

DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Chapter 1

[Docket No. FAR–2020–0051, Sequence No. 2]

**Federal Acquisition Regulation;
Federal Acquisition Circular 2020–06;
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) 2020–06. A
companion document, the *Small Entity
Compliance Guide* (SECG), follows this
FAC.

DATES: For effective date see the
separate documents, which follow.

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

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.

RULE LISTED IN FAC 2020–06

Item	Subject	FAR case	Analyst
I	Revocation of Executive Order on Nondisplacement of Qualified Workers	2020–001	Delgado.
II	Applicability of Inflation Adjustments of Acquisition-Related Thresholds	2018–007	Delgado.
III	Tax on Certain Foreign Procurement	2016–013	Delgado.
IV	Technical Amendments.		

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
2020–06 amends the FAR as follows:

**Item I—Revocation of Executive Order
on Nondisplacement of Qualified
Workers (FAR Case 2020–001)**

This final rule removes subpart 22.12,
entitled “Nondisplacement of Qualified
Workers Under Service Contracts”, and
a related contract clause, from the FAR.
The final rule applies to service
contracts which succeed a contract for
performance by service employees of
the same or similar work at the same
location. It removes a requirement for
service contractors and their
subcontractors to offer employees of the
predecessor contractor and its
subcontractors a right of first refusal of
employment for positions for which
they are qualified. It implements
Executive Order 13897 of October 31,
2019, Improving Federal Contractor
Operations by Revoking Executive
Order 13495. This final rule will not
have a significant impact on service
contractors and their subcontractors.
However, as a result of eliminating the
language in FAR subpart 22.12, there
will be fewer requirements imposed on
contractors to keep records
demonstrating compliance on successor
contractors.

**Item II—Applicability of Inflation
Adjustments of Acquisition-Related
Thresholds (FAR Case 2018–007)**

This final rule makes inflation
adjustments of statutory acquisition-
related thresholds under 41 U.S.C. 1908
applicable to existing contracts and
subcontracts in effect on the date of the
adjustment. It implements section 821
of the National Defense Authorization
Act for Fiscal Year 2018.

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

**Item III—Tax on Certain Foreign
Procurement (FAR Case 2016–013)**

This final rule withholds a 2 percent
tax on contract payments made by the
United States (U.S.) Government to
foreign persons pursuant to certain
contracts. This rule applies to Federal
Government contracts for goods or
services that are awarded to foreign
persons. It implements the Department
of the Treasury final regulations
published in the **Federal Register** at 81
FR 55133 on August 18, 2016, under
section 5000C of the Internal Revenue
Code relating to the 2 percent tax on
payments made by the U.S. Government
to foreign entities pursuant to certain
contracts.

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

Item IV—Technical Amendments

Editorial changes are made at FAR
4.1102, 19.102, 25.301–1, 25.301–4,
52.219–28, 52.223–15, and 52.225–19.

Federal Acquisition Circular (FAC) 2020–
06 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 2020–06
is effective May 6, 2020 except for Items I,
II, and III, which are effective June 5, 2020.

William F. Clark,

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

Kim Herrington,

*Acting Principal Director, Defense Pricing and
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Jeffrey A. Koses,

*Senior Procurement Executive/Deputy CAO,
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William G. Roets, II,

*Acting Assistant Administrator, Office of
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Space Administration.*

[FR Doc. 2020–07107 Filed 5–5–20; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 22, and 52

[FAC 2020–06; FAR Case 2020–001; Item I; Docket No. FAR–2020–0001; Sequence No. 1]

RIN 9000–AO03

Federal Acquisition Regulation: Revocation of Executive Order on Nondisplacement of Qualified Workers

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 remove the FAR subpart on nondisplacement of qualified workers. This final rule implements an Executive order which revoked the previous Executive order on this topic.

DATES: *Effective:* June 5, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at 202–969–7207 or zenaida.delgado@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 2020–06, FAR Case 2020–001.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are issuing a final rule amending the FAR to implement Executive Order (E.O.) 13897 of October 31, 2019, Improving Federal Contractor Operations by Revoking Executive Order 13495 (published in the *Federal Register* on November 5, 2019, at 84 FR 59709). E.O. 13897 revokes E.O. 13495 of January 30, 2009, Nondisplacement of Qualified Workers Under Service Contracts.

E.O. 13495 required service contractors and their subcontractors to offer employees of the predecessor contractor and its subcontractors a right of first refusal of employment for positions for which they are qualified.

This final rule amends the FAR to delete FAR subpart 22.12 in its entirety as well as the corresponding clause at FAR 52.222–17, Nondisplacement of Qualified Workers. FAR 1.106, 2.101, and clause 52.212–5 are also amended

to delete references to the revoked E.O. 13495, FAR subpart 22.12, and FAR 52.222–17. Contracting officers should not take any action on any complaints filed under former FAR subpart 22.12.

The Department of Labor (DOL) rescinded its implementing regulations on January 31, 2020 (85 FR 5567).

II. 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. The FAR rule removes a requirement for service contractors and their subcontractors to offer employees of the predecessor contractor and its subcontractors a right of first refusal of employment for positions for which they are qualified.

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

The statute that applies to the publication of the FAR is the Office of Federal Procurement Policy statute (codified at Title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) 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 is simply removing a requirement that has become obsolete as a result of an executive action that compelled the Federal Acquisition Regulatory Council to rescind the requirement. See section 2 of E.O. 13897.

IV. Executive Orders 12866 and 13563

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 rule is not a significant regulatory action, and therefore, this rule was not subject to the review of the

Office of Information and Regulatory Affairs under section 6(b) of E.O. 12866. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

VI. 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.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies. The FAR rule information collection requirements were collected under the approval authority granted to the DOL Wage and Hour Division currently cleared by the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*, under OMB control number 1235–0025, Nondisplacement of Qualified Workers Under Service Contracts, Executive Order 13495. The Wage and Hour Division has requested a discontinuation of this collection as a result of E.O. 13897.

List of Subjects in 48 CFR Parts 1, 2, 22, 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 1, 2, 22, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 2, 22, 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 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106 by removing from the table the entries “22.12” and “52.222–17”.

PART 2—DEFINITIONS OF WORDS AND TERMS

2.101 [Amended]

- 3. Amend section 2.101(b) in the definition “United States” by removing paragraph (4) and redesignating paragraphs (5) through (12) as paragraphs (4) through (11).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 22.12 [Removed and Reserved]

- 4. Remove and reserve subpart 22.12.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 5. Amend section 52.212–5 by—
 - a. Revising the date of the clause;
 - b. Removing paragraph (c)(1) and redesignating paragraphs (c)(2) through (10) as paragraphs (c)(1) through (9); and
 - c. Removing paragraph (e)(1)(vi) and redesignating paragraphs (e)(1)(vii) through (xxiii) as paragraphs (e)(1)(vi) through (xxii).

The revision reads 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 (JUN 2020)

* * * * *

52.222–17 [Removed and Reserved]

- 6. Remove and reserve section 52.222–17.

[FR Doc. 2020–07108 Filed 5–5–20; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 5, 8, 9, 12, 13, 15, 19, 22, 25, 30, 50, and 52

[FAC 2020–06; FAR Case 2018–007; Item II; Docket No. FAR–2018–0007; Sequence No. 1]

RIN 9000–AN67

Federal Acquisition Regulation: Applicability of Inflation Adjustments of Acquisition-Related 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 implement a section of the National Defense Authorization Act for Fiscal Year 2018 to make inflation adjustments of statutory acquisition-related thresholds applicable to existing contracts and subcontracts in effect on the date of the adjustment that contain the revised clauses in this rulemaking.

DATES: *Effective:* June 5, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at 202–969–7207 or zenaida.delgado@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 2020–06, FAR Case 2018–007.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** on June 24, 2019, at 84 FR 29482, to make inflation adjustments of statutory acquisition-related thresholds under 41 U.S.C. 1908 applicable to existing contracts and subcontracts in effect on the date of the adjustment. This FAR change implements section 821 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018 (Pub. L. 115–91).

Title 41 U.S.C. 1908, Inflation adjustment of acquisition-related dollar thresholds, 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 (Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds. See FAR 1.109. The last FAR case that raised the thresholds for inflation was 2014–022, a final rule published on July 2, 2015, effective October 1, 2015. The next inflation adjustment under 41 U.S.C. 1908 will be implemented through FAR Case 2019–013 and planned to be effective October 1, 2020. One respondent 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 Changes

There are no changes as a result of comments on the proposed rule.

B. Analysis of Public Comments

Comment: One respondent supported the proposed rule and suggested to include a list, preferably in table form, of the actual calendar dates of threshold effectiveness.

Response: The Councils agree a table might be a helpful reference tool and will add one at *Acquisition.gov* under <https://www.acquisition.gov/tableofeffectivedatesforMPTandSAT>. The table will only illustrate changes to the micro-purchase and simplified acquisition thresholds, after they are implemented through the rulemaking process.

C. Other Changes

Editorial changes are made to three clauses to change the paragraph heading of “Flowdown” to “Subcontracts” in order to conform to FAR drafting conventions. See FAR clauses 52.203–16, paragraph (d); 52.215–23, paragraph (f); and 52.226–6, paragraph (e).

III. 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, except for the added references to acquisition-related thresholds in the FAR text.

IV. 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 rule is not a significant regulatory action, and therefore, this rule was not subject to the review of the Office of Information and Regulatory Affairs under section 6(b) of E.O. 12866. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not an E.O. 13771 regulatory action, because this rule is not significant under E.O. 12866.

