.

#### **PART 250—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT**

22. The authority citation for part 250 is revised to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

##### **250.102-1 [Amended]**

23. Amend section 250.102-1 in paragraph (b) by removing "\$65,000" and adding "\$70,000" in its place.

##### **250.102-1-70 [Amended]**

24. Amend section 250.102-1-70 in paragraph (b)(1) by removing "\$65,000" and adding "\$70,000" in its place.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**252.203-7004 [Amended]**

25. Amend section 252.203-7004 by—

- a. Removing the clause date "(JAN 2015)" and adding "(OCT 2015)" in its place; and
- b. In paragraph (e), removing "\$5 million" and adding "\$5.5 million" in its place.

**252.209-7004 [Amended]**

26. Amend section 252.209-7004 by—

- a. Removing the clause date "(DEC 2014)" and adding "(OCT 2015)" in its place; and
- b. In paragraph (a), removing "\$30,000" and adding "\$35,000" in its place.

**252.209-7009 [Amended]**

27. Amend section 252.209-7009 by—

- a. Removing the clause date "(DEC 2012)" and adding "(OCT 2015)" in its place; and
- b. In paragraph (a)(ii), removing "\$50 million" and adding "\$55 million" in its place.

**252.225-7003 [Amended]**

28. Amend section 252.225-7003 by—

- a. Removing the clause date "(OCT 2010)" and adding "(OCT 2015)" in its place;
- b. In paragraph (b)(1), removing "\$12.5 million" and adding "\$13.5 million" in its place; and
- c. In paragraph (b)(2)(i), removing "\$650,000" and adding "\$700,000" in its place.

**252.225-7004 [Amended]**

29. Amend section 252.225-7004 by—

- a. Removing the clause date "(OCT 2010)" and adding "(OCT 2015)" in its place; and
- b. In paragraph (b)(1), removing "\$650,000" and adding "\$700,000" in its place.

**252.225-7017 [Amended]**

30. Amend section 252.225-7017 by—

- a. Removing the clause date "(JAN 2014)" and adding "(OCT 2015)" in its place; and
- b. In paragraph (c)(1), removing "\$3,000" and adding "\$3,500" in its place.

**252.225-7018 [Amended]**

31. Amend section 252.225-7018 by—

- a. Removing the clause date "(JAN 2014)" and adding "(OCT 2015)" in its place;
- b. In paragraph (b)(1), removing "\$3,000" and adding "\$3,500" in its place; and

c. In paragraphs (d)(1) and (2), removing "\$3,000" and adding "\$3,500" in its place in both places.

**252.249-7002 [Amended]**

32. Amend section 252.249-7002 by—

a. Removing the clause date "(OCT 2010)" and adding "(OCT 2015)" in its place; and

b. In paragraph (d)(1), removing "\$650,000" and adding "\$700,000" in its place.

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