

# Government Contracts Blog

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## **Inflation Adjustment Of Acquisition-Related Thresholds In The FAR**

By [\*Townsend L. Bourne\*](#)

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council issued a final rule on August 30, 2010 adjusting acquisition-related thresholds for inflation as set forth in section 807 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005. 75 Fed. Reg. 53129. Section 807 dictates that acquisition-related thresholds must be adjusted for inflation every five years using the Consumer Price Index for all-urban consumers. Pub. L. No. 108-375, 118 Stat. 1811 (2004). This section does not allow for adjustments to thresholds contained in the Davis-Bacon Act, the Service Contract Act of 1965, or Title III of the Trade Agreements Act of 1979.

The final rule notes that some thresholds predicted in the proposed rule are different in the final rule “due to lower inflation than was projected at the time of publication of the proposed rule.” Therefore, thresholds of \$13 million or greater contained in the proposed rule are proportionally lower in the final rule. Thresholds lower than \$13 million generally did not change in the final rule due to rounding. The proposed rule was published on February 4, 2010 at 75 Fed. Reg. 5716.

The impact of the final rule on “heavily-used thresholds” is as follows:

- The “micro-purchase threshold” remains at \$3,000. FAR 2.101. Supplies or services with a total value at or below the micro-purchase threshold may be purchased by the government using less stringent acquisition methods and generally will be purchased using the Governmentwide commercial purchase card. FAR 13.201.
- The “simplified acquisition threshold” is increased from \$100,000 to \$150,000. FAR 2.101. Acquisitions with a maximum dollar value not exceeding the simplified acquisition threshold may be conducted using simplified acquisition procedures in order to reduce administrative costs, improve opportunities for small businesses, promote efficiency, and eliminate unnecessary burdens. FAR 13.002.
- The FedBizOpps preaward and postaward notice requirements for contract actions expected to exceed \$25,000 remain unchanged due to trade agreements. FAR Subpart

5. Government buyers must publicize procurement opportunities valued above \$25,000 by posting information online at <http://www.fedbizopps.gov>. FAR 5.201.

- The commercial items test program ceiling is raised from \$5.5 million to \$6.5 million. FAR 13.500. FAR 13.500 allows use of simplified acquisition procedures for purchases of supplies and services in amounts above the simplified acquisition threshold, but at or below the test program ceiling where the contracting officer reasonably expects that offers for the supplies or services sought will include only commercial items. The current authority to solicit offers for supplies or services under the test program expires on January 1, 2012. FAR 13.500(d).
- The threshold for obtaining cost or pricing data is increased from \$650,000 to \$700,000. FAR 15.403-4. Contracting officers now must obtain cost or pricing data before the award of any negotiated contract, subcontract, or contract modification expected to exceed \$700,000 unless an exception applies. FAR 15.403-4; *see also* FAR 15.403-1(b).
- The prime contractor subcontracting plan floor is raised from \$550,000 to \$650,000 and the construction threshold increases from \$1 million to \$1.5 million. FAR 19.702. The apparently successful offeror in a negotiated acquisition and the selected bidder in a sealed bid acquisition now must submit a subcontracting plan where the value of the acquisition is expected to exceed \$650,000 (or \$1.5 million for construction) in order to promote opportunities for small businesses.

The final rule memorializes the second review of FAR acquisition-related thresholds. The first review of acquisition-related thresholds took place in 2005, with a final rule published September 28, 2006 at 71 Fed. Reg. 57363. The effective date of the August 30, 2010 final rule is October 1, 2010.

Authored By:

[Townsend L. Bourne](#)

(202) 469-4917

[tbourne@sheppardmullin.com](mailto:tbourne@sheppardmullin.com)