VI. 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 rule is required to implement section 821 of the National Defense Authorization Act for Fiscal Year (FY) 2018. The objective is to make inflation adjustments of statutory acquisition-related thresholds under 41 U.S.C. 1908(d) applicable to existing contracts and subcontracts in effect on the date of the adjustment that contain the revised clauses.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis.

This rule will likely affect to some extent all small business concerns that submit offers or are awarded contracts by the Federal Government.

However, this rule is not expected to have any significant economic impact on small business concerns because this rule: (1) Is not creating any new requirements with which small entities must comply, and (2) is only establishing the framework to apply the inflation adjustments of statutory acquisition-related thresholds under 41 U.S.C. 1908 to existing contracts and subcontracts in effect on the date of the adjustment. Any impact on small business concerns will be beneficial by preventing burdensome requirements from continuing to apply to smaller dollar value contracts when acquisition thresholds are increased during the period of performance.

As of September 30, 2017, there were 637,791 active entity registrations in *SAM.gov*. Of those active entity registrations, 452,310 (71 percent) completed all four modules of the registration, in accordance with FAR 52.204-7(a)(2), including Assertions (where they enter their size metrics and select their NAICS Codes) and Reps & Certs (where they certify to the information they provided and the size indicator by NAICS).

Of the possible 452,310 active *SAM.gov* entity registrations, 338,207 (75 percent)

certified to meeting the size standard of small for their primary NAICS Code. Therefore, this rule may be beneficial to 338,207 small business entities that submit proposals that may now fall under the micro-purchase threshold, the simplified acquisition threshold, or other applicable acquisition thresholds (*e.g.*, contractor code of business ethics and conduct, reporting executive compensation and first-tier subcontract awards, equal opportunity for veterans) as a result of this rule.

The rule does not include additional reporting or record keeping requirements.

There are no available alternatives to the rule to accomplish the desired objective of the statute.

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.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) does apply; however, the changes to the FAR 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.* The changes do not impose additional information collection requirements to the paperwork burden previously approved under the following OMB Control Numbers: 9000-0007, Subcontracting Plans; 9000-0018, Certification Of Independent Price Determination, Contractor Code of Business Ethics and Conduct, and Preventing Personal Conflicts of Interest; 9000-0027, Value Engineering Requirements; 9000-0193, FAR Part 9 Responsibility Matters; 9000-0091, Anti-Kickback Procedures; 9000-0097, Federal Acquisition Regulation Part 4 Requirements; 9000-0136, Commercial Item Acquisitions; 9000-0034, Examination of Records by Comptroller General and Contract Audit; 9000-0013, Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data; 9000-0048, Authorized Negotiators and Integrity of Unit Prices; 9000-0078, Certain Federal Acquisition Regulation Part 15 Requirements; 9000-0096, Patents; 9000-0045, Bid Guarantees, Performance, and Payments Bonds, and Alternative Payment Protection; 9000-0010, Progress Payments, SF 1443; 9000-0149, Subcontract Consent and Contractors' Purchasing System Review; 1235-0007, Labor Standards for Federal Service Contracts; 1235-0025, Nondisplacement of Qualified Workers Under Service Contracts, Executive Order 13495; 1250-0004, Office of Federal Contract

Compliance Programs Recordkeeping and Reporting Requirements Under the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as Amended; and 1250-0005, Office of Federal Contract Compliance Programs Recordkeeping and Reporting Requirements Under Rehabilitation Act of 1973, as Amended Section 503.

List of Subjects in 48 CFR Parts 1, 5, 8, 9, 12, 13, 15, 19, 22, 25, 30, 50, 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 1, 5, 8, 9, 12, 13, 15, 19, 22, 25, 30, 50, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 5, 8, 9, 12, 13, 15, 19, 22, 25, 30, 50, 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 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 2. Amend section 1.109 by—

■ a. Removing from paragraph (a) “(CPI) for all-urban consumers” and adding “for All Urban Consumers (CPI-U)” in its place;

■ b. Redesignating paragraph (d) as paragraph (e);

■ c. Adding new paragraph (d); and

■ d. Removing from the newly designated paragraph (e) “2014-022” and adding “2014-022, open the docket folder, and go to the supporting documents file” in its place.

The addition reads as follows:

1.109 Statutory acquisition-related dollar thresholds—adjustment for inflation.

* * * * *

(d) The statute, as amended by section 821 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91), requires the adjustment described in paragraph (a) of this section be applied to contracts and subcontracts without regard to the date of award of the contract or subcontract. Therefore, if a threshold is adjusted for inflation as set forth in paragraph (a) of this section, then the changed threshold applies throughout the remaining term of the contract, unless there is a subsequent threshold adjustment.

* * * * *

■ 3. Amend section 1.110 in the table in paragraph (c) by designating the table as table 1 and revising the entry for

“Walsh-Healey Public Contracts Act” to read as follows:

1.110 Positive law codification.

(c) * * *

TABLE 1 TO PARAGRAPH (c)

Historical title of act	Division/chapter/subchapter	Title
Walsh-Healey Public Contracts Act	41 U.S.C. chapter 65	Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$10,000.

PART 5—PUBLICIZING CONTRACT ACTIONS

5.206 [Amended]

■ 4. Amend section 5.206 by removing from paragraph (a)(1) and (2) “\$150,000” and adding “the simplified acquisition threshold” in their places, respectively.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.1104 [Amended]

■ 5. Amend section 8.1104 by removing from paragraph (e)(3) “Exceeding \$15,000”.

PART 9—CONTRACTOR QUALIFICATIONS

■ 6. Amend section 9.405–2 by revising the second sentence in the introductory text of paragraph (b) to read as follows:

9.405–2 Restrictions on subcontracting.

(b) * * * Contractors are prohibited from entering into any subcontract in excess of \$35,000, other than a subcontract for a commercially available off-the-shelf item, with a contractor that has been debarred, suspended, or proposed for debarment, unless there is a compelling reason to do so. * * *

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.503 [Amended]

■ 7. Amend section 12.503 by removing from paragraph (a)(1) “\$15,000” and adding “\$10,000” in its place.

12.504 [Amended]

■ 8. Amend section 12.504 by removing from paragraph (a)(4) “6505” and “\$15,000” and adding “chapter 65” and “\$10,000” in their places, respectively.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

■ 9. Amend section 13.003 by revising paragraph (b)(1) to read as follows:

13.003 Policy.

(b)(1) Acquisitions of supplies or services that have an anticipated dollar value above the micro-purchase threshold, but at or below the simplified acquisition threshold, shall be set aside for small business concerns (see 19.000, 19.203, and subpart 19.5).

13.501 [Amended]

■ 10. Amend section 13.501 by removing from paragraph (a)(2)(i) “\$150,000” and adding “the simplified acquisition threshold” in its place.

PART 15—CONTRACTING BY NEGOTIATION

■ 11. Amend section 15.403–4 by adding in the introductory text of paragraph (a)(1) a new fourth sentence to read as follows:

15.403–4 Requiring certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).

(a)(1) * * * When a clause refers to this threshold, and if the threshold is adjusted for inflation pursuant to 1.109(a), then pursuant to 1.109(d) the changed threshold applies throughout the remaining term of the contract, unless there is a subsequent threshold adjustment. * * *

PART 19—SMALL BUSINESS PROGRAMS

■ 12. Amend section 19.203 by revising paragraph (b) to read as follows:

19.203 Relationship among small business programs.

(b) *At or below the simplified acquisition threshold.* For acquisitions of supplies or services that have an anticipated dollar value above the micro-purchase threshold, but at or below the simplified acquisition threshold, the requirement at 19.502–2(a) to set aside acquisitions for small business concerns does not preclude the contracting officer from awarding a

contract to a small business under the 8(a) Program, HUBZone Program, SDVOSB Program, or WOSB Program.

■ 13. Amend section 19.502–1 by revising paragraph (b) to read as follows:

19.502–1 Requirements for setting aside acquisitions.

(b) The requirement in paragraph (a) of this section does not apply to purchases at or below the micro-purchase threshold, or purchases from required sources under part 8 (e.g., Committee for Purchase From People Who are Blind or Severely Disabled).

■ 14. Amend section 19.502–2 by revising the second sentence of paragraph (a) and removing from paragraph (b) introductory text “\$150,000” and adding “the simplified acquisition threshold” in its place to read as follows:

19.502–2 Total small business set-asides.

(a) * * * Each acquisition of supplies or services that has an anticipated dollar value above the micro-purchase threshold, but not over the simplified acquisition threshold, shall be set aside for small business unless the contracting officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of fair market prices, quality, and delivery. * * *

19.507 [Amended]

■ 15. Amend section 19.507 by removing from the first sentence in paragraph (e) “\$150,000” and adding “the simplified acquisition threshold” in its place.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.102–2 [Amended]

■ 16. Amend section 22.102–2 by removing from paragraph (c)(1)(iv) “\$15,000” and adding “\$10,000” in its place.

22.202 [Amended]

■ 17. Amend section 22.202 by removing from paragraph (a) “, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000”.

22.305 [Amended]

■ 18. Amend section 22.305 by removing from paragraph (e) “, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000”.

■ 19. Amend subpart 22.6 by revising the subpart heading to read as follows:

Subpart 22.6—Contracts for Materials, Supplies, Articles, and Equipment**22.602 [Amended]**

■ 20. Amend section 22.602 by removing “, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000”.

22.610 [Amended]

■ 21. Amend section 22.610 by removing “Exceeding \$15,000”.

22.1003–3 [Amended]

■ 22. Amend section 22.1003–3 by removing from paragraph (b) “, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000”.

22.1003–6 [Amended]

■ 23. Amend section 22.1003–6(a) introductory text by:

■ a. Removing “, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000,”; and

■ b. Removing “paragraphs (a)(1) or (a)(2) of this subsection” and adding “paragraph (a)(1) or (2) of this section” in its place.

PART 25—FOREIGN ACQUISITION**25.703–4 [Amended]**

■ 24. Amend section 25.703–4 by removing from paragraphs (c)(5)(ii), (c)(7)(iii), and (c)(8)(iii) “\$3,500” and adding “the threshold at 25.703–2(a)(2)” in their places, respectively.

PART 30—COST ACCOUNTING STANDARDS ADMINISTRATION

■ 25. Revise section 30.201–1 to read as follows:

30.201–1 CAS applicability.

(a) See 48 CFR 9903.201–1 (FAR appendix).

(b) In accordance with 41 U.S.C. 1502(b)(1)(B), the threshold for determining the tentative applicability of CAS at the contract level is the amount set forth in 10 U.S.C. 2306a(a)(1)(A)(i), as adjusted for

inflation in accordance with 41 U.S.C. 1908.

PART 50—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT**50.103–7 [Amended]**

■ 26. Amend section 50.103–7 by removing from paragraph (b) “Exceeding \$15,000”.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 27. Amend section 52.202–1 by—

■ a. Revising the date of the clause;

■ b. Removing the word “or” at the end of paragraph (c);

■ c. Removing from paragraph (d) “FAR Part” and “procedures.” and adding “FAR part” and “procedures; or” in their places, respectively; and

■ d. Adding paragraph (e).

The revision and addition read as follows:

52.202–1 Definitions.

* * * * *

Definitions (JUN 2020)

* * * * *

(e) The word or term defines an acquisition-related threshold, and if the threshold is adjusted for inflation as set forth in FAR 1.109(a), then the changed threshold applies throughout the remaining term of the contract, unless there is a subsequent threshold adjustment; see FAR 1.109(d).

* * * * *

■ 28. Amend section 52.203–6 by revising the date of the clause and removing from paragraph (c) “threshold.” and adding “threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.” in its place to read as follows:

52.203–6 Restrictions on Subcontractor Sales to the Government.

* * * * *

Restrictions on Subcontractor Sales to the Government (JUN 2020)

* * * * *

■ 29. Amend section 52.203–7 by revising the date of the clause and paragraph (c)(5) and adding an undesignated parenthetical phrase at the end to read as follows:

52.203–7 Anti-Kickback Procedures.

* * * * *

Anti-Kickback Procedures (JUN 2020)

* * * * *

(c) * * *

(5) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c)(5) but excepting paragraph (c)(1) of this clause, in all subcontracts under

this contract that exceed the threshold specified in Federal Acquisition Regulation 3.502–2(i) on the date of subcontract award.

(End of clause)

■ 30. Amend section 52.203–12 by revising the date of the clause, the first sentence of paragraph (g)(1), and paragraph (g)(3) to read as follows:

52.203–12 Limitation on Payments to Influence Certain Federal Transactions.

* * * * *

Limitation on Payments To Influence Certain Federal Transactions (JUN 2020)

* * * * *

(g) * * * (1) The Contractor shall obtain a declaration, including the certification and disclosure in paragraphs (c) and (d) of the provision at FAR 52.203–11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, from each person requesting or receiving a subcontract under this contract that exceeds the threshold specified in FAR 3.808 on the date of subcontract award. * * *

* * * * *

(3) The Contractor shall include the substance of this clause, including this paragraph (g), in any subcontract that exceeds the threshold specified in FAR 3.808 on the date of subcontract award.

* * * * *

■ 31. Amend section 52.203–13 by revising the date of the clause and removing from paragraph (d)(1) “have a value in excess of \$5.5 million” and adding “exceed the threshold specified in FAR 3.1004(a) on the date of subcontract award” in its place to read as follows:

52.203–13 Contractor Code of Business Ethics and Conduct.

* * * * *

Contractor Code of Business Ethics and Conduct (JUN 2020)

* * * * *

■ 32. Amend section 52.203–14 by revising the date of the clause and the introductory text of paragraph (d) to read as follows:

52.203–14 Display of Hotline Poster(s).

* * * * *

Display of Hotline Poster(s) (JUN 2020)

* * * * *

(d) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed the threshold specified in Federal Acquisition Regulation 3.1004(b)(1) on the date of subcontract award, except when the subcontract—

* * * * *

■ 33. Amend section 52.203–16 by revising the date of the clause, the

heading of paragraph (d), and paragraph (d)(1) to read as follows:

52.203–16 Preventing Personal Conflicts of Interest.

* * * * *

Preventing Personal Conflicts of Interest (JUN 2020)

* * * * *

(d) *Subcontracts.* * * *

(1) That exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award; and

* * * * *

■ 34. Amend section 52.203–17 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (a) “FAR 3.908” and adding “Federal Acquisition Regulation (FAR) 3.908” in its place;

■ c. Removing from paragraph (b) “section 3.908 of the Federal Acquisition Regulation” and adding “FAR 3.908” in its place; and

■ d. Removing from paragraph (c) “threshold,” and adding “threshold, as defined in FAR 2.101 on the date of subcontract award,” in its place.

The revision reads as follows:

52.203–17 Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights.

* * * * *

Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights (JUN 2020)

* * * * *

■ 35. Amend section 52.204–10 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (d)(1) introductory text “FAR provision” and adding “Federal Acquisition Regulation (FAR) provision” in its place;

■ c. Removing from paragraph (d)(2) introductory text “contracting officer” and “with a value of \$30,000 or more” and adding “Contracting Officer” and “valued at or above the threshold specified in FAR 4.1403(a) on the date of subcontract award” in their places, respectively;

■ d. Removing from paragraph (d)(3) introductory text “with a value of \$30,000 or more” and adding “valued at or above the threshold specified in FAR 4.1403(a) on the date of subcontract award” in its place; and

■ e. Removing from paragraph (e) “less than \$30,000” and adding “below the threshold specified in FAR 4.1403(a), on the date of subcontract award,” in its place.

The revision reads as follows:

52.204–10 Reporting Executive Compensation and First-Tier Subcontract Awards.

* * * * *

Reporting Executive Compensation and First-Tier Subcontract Awards (JUN 2020)

* * * * *

■ 36. Amend section 52.209–6 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (a)(1)(i) “FAR” and adding “Federal Acquisition Regulation (FAR)” in its place;

■ c. Removing from paragraphs (b) and (c) “\$35,000” and adding “the threshold specified in FAR 9.405–2(b) on the date of subcontract award,” and “the threshold specified in FAR 9.405–2(b) on the date of subcontract award” in their places, respectively; and

■ d. Revising paragraph (e)(1).

The revisions read as follows:

52.209–6 Protecting the Government’s Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment.

* * * * *

Protecting the Government’s Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment (JUN 2020)

* * * * *

(e) * * *

(1) Exceeds the threshold specified in FAR 9.405–2(b) on the date of subcontract award; and

* * * * *

■ 37. Amend section 52.210–1 by—

■ a. Revising the date of the clause;

■ b. In paragraph (a), removing from the definition of “Commercial item” and “nondevelopmental item” the word “Regulation” and adding “Regulation (FAR)” in its place; and

■ c. Removing from the introductory text of paragraph (b) “threshold” and adding “threshold, as defined in FAR 2.101 on the date of subcontract award,” in its place.

The revision reads as follows:

52.210–1 Market Research.

* * * * *

Market Research (JUN 2020)

* * * * *

■ 38. Amend section 52.212–1 by

revising the date of the clause and the first and fifth sentences of paragraph (j) to read as follows:

52.212–1 Instructions to Offerors—Commercial Items.

* * * * *

Instructions to Offerors—Commercial Items (JUN 2020)

* * * * *

(j) * * * (Applies to all offers that exceed the micro-purchase threshold, and offers at or below the micro-purchase threshold if the solicitation requires the Contractor to be registered in the System for Award Management (SAM).) * * * The suffix is assigned at the discretion of the Offeror to establish additional SAM records for identifying alternative EFT accounts (see FAR subpart 32.11) for the same entity.* * *

* * * * *

■ 39. Amend section 52.212–3 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (o)(2)(iii) “\$3,500” and adding “the threshold at FAR 25.703–2(a)(2)” in its place.

The revision reads as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (JUN 2020)

* * * * *

■ 40. Amend section 52.212–5 by—

■ a. Revising paragraphs (b)(1), (2), (4), and (8), (b)(17)(i), (iv), and (v), (b)(31)(i), (b)(32)(i), (b)(33) and (44), and (c)(9);

■ b. Removing from paragraph (d) introductory text “threshold” and adding “threshold, as defined in FAR 2.101, on the date of award of this contract” in its place;

■ c. Revising paragraph (e)(1)(i);

■ d. Removing from paragraph (e)(1)(v) “\$700,000 (\$1.5 million for construction of any public facility)” and adding “the applicable threshold specified in FAR 19.702(a) on the date of subcontract award” in its place;

■ e. Revising paragraphs (e)(1)(i) through (x) and the first sentence of paragraph (xxi); and

■ f. In Alternate II, revising the date of the alternate, paragraphs (e)(1)(ii)(A), (E), (H), and (I), and the first sentence of paragraph (e)(1)(ii)(T).

The revisions read as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

* * * * *

(b) * * *

(1) 52.203–6, Restrictions on Subcontractor Sales to the Government (JUN 2020), with *Alternate I* (OCT 1995) (41 U.S.C. 4704 and 10 U.S.C. 2402).

(2) 52.203–13, Contractor Code of Business Ethics and Conduct (JUN 2020) (41 U.S.C. 3509).

* * * * *

(4) 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards (JUN 2020) (Pub. L. 109–282) (31 U.S.C. 6101 note).

* * * * *

(8) 52.209–6, Protecting the Government’s Interest When

Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (JUN 2020) (31 U.S.C. 6101 note).

* * * * *

(17)(i) 52.219–9, Small Business Subcontracting Plan (JUN 2020) (15 U.S.C. 637(d)(4)).

* * * * *

(iv) Alternate III (JUN 2020) of 52.219–9.

(v) Alternate IV (JUN 2020) of 52.219–9.

* * * * *

(31)(i) 52.222–35, Equal Opportunity for Veterans (JUN 2020) (38 U.S.C. 4212).

* * * * *

(32)(i) 52.222–36, Equal Opportunity for Workers with Disabilities (JUN 2020) (29 U.S.C. 793).

* * * * *

(33) 52.222–37, Employment Reports on Veterans (JUN 2020) (38 U.S.C. 4212).

* * * * *

(44) 52.223–18, Encouraging Contractor Policies to Ban Text Messaging While Driving (JUN 2020) (E.O. 13513).

* * * * *

(c) * * *

(9) 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020) (42 U.S.C. 1792).

* * * * *

(e)(1) * * *

(i) 52.203–13, Contractor Code of Business Ethics and Conduct (JUN 2020) (41 U.S.C. 3509).

* * * * *

(viii) 52.222–35, Equal Opportunity for Veterans (JUN 2020) (38 U.S.C. 4212).

(ix) 52.222–36, Equal Opportunity for Workers with Disabilities (JUN 2020) (29 U.S.C. 793).

(x) 52.222–37, Employment Reports on Veterans (JUN 2020) (38 U.S.C. 4212).

* * * * *

(xxi) 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020) (42 U.S.C. 1792).

* * * * *

Alternate II (JUN 2020). * * *

* * * * *

(e)(1) * * *

(ii) * * * * *

(A) 52.203–13, Contractor Code of Business Ethics and Conduct (JUN 2020) (41 U.S.C. 3509).

* * * * *

(E) 52.219–8, Utilization of Small Business Concerns (OCT 2018) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, the subcontractor must include 52.219–8 in lower tier subcontracts that offer subcontracting opportunities.

* * * * *

(H) 52.222–35, Equal Opportunity for Veterans (JUN 2020) (38 U.S.C. 4212).

(I) 52.222–36, Equal Opportunity for Workers with Disabilities (JUN 2020) (29 U.S.C. 793).

* * * * *

(T) 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations. (JUN 2020) (42 U.S.C. 1792).

* * * * *

■ 41. Amend section 52.213–4 by—

■ a. Revising the date of the clause;

■ b. Adding a period to the end of paragraph (a)(2)(iv);

■ c. Revising paragraphs (a)(2)(viii) and (b)(1)(i) through (iv), the first sentence of paragraph (b)(1)(v), and paragraph (b)(1)(vi);

■ d. Removing from paragraph (b)(1)(xvii) introductory text “threshold” and adding “threshold, as defined in FAR 2.101 on the date of award of this contract,” in its place; and

■ e. Revising paragraphs (b)(1)(xviii) and (b)(2)(ii).

The revisions read as follows:

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

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (JUN 2020)

(a) * * *

(2) * * *

(viii) 52.244–6, Subcontracts for Commercial Items (JUN 2020)

(b) * * *

(1) * * *

(i) 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards (JUN 2020) (Pub. L. 109–282) (31 U.S.C. 6101 note) (Applies to contracts valued at or above the threshold specified in FAR 4.1403(a) on the date of award of this contract).

(ii) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (JAN 2020) (E.O. 13126) (Applies to contracts for supplies exceeding the micro-purchase threshold, as defined in FAR 2.101 on the date of award of this contract).

(iii) 52.222–20, Contracts for Materials, Supplies, Articles, and

Equipment (JUN 2020) (41 U.S.C. chapter 65) (Applies to supply contracts over the threshold specified in FAR 22.602 on the date of award of this contract, in the United States, Puerto Rico, or the U.S. Virgin Islands).

(iv) 52.222–35, Equal Opportunity for Veterans (JUN 2020) (38 U.S.C. 4212) (Applies to contracts valued at or above the threshold specified in FAR 22.1303(a) on the date of award of this contract).

(v) 52.222–36, Equal Employment for Workers with Disabilities (JUN 2020) (29 U.S.C. 793) (Applies to contracts over the threshold specified in FAR 22.1408(a) on the date of award of this contract, unless the work is to be performed outside the United States by employees recruited outside the United States).

(vi) 52.222–37, Employment Reports on Veterans (JUN 2020) (38 U.S.C. 4212) (Applies to contracts valued at or above the threshold specified in FAR 22.1303(a) on the date of award of this contract).

* * * * *

(xviii) 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020) (42 U.S.C. 1792) (Applies to contracts greater than the threshold specified in FAR 26.404 on the date of award of this contract, that provide for the provision, the service, or the sale of food in the United States).

* * * * *

(2) * * *

(ii) 52.209–6, Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (JUN 2020) (Applies to contracts over the threshold specified in FAR 9.405–2(b) on the date of award of this contract).

* * * * *

■ 42. Amend section 52.214–26 by revising the date of the clause and paragraph (e) to read as follows:

52.214–26 Audit and Records—Sealed Bidding.

* * * * *

Audit and Records—Sealed Bidding (JUN 2020)

* * * * *

(e) *Subcontracts.* The Contractor shall insert a clause containing all the provisions of this clause, including this paragraph (e), in all subcontracts expected to exceed the threshold for submission of certified cost or pricing data in FAR 15.403–4(a)(1) on the date of subcontract award.

* * * * *

■ 43. Amend section 52.214–27 by revising the date of the clause and paragraph (a) to read as follows:

52.214–27 Price Reduction for Defective Certified Cost or Pricing Data—Modifications—Sealed Bidding.

* * * * *

Price Reduction for Defective Certified Cost or Pricing Data—Modifications—Sealed Bidding (JUN 2020)

(a) This clause shall become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for the submission of certified cost or pricing data in Federal Acquisition Regulation (FAR) 15.403–4(a)(1) on the date of execution of the modification, except that this clause does not apply to a modification if an exception under FAR 15.403–1(b) applies.

* * * * *

■ 44. Amend section 52.214–28 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (a)(1) “at (FAR) 48 CFR 15.403–4(a)(1)” and adding “in Federal Acquisition Regulation (FAR) 15.403–4(a)(1) on the date of execution of the modification” in its place;

■ c. Removing from paragraph (b) “at FAR 15.403–4(a)(1)” everywhere it appears and adding “in FAR 15.403–4(a)(1)” in its place and adding a sentence to the end of the paragraph; and

■ d. Removing from paragraph (d) “at FAR 15.403–4(a)(1)” and adding “in FAR 15.403–4(a)(1)” in its place.

The revision and addition read as follows:

52.214–28 Subcontractor Certified Cost or Pricing Data—Modifications—Sealed Bidding.

* * * * *

Subcontractor Certified Cost or Pricing Data—Modifications—Sealed Bidding (JUN 2020)

* * * * *

(b) * * * If the threshold for submission of certified cost or pricing data specified in FAR 15.403–4(a)(1) is adjusted for inflation as set forth in FAR 1.109(a), then pursuant to FAR 1.109(d) the changed threshold applies throughout the remaining term of the contract, unless there is a subsequent threshold adjustment.

* * * * *

■ 45. Amend section 52.215–2 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (g) introductory text “threshold” and adding “threshold, as defined in FAR 2.101 on the date of subcontract award,” in its place.

The revision reads as follows:

52.215–2 Audit and Records—Negotiation.

* * * * *

Audit and Records—Negotiation (JUN 2020)

* * * * *

■ 46. Amend section 52.215–11 by revising the date of the clause and paragraph (a) to read as follows:

52.215–11 Price Reduction for Defective Certified Cost or Pricing Data—Modifications.

* * * * *

Price Reduction for Defective Certified Cost or Pricing Data—Modifications (JUN 2020)

(a) This clause shall become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data in Federal Acquisition Regulation (FAR) 15.403–4(a)(1) on the date of execution of the modification, except that this clause does not apply to any modification if an exception under FAR 15.403–1(b) applies.

* * * * *

■ 47. Amend section 52.215–12 by revising the date of the clause and paragraphs (a) and (c) introductory text to read as follows:

52.215–12 Subcontractor Certified Cost or Pricing Data.

* * * * *

Subcontractor Certified Cost or Pricing Data (JUN 2020)

(a) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data in Federal Acquisition Regulation (FAR) 15.403–4(a)(1), on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data in FAR 15.403–4(a)(1), the Contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with FAR 15.408, Table 15–2 (to include any information reasonably required to explain the subcontractor’s estimating process such as the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price), unless an exception under FAR 15.403–1(b) applies. If the threshold for submission of certified cost or pricing data specified in FAR 15.403–4(a)(1) is adjusted for inflation as set forth in FAR 1.109(a), then pursuant to FAR 1.109(d) the changed threshold applies throughout the remaining term of the contract, unless there is a subsequent threshold adjustment.

* * * * *

(c) In each subcontract that, when entered into, exceeds the threshold for submission of

certified cost or pricing data in FAR 15.403–4(a)(1), the Contractor shall insert either—

* * * * *

■ 48. Amend section 52.215–13 by—
■ a. Revising the date of the clause and paragraphs (a)(1) and (b); and

■ b. Removing from paragraph (d) “at FAR 15.403–4” and adding “in FAR 15.403–4(a)(1)” in its place.

The revisions read as follows:

52.215–13 Subcontractor Certified Cost or Pricing Data—Modifications.

* * * * *

Subcontractor Certified Cost or Pricing Data—Modifications (JUN 2020)

(a) * * *

(1) Become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data in Federal Acquisition Regulation (FAR) 15.403–4(a)(1) on the date of execution of the modification; and

* * * * *

(b) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data in FAR 15.403–4(a)(1), on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data in FAR 15.403–4(a)(1), the Contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with FAR 15.408, Table 15–2 (to include any information reasonably required to explain the subcontractor’s estimating process such as the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price), unless an exception under FAR 15.403–1(b) applies. If the threshold for submission of certified cost or pricing data specified in FAR 15.403–4(a)(1) is adjusted for inflation as set forth in FAR 1.109(a), then pursuant to FAR 1.109(d) the changed threshold applies throughout the remaining term of the contract, unless there is a subsequent threshold adjustment.

* * * * *

■ 49. Amend section 52.215–14 by revising the date of the clause and paragraph (c) to read as follows:

52.215–14 Integrity of Unit Prices.

* * * * *

Integrity of Unit Prices (JUN 2020)

* * * * *

(c) The Contractor shall insert the substance of this clause, less paragraph (b) of this clause, in all subcontracts for other than: acquisitions at or below the simplified acquisition threshold, as defined in Federal Acquisition Regulation (FAR) 2.101 on the date of subcontract award; construction or architect-engineer services under FAR part 36; utility services under FAR part 41; services where supplies are not required; commercial items; and petroleum products.

* * * * *

■ 50. Amend section 52.215–21 by revising the date of the clause and the introductory text of paragraph (a)(1) to read as follows:

52.215–21 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data—Modifications.

* * * * *

Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data—Modifications (JUN 2020)

(a) * * * (1) In lieu of submitting certified cost or pricing data for modifications under this contract, for price adjustments expected to exceed the threshold set forth in Federal Acquisition Regulation (FAR) 15.403–4(a)(1) on the date of the agreement on price or the date of the award, whichever is later, the Contractor may submit a written request for exception by submitting the information described in paragraphs (a)(1)(i) and (ii) of this clause. If the threshold for submission of certified cost or pricing data specified in FAR 15.403–4(a)(1) is adjusted for inflation as set forth in FAR 1.109(a), then pursuant to FAR 1.109(d) the changed threshold applies throughout the remaining term of the contract, unless there is a subsequent threshold adjustment. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable—

* * * * *

■ 51. Amend section 52.215–23 by—
 ■ a. Revising the date of the clause;
 ■ b. In paragraph (a), removing from the definition “Subcontract” the acronym “FAR” and adding “Federal Acquisition Regulation (FAR)” in its place; and
 ■ c. Revising paragraph (f).

The revisions read as follows:

52.215–23 Limitations on Pass-Through Charges.

* * * * *

Limitations on Pass-Through Charges (JUN 2020)

* * * * *

(f) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (f), in all cost-reimbursement

subcontracts under this contract that exceed the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award, except if the contract is with DoD, then insert in all cost-reimbursement subcontracts and fixed-price subcontracts, except those identified in FAR 15.408(n)(2)(i)(B)(2), that exceed the threshold for obtaining cost or pricing data in FAR 15.403–4(a)(1) on the date of subcontract award.

* * * * *

■ 52. Amend section 52.219–9 by—
 ■ a. Revising the date of the clause;
 ■ b. In paragraph (b), revising the definition of “Commercial item”;
 ■ c. Removing from paragraph (d)(9) “\$700,000 (\$1.5 million for construction of any public facility)” and adding “the applicable threshold specified in FAR 19.702(a) on the date of subcontract award,” in its place;
 ■ d. Removing from paragraph (d)(11)(iii) introductory text “\$150,000” and adding “the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award” in its place;
 ■ e. Removing from the first sentence of paragraph (e)(6) “threshold” and adding “threshold, as defined in FAR 2.101 on the date of subcontract award,” in its place;
 ■ f. Removing from paragraph (i) “threshold in” and adding “threshold in FAR” in its place;
 ■ g. Removing from paragraph (l)(2)(i)(C) “\$700,000 (over \$1.5 million for construction of a public facility) and” and adding “the applicable threshold specified in FAR 19.702(a), and the contract” in its place;
 ■ h. In Alternate III—
 ■ i. Revising the date of the alternate; and
 ■ ii. Removing from paragraph (l)(2)(i)(C) “\$700,000 (over \$1.5 million for construction of a public facility) and” and adding “the applicable threshold specified in FAR 19.702(a), and the contract” in its place; and
 ■ i. In Alternate IV—
 ■ i. Revising the date of the alternate;
 ■ ii. Removing from paragraph (d)(9) “\$700,000 (\$1.5 million for construction of any public facility)” and adding “the applicable threshold specified in FAR 19.702(a) on the date of subcontract award,” in its place; and
 ■ iii. Removing from paragraph (d)(11)(iii) introductory text “\$150,000” and adding “the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award” in its place.

The revisions read as follows:

52.219–9 Small Business Subcontracting Plan.

* * * * *

Small Business Subcontracting Plan (JUN 2020)

* * * * *

(b) * * *
Commercial item means a product or service that satisfies the definition of commercial item in Federal Acquisition Regulation (FAR) 2.101.

* * * * *

Alternate III (JUN 2020). * * *

* * * * *

Alternate IV (JUN 2020). * * *

* * * * *

■ 53. Amend section 52.222–20 by revising the section heading, the clause heading, and the introductory text of the clause to read as follows:

52.222–20 Contracts for Materials, Supplies, Articles, and Equipment.

* * * * *

Contracts for Materials, Supplies, Articles, and Equipment (JUN 2020)

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed the threshold specified in Federal Acquisition Regulation 22.602 on the date of award of this contract, and is subject to 41 U.S.C. chapter 65, the following terms and conditions apply:

* * * * *

■ 54. Amend section 52.222–35 by—
 ■ a. Revising the date of the clause;
 ■ b. Removing from paragraph (a), in the definition “Active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” “qualified disabled veteran,” and “recently separated veteran,” the acronym “FAR” and adding “Federal Acquisition Regulation (FAR)” in its place; and
 ■ c. Removing from paragraph (c) “of \$150,000 or more” and adding “valued at or above the threshold specified in FAR 22.1303(a) on the date of subcontract award,” in its place.

The revision reads as follows:

52.222–35 Equal Opportunity for Veterans.

* * * * *

Equal Opportunity for Veterans (JUN 2020)

* * * * *

■ 55. Amend section 52.222–36 by—
 ■ a. Revising the date of the clause; and
 ■ b. Removing from the first sentence in paragraph (b) “\$15,000” and adding “the threshold specified in Federal Acquisition Regulation (FAR) 22.1408(a) on the date of subcontract award,” in its place.

The revision reads as follows:

52.222–36 Equal Opportunity for Workers with Disabilities.

* * * * *

Equal Opportunity for Workers With Disabilities (JUN 2020)

* * * * *

- 56. Amend section 52.222–37 by—
- a. Revising the date of the clause;
 - b. Removing from paragraph (a) “FAR” and adding “Federal Acquisition Regulation (FAR)” in its place; and
 - c. Removing from paragraph (g) “of \$150,000 or more” and adding “valued at or above the threshold specified in FAR 22.1303(a) on the date of subcontract award,” in its place.

The revision reads as follows:

52.222–37 Employment Reports on Veterans.

* * * * *

Employment Reports on Veterans (JUN 2020)

* * * * *

- 57. Amend section 52.223–18 by—
- a. Revising the date of the clause; and
 - b. Removing from paragraph (d) “threshold.” and adding “threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.” in its place.

The revision reads as follows:

52.223–18 Encouraging Contractor Policies to Ban Text Messaging While Driving.

* * * * *

Encouraging Contractor Policies To Ban Text Messaging While Driving (JUN 2020)

* * * * *

- 58. Amend section 52.225–25 by—
- a. Revising the clause heading;
 - b. Removing from the introductory text of paragraph (c) “accordance with” and adding “accordance with Federal Acquisition Regulation (FAR)” in its place; and
 - c. Removing from paragraph (c)(3) “\$3,500” and adding “the threshold at FAR 25.703–2(a)(2)” in its place.

52.225–25 Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications.

* * * * *

Prohibition on Contracting With Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications (JUN 2020)

* * * * *

- 59. Amend section 52.226–6 by revising the section heading, the date of the clause, and paragraph (e) to read as follows:

52.226–6 Promoting Excess Food Donation to Nonprofit Organizations.

* * * * *

Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020)

* * * * *

(e) *Subcontracts.* The Contractor shall insert this clause in all contracts, task orders, delivery orders, purchase orders, and other similar instruments that exceed the threshold specified in Federal Acquisition Regulation 26.404 on the date of subcontract award with its subcontractors or suppliers, at any tier, who will perform, under this contract, the provision, service, or sale of food in the United States.

* * * * *

- 60. Amend section 52.227–1 by revising the date of the clause and paragraph (b) to read as follows:

52.227–1 Authorization and Consent.

* * * * *

Authorization and Consent (JUN 2020)

* * * * *

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in all subcontracts that are expected to exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation (FAR) 2.101 on the date of subcontract award. However, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award, does not affect this authorization and consent.

* * * * *

- 61. Amend section 52.227–2 by revising the date of the clause and paragraph (c) to read as follows:

52.227–2 Notice and Assistance Regarding Patent and Copyright Infringement.

* * * * *

Notice and Assistance Regarding Patent and Copyright Infringement (JUN 2020)

* * * * *

(c) The Contractor shall include the substance of this clause, including this paragraph (c), in all subcontracts that are expected to exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation (FAR) 2.101 on the date of subcontract award.

* * * * *

- 62. Amend section 52.227–3 in Alternate III by revising the date of the alternate and removing from the undesignated paragraph “threshold” and adding “threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award,” in its place to read as follows:

52.227–3 Patent Indemnity.

* * * * *

Alternate III (JUN 2020). * * *

* * * * *

- 63. Amend section 52.228–15 by revising the date of the clause and the introductory text of paragraph (b) to read as follows:

52.228–15 Performance and Payment Bonds—Construction.

* * * * *

Performance and Payment Bonds—Construction (JUN 2020)

* * * * *

(b) *Amount of required bonds.* Unless the resulting contract price is valued at or below the threshold specified in Federal Acquisition Regulation 28.102–1(a) on the date of award of this contract, the successful offeror shall furnish performance and payment bonds to the Contracting Officer as follows:

* * * * *

- 64. Amend section 52.230–1 by—
- a. Revising the introductory text and the date of the provision;
 - b. Removing from paragraph (a) “\$750,000” and “Chapter” and adding “the lower CAS threshold specified in Federal Acquisition Regulation (FAR) 30.201–4(b)” and “chapter” in their places, respectively; and
 - d. Revising the undesignated parenthetical paragraph following paragraph (c)(1).

The revisions read as follows:

52.230–1 Cost Accounting Standards Notices and Certification.

As prescribed in 30.201–3(a), insert the following provision:

Cost Accounting Standards Notices and Certification (JUN 2020)

* * * * *

(c) * * *

(Disclosure must be on Form No. CASB DS–1 or CASB DS–2, as applicable. Forms may be obtained from the cognizant ACO or Federal official.)

* * * * *

- 65. Amend section 52.230–2 by—
- a. Revising the date of the clause; and
 - b. Removing from paragraph (d) “Regulation shall” and “\$750,000” and adding “Regulation (FAR) shall” and “the lower CAS threshold specified in FAR 30.201–4(b) on the date of subcontract award” in their places, respectively.

The revision read as follows:

52.230–2 Cost Accounting Standards.

* * * * *

Cost Accounting Standards (JUN 2020)

* * * * *

- 66. Amend section 52.230–3 by—
- a. Revising the date of the clause;
 - b. Removing from paragraph (d)(1) “subsection” and “Regulation shall”

and adding “section” and “Regulation (FAR) shall” in their places, respectively; and

- c. Revising paragraph (d)(2).

The revisions read as follows:

52.230–3 Disclosure and Consistency of Cost Accounting Practices.

* * * * *

Disclosure and Consistency of Cost Accounting Practices (JUN 2020)

* * * * *

(d) * * *

(2) The requirement in this paragraph (d) shall apply only to negotiated subcontracts in excess of the lower CAS threshold specified in FAR 30.201–4(b) on the date of subcontract award.

* * * * *

- 67. Amend section 52.230–4 by—

- a. Revising the date of the clause;
- b. Removing from paragraph (d)(1) “FAR” and adding “Federal Acquisition Regulation (FAR)” in its place; and
- c. Revising paragraph (d)(2).

The revisions read as follows:

52.230–4 Disclosure and Consistency of Cost Accounting Practices—Foreign Concerns.

* * * * *

Disclosure and Consistency of Cost Accounting Practices—Foreign Concerns (JUN 2020)

* * * * *

(d) * * *

(2) The requirement in this paragraph (d) shall apply only to negotiated subcontracts in excess of the lower CAS threshold specified in FAR 30.201–4(b) on the date of subcontract award.

* * * * *

- 68. Amend section 52.230–5 by revising the date of the clause and paragraph (d)(2) to read as follows:

52.230–5 Cost Accounting Standards—Educational Institution.

* * * * *

Cost Accounting Standards—Educational Institution (JUN 2020)

* * * * *

(d) * * *

(2) The requirement in this paragraph (d) shall apply only to negotiated subcontracts in excess of the lower CAS threshold specified in Federal Acquisition Regulation (FAR) 30.201–4(b) on the date of subcontract award; and

* * * * *

- 69. Amend section 52.232–16 by—

- a. Revising the date of the clause;
- b. Removing from paragraph (a)(1) “FAR” and adding “Federal Acquisition Regulation (FAR)” in its place; and
- c. In Alternate III—
- i. Revising the date of the alternate; and

- ii. Removing from paragraph (n) “threshold.” and adding “threshold, as defined in FAR 2.101 on the date of individual order award.” in its place.

The revisions read as follows:

52.232–16 Progress Payments.

* * * * *

Progress Payments (JUN 2020)

* * * * *

Alternate III (JUN 2020). * * *

* * * * *

- 70. Amend section 52.244–2 by—

- a. Revising the date of the clause;
- b. Removing from paragraphs (c)(2)(i) and (ii) “threshold” and adding “threshold, as defined in FAR 2.101 on the date of subcontract award,” in their places; and
- c. In Alternate I—
- i. Revising the date of the alternate; and
- ii. Removing from paragraph (e)(2) “threshold” and “paragraphs (e)(1)(i) through (e)(1)(iv)” and adding “threshold, as defined in FAR 2.101 on the date of subcontract award,” and “paragraphs (e)(1)(i) through (iv)” in their places, respectively.

The revisions read as follows:

52.244–2 Subcontracts.

* * * * *

Subcontracts (JUN 2020)

* * * * *

Alternate I (JUN 2020). * * *

* * * * *

- 71. Amend section 52.244–6 by—

- a. Revising the date of the clause;
- b. In paragraph (a), revising the definition “Commercial item” and “commercially available off-the-shelf item”;
- c. Revising the first sentence in paragraph (c)(1)(i);
- d. Removing from paragraph (c)(1)(vii) “\$700,000 (\$1.5 million for construction of any public facility)” and adding “the applicable threshold specified in FAR 19.702(a) on the date of subcontract award” in its place; and
- e. Revising paragraphs (c)(1)(x), (xi), and (xii).

The revisions read as follows:

52.244–6 Subcontracts for Commercial Items.

* * * * *

Subcontracts for Commercial Items (JUN 2020)

(a) * * *

Commercial item and commercially available off-the-shelf item have the meanings contained in Federal Acquisition Regulation (FAR) 2.101.

* * * * *

(c)(1) * * *

(i) 52.203–13, Contractor Code of Business Ethics and Conduct (Jun 2020) (41 U.S.C. 3509), if the subcontract exceeds the threshold specified in FAR 3.1004(a) on the date of subcontract award, and has a performance period of more than 120 days.

* * * * *

(x) 52.222–35, Equal Opportunity for Veterans (Jun 2020) (38 U.S.C. 4212(a)).

(xi) 52.222–36, Equal Opportunity for Workers with Disabilities (Jun 2020) (29 U.S.C. 793).

(xii) 52.222–37, Employment Reports on Veterans (Jun 2020) (38 U.S.C. 4212).

* * * * *

- 72. Amend section 52.246–26 by—

- a. Revising the date of the clause; and
- b. Removing from paragraph (g)(1)(iii) “threshold” and adding “threshold, as defined in FAR 2.101 on the date of subcontract award,” in its place.

The revision reads as follows:

52.246–26 Reporting Nonconforming Items.

* * * * *

Reporting Nonconforming Items (JUNE 2020)

* * * * *

- 73. Amend section 52.248–1 by—

- a. Revising the date of the clause;
- b. Removing from paragraph (i)(5) “subsection” and “Regulation” and adding “section” and “Regulation (FAR)” in their places, respectively; and
- c. Revising the first sentence of paragraph (1).

The revisions read as follows:

52.248–1 Value Engineering.

* * * * *

Value Engineering (JUN 2020)

* * * * *

(l) *Subcontracts*. The Contractor shall include an appropriate value engineering clause in any subcontract-valued at or above the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award, and may include one in subcontracts of lesser value. * * *

* * * * *

[FR Doc. 2020–07109 Filed 5–5–20; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 12, 25, 29, and 52

[FAC 2020–06; FAR Case 2016–013; Item III; Docket No. FAR–2016–0013; Sequence No. 1]

RIN 9000–AN38

Federal Acquisition Regulation; Tax on Certain Foreign Procurement

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 withhold a 2 percent tax on contract payments made by the United States Government to foreign persons pursuant to certain contracts. This rule applies to Federal Government contracts for goods or services that are awarded to foreign persons.

DATES: *Effective:* June 5, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at 202–969–7207 or zenaida.delgado@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 2020–06, FAR Case 2016–013.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule on September 20, 2019, at 84 FR 49498, to implement the Department of the Treasury final regulations published in the **Federal Register** at 81 FR 55133 on August 18, 2016, under section 5000C of the Internal Revenue Code relating to the 2 percent tax on payments made by the United States (U.S.) Government to foreign entities pursuant to certain contracts. This final rule only addresses the collection of the section 5000C tax from contract payments on certain foreign contracts by withholding up to 2 percent of the payment. The agency merely withholds the tax for the Internal Revenue Service (IRS). All substantive issues regarding the underlying section 5000C tax, *e.g.*, the imposition of, and exemption from the tax, are matters under the jurisdiction of the IRS. FAR

29.204 and 29.402–3 give more information on the contracts that are covered, and exemptions or exceptions that might apply. No public comments were submitted in response to the proposed rule.

On January 2, 2011, section 301 of the James Zadroga 9/11 Health and Compensation Act of 2010, Public Law 111–347 (the Act), added section 5000C to the Internal Revenue Code (Code). Title 26 U.S.C. 5000C, Imposition of tax on certain foreign procurement, and its implementing regulations at 26 CFR 1.5000C–1 through 1.5000C–7, imposed, unless exempted, a 2 percent excise tax on the amount of a specified Federal procurement payment on any foreign person receiving such payment. Title 26 CFR 1.5000C–1(c) defines the term specified Federal procurement payment as any payment made pursuant to a contract with the U.S. Government for goods or services if the goods are manufactured or produced, or the services are provided, in any country that is not a party to an international procurement agreement with the United States (see FAR 25.003 for the definitions of “World Trade Organization Government Procurement Agreement (WTO GPA) country” and “Free Trade Agreement country”, per the IRS definition at § 1.5000C–1(a)(8)). Section 301(a)(3) of the Act provides that section 5000C applies to payments received pursuant to contracts entered into on and after the date of enactment of the Act, January 2, 2011. Additionally, section 301(c) of the Act states that this section and the amendments made by it must be applied in a manner consistent with U.S. obligations under international agreements. Section 5000C(d)(1) provides that the amount deducted and withheld under chapter 3 shall be increased by the amount of tax imposed under 26 U.S.C. 5000C.

DoD, GSA, and NASA issued a final rule under FAR Case 2011–011, Unallowability of Costs Associated With Foreign Contractor Excise Tax, amending the FAR to disallow the cost associated with the 2 percent excise tax on certain foreign procurements. The final rule was published in the **Federal Register** at 78 FR 6189 on January 29, 2013.

II. Discussion and Analysis

There are no changes from the proposed rule made in the final rule. Acquiring agencies are required to withhold the excise tax under 26 U.S.C. 5000C. The exemptions from the withholding in the IRS regulations at 26 CFR 1.5000C–1(d)(1) through (4) are captured under the new provision

prescription at FAR 29.402–3(a). If any of the conditions listed at FAR 29.402–3(a) are met, the payments under the contract will not be subject to the withholding. The remaining exemptions in that paragraph (d), at 26 CFR 1.5000C–1(d)(5) through (7), must be claimed by the offeror by submitting an IRS Form W–14 with the offer. If no exemption applies or is claimed, contractors will be subject to the tax and will be required to complete IRS Form W–14, and submit this form with each voucher or invoice for the agency to withhold the tax as appropriate.

This FAR final rule covers withholding, not the imposition of the tax, which was implemented in the IRS regulation.

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

Pursuant to 41 U.S.C. 1905–1907, a provision of law is not applicable to: Contracts or subcontracts in amounts not greater than the simplified acquisition threshold (SAT)(as defined in FAR 2.101); and the acquisition of commercial items, including COTS items. However, the provision of law is applicable when the law (i) contains criminal or civil penalties; (ii) specifically refers to 41 U.S.C. 1905–1907 and states that the law applies to contracts or subcontracts in amounts not greater than the SAT, or the acquisition of commercial items including COTS items; (iii) the FAR Council makes a written determination that it is not in the best interest of the Federal Government to exempt contracts or subcontracts at or below the SAT and for acquisition of commercial items; or the Administrator for Federal Procurement Policy makes a written determination that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of COTS items from this law. United States tax laws in Title 26 of the United States Code contain criminal and civil penalties; thus, commercial items, including commercially available off-the-shelf items, are subject to the new provision and clause unless otherwise exempted.

The new provision and clause are not applicable to acquisitions using simplified acquisition procedures that do not exceed the simplified acquisition threshold because the IRS regulations at 26 CFR 1.5000C–1(d)(1) exempted them from the tax—see the prescriptions at FAR 29.402–3(a)(1) and (b)(1).

IV. 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, this rule 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.

V. Executive Order 13771

This rule is not an E.O. 13771 regulatory action, because this rule is not significant under E.O. 12866.

VI. 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 rule is required to implement a final rule issued by the Department of the Treasury (published at 81 FR 55133) that implements section 301 of the James Zadroga 9/11 Health and Compensation Act of 2010, Public Law 111–347 (the Act), adding section 5000C to the Internal Revenue Code (Code). 26 U.S.C. 5000C, Imposition of tax on certain foreign procurement, and its implementing regulations at 26 CFR 1.5000C–1 through 1.5000C–7, imposed, unless exempted, a 2 percent excise tax of the amount of a specified Federal procurement payment on any foreign person receiving such payment.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis.

The rule will apply to Federal Government contracts that are awarded to foreign persons for goods or services, if the goods are manufactured or produced or the services are provided in any country that is not a party to an international procurement agreement with the United States (see FAR 25.003 for the definitions of “World Trade Organization Government Procurement Agreement (WTO GPA) country” and “Free Trade Agreement country”). Federal Procurement Data System data for FY 2018 was obtained for contracts valued over \$250,000 awarded to foreign vendors. There were 7,518 total awards, 7,349 were to large vendors; 169 were to small vendors. Of these, 1,358 were unique large foreign entities while 10 were unique small foreign entities for a total of 1,368 unique foreign entities. Accordingly, the rule is not expected to have a significant economic impact on a substantial number of small entities based in the United States.

The rule contains an information collection requirement that requires the approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. chapter 35). However, the paperwork burden was previously approved for the IRS regulations under OMB Control Number 1545–2263, Tax on Certain Foreign Procurement.

There are no available alternatives to the rule to accomplish the desired objective of the statute.

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.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) does apply. However, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved for the IRS, Department of the Treasury regulations under the Office of Management and Budget Control Number 1545–2263, Tax on Certain Foreign Procurement (see 80 FR 22449, April 22, 2015 and 82 FR 41310 at 41312, August 30, 2017).

List of Subjects in 48 CFR Parts 1, 12, 25, 29, 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 1, 12, 25, 29, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 12, 25, 29, 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 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 2. In section 1.106, amend the table by adding entries for “52.229–11” and “52.229–12” in numerical order to read as follows: 1.106 OMB approval under the Paperwork Reduction Act.

	FAR segment	OMB control No.
	*	*
52.229–11	1545–2263
52.229–12	1545–2263
	*	*

PART 12—ACQUISITION OF COMMERCIAL ITEMS

■ 3. Amend section 12.301 by redesignating paragraph (d)(12) as paragraph (d)(13) and adding a new paragraph (d)(12) to read as follows:

12.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

* * * * *

(d) * * *

(12) Insert the provision at 52.229–11, Tax on Certain Foreign Procurements—Notice and Representation, in solicitations as prescribed in 29.402–3(a). The representation in the provision at 52.229–11 is not in the System for Award Management.

* * * * *

PART 25—FOREIGN ACQUISITION

■ 4. Add section 25.1003 to read as follows:

25.1003 Tax on certain foreign procurements.

See 29.204 for the imposition of the tax on certain foreign procurements pursuant to the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347), 26 U.S.C. 5000C, and its implementing regulations at 26 CFR 1.5000C–1 through 1.5000C–7.

PART 29—TAXES

■ 5. Add section 29.204 to read as follows:

29.204 Federal excise tax on specific foreign contract payments.

(a) Title 26 U.S.C. 5000C and its implementing regulations at 26 CFR 1.5000C–1 through 1.5000C–7 require acquiring agencies to collect this excise tax via withholding on applicable contract payments (see 29.402–3, 31.205–41(b)(8)). Agencies merely withhold the tax (section 5000C tax) for the Internal Revenue Service (IRS). All substantive issues regarding the underlying section 5000C tax, *e.g.*, the imposition of, and exemption from the tax, are matters under the jurisdiction of the IRS. The contracting officer will refer all questions relating to the interpretation of the IRS regulations to <https://www.irs.gov/help/tax-law-questions>.

(b) In accordance with the clause 52.229–12, Tax on Certain Foreign Procurements, contractors that are subject to the section 5000C tax will complete IRS Form W–14, Certificate of Foreign Contracting Party Receiving Federal Procurement Payments, and submit this form with each voucher or

invoice. In the absence of a completed IRS Form W-14 accompanying a payment request, the default withholding percentage is 2 percent for the section 5000C withholding for that payment request. Information about IRS Form W-14 is available via the internet at www.irs.gov/w14.

(c)(1) Exemptions from the withholding in the IRS regulations at 26 CFR 1.5000C-1(d)(1) through (4) are captured under the provision prescription at 29.402-3(a) (*i.e.*, the contracting officer will not include the provision when one of the 29.402-3(a) exceptions applies).

(2) The exemptions at 26 CFR 1.5000C-1(d)(5) through (7) must be claimed by the offeror when it submits an IRS Form W-14 with the offer. If not submitted with the offer, exemptions will not be applied to the contract.

(3) Any exemption claimed and self-certified on the IRS Form W-14 is subject to audit by the IRS. Any disputes regarding the imposition and collection of the section 5000C tax are adjudicated by the IRS as the section 5000C tax is a tax matter, not a contract issue.

(d) The exemptions in 29.201 through 29.302 do not apply to this section 5000C tax.

(e) Additional information about this excise tax on specific foreign contract payments is available via the internet at <https://www.irs.gov/government-entities/excise-tax-on-specified-federal-foreign-procurement-payments>.

■ 6. Add section 29.402-3 to read as follows:

29.402-3 Tax on certain foreign procurements.

(a) Insert the provision at 52.229-11, Tax on Certain Foreign Procurements—Notice and Representation, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, unless one of the following exceptions applies:

(1) Acquisitions using simplified acquisition procedures that do not exceed the simplified acquisition threshold (as defined in 2.101).

(2) Emergency acquisitions using the emergency acquisition flexibilities defined in part 18.

(3) Acquisitions using the unusual and compelling urgency authority per 6.302-2.

(4) Contracts with a single individual for personal services that will not exceed the simplified acquisition threshold on an annual calendar year basis for all years of the contract.

(5) Acquisitions if the requiring activity identifies that the requirement is for certain foreign humanitarian

assistance contracts which are payments made by the U.S. Government agencies pursuant to a contract with a foreign contracting party to obtain goods or services described in or authorized under 7 U.S.C. 1691, *et seq.*, 22 U.S.C. 2151, *et seq.*, 22 U.S.C. 2601 *et seq.*, 22 U.S.C. 5801 *et seq.*, 22 U.S.C. 5401 *et seq.*, 10 U.S.C. 402, 10 U.S.C. 404, 10 U.S.C. 407, 10 U.S.C. 2557, and 10 U.S.C. 2561.

(b) Insert the clause at 52.229-12, Tax on Certain Foreign Procurements, in—

(1) Solicitations that contain the provision at 52.229-11, Tax on Certain Foreign Procurements—Notice and Representation; and

(2) Resultant contracts in which the contractor has indicated that it was a foreign person in solicitation provision 52.229-11, Tax on Certain Foreign Procurements—Notice and Representation.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 7. Amend section 52.212-5 by redesignating paragraphs (b)(55) through (62) as paragraphs (b)(56) through (63) and adding a new paragraph (b)(55) to read as follows:

52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

* * * * *

(b) * * *

___ (55) 52.229-12, Tax on Certain Foreign Procurements (JUN 2020).

* * * * *

■ 8. Add sections 52.229-11 and 52.229-12 to read as follows:

52.229-11 Tax on Certain Foreign Procurements—Notice and Representation.

As prescribed in 29.402-3(a), insert the following provision:

Tax on Certain Foreign Procurements—Notice and Representation (JUN 2020)

(a) *Definitions.* As used in this provision—
Foreign person means any person other than a United States person.

Specified Federal procurement payment means any payment made pursuant to a contract with a foreign contracting party that is for goods, manufactured or produced, or services provided in a foreign country that is not a party to an international procurement agreement with the United States. For purposes of the prior sentence, a foreign country does not include an outlying area.

United States person as defined in 26 U.S.C. 7701(a)(30) means—

(1) A citizen or resident of the United States;

(2) A domestic partnership;

(3) A domestic corporation;

(4) Any estate (other than a foreign estate, within the meaning of 26 U.S.C. 701(a)(31)); and

(5) Any trust if—

(i) A court within the United States is able to exercise primary supervision over the administration of the trust; and

(ii) One or more United States persons have the authority to control all substantial decisions of the trust.

(b) Unless exempted, there is a 2 percent tax of the amount of a specified Federal procurement payment on any foreign person receiving such payment. See 26 U.S.C. 5000C and its implementing regulations at 26 CFR 1.5000C-1 through 1.5000C-7.

(c) Exemptions from withholding under this provision are described at 26 CFR 1.5000C-1(d)(5) through (7). The Offeror would claim an exemption from the withholding by using the Department of the Treasury Internal Revenue Service Form W-14, Certificate of Foreign Contracting Party Receiving Federal Procurement Payments, available via the internet at www.irs.gov/w14. Any exemption claimed and self-certified on the IRS Form W-14 is subject to audit by the IRS. Any disputes regarding the imposition and collection of the 26 U.S.C. 5000C tax are adjudicated by the IRS as the 26 U.S.C. 5000C tax is a tax matter, not a contract issue. The IRS Form W-14 is provided to the acquiring agency rather than to the IRS.

(d) For purposes of withholding under 26 U.S.C. 5000C, the Offeror represents that—

(1) It [] is [] is not a foreign person; and

(2) If the Offeror indicates “is” in paragraph (d)(1) of this provision, then the Offeror represents that—I am claiming on the IRS Form W-14 [] a full exemption, or [] partial or no exemption [Offeror shall select one] from the excise tax.

(e) If the Offeror represents it is a foreign person in paragraph (d)(1) of this provision, then—

(1) The clause at FAR 52.229-12, Tax on Certain Foreign Procurements, will be included in any resulting contract; and

(2) The Offeror shall submit with its offer the IRS Form W-14. If the IRS Form W-14 is not submitted with the offer, exemptions will not be applied to any resulting contract and the Government will withhold a full 2 percent of each payment.

(f) If the Offeror selects “is” in paragraph (d)(1) and “partial or no exemption” in paragraph (d)(2) of this provision, the Offeror will be subject to withholding in accordance with the clause at FAR 52.229-12, Tax on Certain Foreign Procurements, in any resulting contract.

(g) A taxpayer may, for a fee, seek advice from the Internal Revenue Service (IRS) as to the proper tax treatment of a transaction. This is called a private letter ruling. Also, the IRS may publish a revenue ruling, which is an official interpretation by the IRS of the Internal Revenue Code, related statutes, tax treaties, and regulations. A revenue ruling is the conclusion of the IRS on how the law is applied to a specific set of facts. For questions relating to the interpretation of the IRS regulations go to <https://www.irs.gov/help/tax-law-questions>.

(End of provision)

52.229–12 Tax on Certain Foreign Procurements.

As prescribed in 29.402–3(b), insert the following clause:

Tax on Certain Foreign Procurements (JUN 2020)

(a) *Definitions.* As used in this clause—
Foreign person means any person other than a United States person.

United States person, as defined in 26 U.S.C. 7701(a)(30), means—

- (1) A citizen or resident of the United States;
- (2) A domestic partnership;
- (3) A domestic corporation;
- (4) Any estate (other than a foreign estate, within the meaning of 26 U.S.C. 7701(a)(31)); and
- (5) Any trust if—
 - (i) A court within the United States is able to exercise primary supervision over the administration of the trust; and
 - (ii) One or more United States persons have the authority to control all substantial decisions of the trust.

(b) This clause applies only to foreign persons. It implements 26 U.S.C. 5000C and its implementing regulations at 26 CFR 1.5000C–1 through 1.5000C–7.

(c)(1) If the Contractor is a foreign person and has only a partial or no exemption to the withholding, the Contractor shall include the Department of the Treasury Internal Revenue Service Form W–14, Certificate of Foreign Contracting Party Receiving Federal Procurement Payments, with each voucher or invoice submitted under this contract throughout the period in which this status is applicable. The excise tax withholding is applied at the payment level, not at the contract level. The Contractor should revise each IRS Form W–14 submission to reflect the exemption (if any) that applies to that particular invoice, such as a different exemption applying. In the absence of a completed IRS Form W–14 accompanying a payment request, the default withholding percentage is 2 percent for the section 5000C withholding for that payment request. Information about IRS Form W–14 and its separate instructions is available via the internet at www.irs.gov/w14.

(2) If the Contractor is a foreign person and has indicated in its offer in the provision 52.229–11, Tax on Certain Foreign Procurements—Notice and Representation, that it is fully exempt from the withholding, and certified the full exemption on the IRS Form W–14, and if that full exemption no longer applies due to a change in circumstances during the performance of the contract that causes the Contractor to become subject to the withholding for the 2 percent excise tax then the Contractor shall—

- (i) Notify the Contracting Officer within 30 days of a change in circumstances that causes the Contractor to be subject to the excise tax withholding under 26 U.S.C. 5000C; and
- (ii) Comply with paragraph (c)(1) of this clause.

(d) The Government will withhold a full 2 percent of each payment unless the Contractor claims an exemption. If the Contractor enters a ratio in Line 12 of the IRS

Form W–14, the result of Line 11 divided by Line 10, the Government will withhold from each payment an amount equal to 2 percent multiplied by the contract ratio. If the Contractor marks box 9 of the IRS Form W–14 (rather than completes Lines 10 through 12), the Contractor must identify and enter the specific exempt and nonexempt amounts in Line 15 of the IRS Form W–14; the Government will then withhold 2 percent only from the nonexempt amount. See the IRS Form W–14 and its instructions.

(e) Exemptions from the withholding under this clause are described at 26 CFR 1.5000C–1(d)(5) through (7). Any exemption claimed and self-certified on the IRS Form W–14 is subject to audit by the IRS. Any disputes regarding the imposition and collection of the 26 U.S.C. 5000C tax are adjudicated by the IRS as the 26 U.S.C. 5000C tax is a tax matter, not a contract issue.

(f) Taxes imposed under 26 U.S.C. 5000C may not be—

- (1) Included in the contract price; nor
- (2) Reimbursed.

(g) A taxpayer may, for a fee, seek advice from the Internal Revenue Service (IRS) as to the proper tax treatment of a transaction. This is called a private letter ruling. Also, the IRS may publish a revenue ruling, which is an official interpretation by the IRS of the Internal Revenue Code, related statutes, tax treaties, and regulations. A revenue ruling is the conclusion of the IRS on how the law is applied to a specific set of facts. For questions relating to the interpretation of the IRS regulations go to <https://www.irs.gov/help/tax-law-questions>.

(End of clause)

[FR Doc. 2020–07110 Filed 5–5–20; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4, 19, 25, and 52

[FAC 2020–06; