

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR-2020-0051, Sequence No. 3]

Federal Acquisition Regulation; Federal Acquisition Circular 2020-07; Introduction

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

and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2020-07. A companion document, the *Small Entity Compliance Guide (SECG)*, follows this FAC.

DATES: For effective dates see the separate documents published in the

RULES section of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov.

RULE LISTED IN FAC 2020-07

Item	Subject	FAR case	Analyst
I	Requirements for DD Form 254, Contract Security Classification Specification	2015-002	Glover.
II	Increased Micro-Purchase and Simplified Acquisition Thresholds	2018-004	Jackson.
III	Evaluation Factors for Multiple-Award Contracts	2017-010	Jackson.
IV	Modifications to Cost or Pricing Data Requirements	2018-005	Delgado.
V	Orders Issued Via Fax or Electronic Commerce	2018-022	Glover.
VI	Technical Amendments.		

ADDRESSES: The FAC, including the SECG, is available via the internet at <https://www.regulations.gov>.

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2020-07 amends the FAR as follows:

Item I—Requirements for DD Form 254, Contract Security Classification Specification (FAR Case 2015-002)

This final rule amends the FAR to provide procedures for use of the DD Form 254, Contract Security Classification Specification, and the use of the Procurement Integrated Enterprise Environment (PIEE) for electronic submission to streamline the submission process. It requires use of the DD Form 254 by DoD components, and by nondefense agencies that have industrial security services agreements with DoD, and requires the use of the National Industrial Security Program Contracts Classification System module of the PIEE, unless the nondefense agency has an existing DD Form 254 information system.

Item II—Increased Micro-Purchase and Simplified Acquisition Thresholds (FAR Case 2018-004)

This final rule increases the micro-purchase threshold (MPT) from \$3,500

to \$10,000, increases the simplified acquisition threshold (SAT) from \$150,000 to \$250,000, and increases the special emergency procurement authority in paragraph (2) from \$300,000 to \$500,000. The rule also clarifies certain procurement terms, as well as aligns some non-statutory thresholds with the MPT and SAT. It implements section 217(b) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 and sections 805, 806, and 1702(a) of the NDAA for FY 2018.

This final rule will likely have a positive significant economic impact on a substantial number of small entities.

Item III—Evaluation Factors for Multiple-Award Contracts (FAR Case 2017-010)

DoD, GSA, and NASA are issuing a final rule amending the FAR to implement section 825 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114-328). The final rule modifies the requirement to consider price or cost as an evaluation factor for the award of certain multiple-award task order contracts issued by DoD, NASA, and the Coast Guard. Specifically, the rule provides that, at the Government's discretion, solicitations for multiple-award contracts for the same or similar services that state the Government intends to award a contract to each qualifying offeror do not require price or

cost as an evaluation factor for contract award. This exception does not apply to solicitations for multiple-award contracts that provide for sole source orders pursuant to 8(a) of the Small Business Act (15 U.S.C. 637(a)). When price or cost is not evaluated during contract award, the contracting officer shall consider price or cost as a factor for the award of each order under the contract. Section 825 also amends 10 U.S.C. 2304c(b) to add exemptions for the use of competitive procedures when placing an order under a multiple-award contract.

Item IV—Modifications to Cost or Pricing Data Requirements (FAR Case 2018-005)

This final rule increases the threshold for requesting certified cost or pricing data from \$750,000 to \$2 million for contracts entered into after June 30, 2018. For earlier contracts, contractors may request a modification to use the new clause Alternates, with the new \$2 million threshold for subcontracts awarded on or after July 1, 2018. The rule implements section 811 of the National Defense Authorization Act for Fiscal Year 2018, Public Law 115-91.

This final rule will not have a significant economic impact on a substantial number of small entities.

Item V—Orders Issued Via Fax or Electronic Commerce (FAR Case 2018-022)

This final rule amends a FAR clause to permit the issuance of task or delivery orders via facsimile or electronic commerce and clarify when an order is considered “issued” when using these methods. As a result, contracting officers will no longer need to include supplemental ordering language in the contract when anticipating the use of fax or electronic commerce to issue task or delivery orders. The authority to issue orders orally must still be separately authorized in the contract. A common understanding of when a task or delivery order is considered issued, in such situations, will be applied Governmentwide.

Item VI—Technical Amendments

Editorial changes are made at FAR 5.205, 9.109-4, 27.405-3, 52.209-13, and 52.212-5.

William F. Clark,

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

Federal Acquisition Circular (FAC) 2020-07 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 2020-07 is effective July 2, 2020 except for Items I, III, IV and V, which are effective August 3, 2020, and item II, which is effective August 31, 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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48 CFR Parts 1, 2, 4, 52, and 53

[FAC 2020-07; FAR Case 2015-002; Item I; Docket No. FAR-2015-0002; Sequence No. 1]

RIN 9000-AN40

Federal Acquisition Regulation: Requirements for DD Form 254, Contract Security Classification Specification

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 require electronic submission of the DD Form 254, Contract Security Classification Specification.

DATES: *Effective:* August 3, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202-501-1448 or curtis.glover@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 FAR Case 2015-002.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 84 FR 33201 on July 12, 2019, proposing to amend the FAR to update and clarify the requirements for using the DD Form 254, Contract Security Classification Specification. This rule amends the FAR, in part, to provide procedures for use of the DD Form 254 and the requirement to use the Procurement Integrated Enterprise Environment (PIEE), to—

- Streamline the submission process for the existing DD Form 254 and enable businesses to submit an electronic form once, instead of repeated paper submissions;

- Require use of the DD Form 254 by nondefense agencies that have industrial security services agreements with DoD, and DoD components, to specify the security classification for a contract involving access to information classified as “Confidential,” “Secret,” or “Top Secret;”

- Require agency preparation of the DD Form 254 using the National Industrial Security Program Contracts Classification System module of the PIEE unless a nondefense agency has an existing DD Form 254 information system.

Five 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 is provided as follows:

A. Summary of Significant Changes

There were no changes from the proposed rule as a result of the public comments received. There were minor editorial changes made to the proposed rule, see Section C below.

B. Analysis of Public Comments

1. Commercial and Government Entity (CAGE) Code Reporting

Comment: Two respondents expressed concern regarding the use of “Unique CAGE code”; stating that in some instances a facility will have multiple locations with the same CAGE codes. Clarification of the term “unique” CAGE code was requested.

Response: In accordance with the National Industrial Security Program Operating Manual (NISPOM) DoD 5220.22-M and FAR 52.204-16(g), each contractor and subcontractor location of performance listed on a DD Form 254 is required to have a unique CAGE code; and registration in the System for Award Management (SAM) is not required for contractor and subcontractor performance locations solely for the purposes of the DD Form 254. FAR 52.204-16, Commercial and Government Entity (CAGE) Code Reporting, as prescribed at FAR 4.1804(a), is amended to add paragraph (g) to require subcontractors requiring access to classified information under a contract to be identified with a CAGE code on the DD Form 254. Contractors shall ensure that a subcontractor requiring access to classified information provide its CAGE code with its name and location address or otherwise include it prominently in the proposal. In addition, each location of subcontractor performance must be listed on the DD Form 254 and is required to reflect a corresponding unique CAGE code for each listed location unless the work is being performed at a Government facility, in