

III. Expected Cost Savings

This final rule impacts contractors subject to audits of their termination settlement proposals. The rule is administrative in nature, because it raises a threshold. This rule eliminates termination settlements audits between \$100,000 and the threshold for obtaining certified cost or pricing data, currently \$750,000. Contractors will save costs associated with the preparation and support for the termination settlement audits. This will also enable faster final settlement payments to contractors, thereby improving contractor cash flow.

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

This rule does not add any new solicitation provisions or clauses, or impact any existing provisions or clauses.

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

Pursuant to E.O. 13771, this rule is a deregulatory action. Information on the expected cost savings of this action can be found in section III of the preamble.

VII. 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 amends FAR 49.107, Audit of prime contract settlement proposals and subcontract settlements, to raise the dollar threshold for the audit of prime contract settlement proposals and subcontract settlements submitted in the event of contract termination from \$100,000 to the threshold for obtaining certified cost or pricing data set

forth in FAR 15.403–4(a)(1), which is currently \$750,000. The rule is necessary to reduce the administrative burdens associated with termination settlement proposals.

No public comments were received in response to the initial regulatory flexibility analysis.

DoD, GSA, and NASA do not expect this 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.* Since the rule raises the audit threshold, even fewer small businesses will be subject to audits of their termination settlement proposals. It is estimated that an average of 4 small entities per year will be relieved from the requirements of supporting an audit of a contract settlement proposal, which is a minute fraction of all contracts awarded to small businesses in a typical year.

The rule imposes no reporting, recordkeeping, or other information collection requirements.

There are no known significant alternatives to the rule. The impact of this rule on small business is not expected to be significant.

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.

VIII. Paperwork Reduction Act

This 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 Part 49

Government procurement.

Dated: April 25, 2018.

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 part 49 as set forth below:

PART 49—TERMINATION OF CONTRACTS

■ 1. The authority citation for part 49 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Amend section 49.107 by revising paragraphs (a) and (b) to read as follows:

49.107 Audit of prime contract settlement proposals and subcontract settlements.

(a) The TCO shall refer each prime contractor settlement proposal valued at or above the threshold for obtaining certified cost or pricing data set forth in FAR 15.403–4(a)(1) to the appropriate audit agency for review and

recommendations. The TCO may submit settlement proposals of less than the threshold for obtaining certified cost or pricing data to the audit agency. Referrals shall indicate any specific information or data that the TCO considers relevant and shall include facts and circumstances that will assist the audit agency in performing its function. The audit agency shall develop requested information and may make any further accounting reviews it considers appropriate. After its review, the audit agency shall submit written comments and recommendations to the TCO. When a formal examination of settlement proposals valued under the threshold for obtaining certified cost or pricing data is not warranted, the TCO will perform or have performed a desk review and include a written summary of the review in the termination case file.

(b) The TCO shall refer subcontract settlements received for approval or ratification to the appropriate audit agency for review and recommendations when—

(1) The amount exceeds the threshold for obtaining certified cost or pricing data; or

(2) The TCO determines that a complete or partial accounting review is advisable. The audit agency shall submit written comments and recommendations to the TCO. The review by the audit agency does not relieve the prime contractor or higher tier subcontractor of the responsibility for performing an accounting review.

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[FR Doc. 2018–09169 Filed 4–30–18; 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 2018–0001, Sequence No. 2]

Federal Acquisition Regulation: Federal Acquisition Circular 2005–98; 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 rules appearing in Federal Acquisition Circular (FAC) 2005–98, 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 these rules by referring to FAC 2005–98, which precedes this document. These documents are also available via the internet at <http://www.regulations.gov>.
DATES: May 1, 2018.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–98 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755.

RULES LISTED IN FAC 2005–98

Item	Subject	FAR case	Analyst
I	Task- and Delivery-Order Protests	2017–007	Gray.
II	Duties of Office of Small and Disadvantaged Business Utilization	2017–008	Fry.
III	Liquidated Damages Rate Adjustment	2017–004	Delgado.
*IV	Audit of Settlement Proposals	2015–039	Delgado.

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–98 amends the FAR as follows:

Item I—Task- and Delivery-Order Protests (FAR Case 2017–007)

This final rule amends the FAR to implement section 835 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328). Section 835 amends 10 U.S.C. 2304c(e)(1)(B) to raise the threshold for task- and delivery-order protests from \$10 million to \$25 million (applicable to DoD, NASA, and the Coast Guard). The section also amends 41 U.S.C. 4106(f) to repeal the sunset date, which was also previously repealed by the GAO Civilian Task and Delivery Order Protest Authority Act of 2016 (Pub. L. 114–260). There will be an unquantifiable impact on offerors (including small businesses) that lose the right to protest awards of task or delivery orders valued between \$10 million and \$25 million, but the impact is expected to be de minimis, because there are very few protests of procurements in that dollar range.

Item II—Duties of Office of Small and Disadvantaged Business Utilization (FAR Case 2017–008)

This final rule amends the FAR to reflect additional duties for agencies’ Office of Small and Disadvantaged Business Utilization, or for DoD’s Office of Small Business Programs, which were added to section 15(k) of the Small Business Act by the NDAA for FY 2017. This rule only provides information regarding the internal operating procedures of the Government.

Item III—Liquidated Damages Rate Adjustment (FAR Case 2017–004)

This final rule amends the FAR to adjust for inflation the rate of liquidated damages assessed or enforced by Department of Labor (DOL) regulations for violations of the overtime provisions of the Contract Work Hours and Safety Standards Act. The FAR rule implements DOL’s interim final rule published in the **Federal Register** at 81 FR 43430 on July 1, 2016, DOL’s final rule published in the **Federal Register** at 82 FR 5373 on January 18, 2017, and subsequent adjustments for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements

Act of 2015 (section 701 of Pub. L. 114–74) (28 U.S.C. 2461 Note). There is no significant impact on small entities imposed by the FAR rule.

Item IV—Audit of Settlement Proposals (FAR Case 2015–039)

This final rule amends the FAR to raise the dollar threshold requirement for the audit of prime contract settlements and subcontract settlements from \$100,000 to \$750,000 to align with the threshold in FAR 15.403–4(a)(1) for obtaining certified cost or pricing data.

The requirements in the rule will not have a significant economic impact on a substantial number of small entities. Since the rule raises the audit threshold, even fewer small businesses will be subject to audits of their termination settlement proposals resulting in a reduction of time spent to complete termination settlements.

Dated: April 25, 2018.

William F. Clark,

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

[FR Doc. 2018–09171 Filed 4–30–18; 8:45 am]

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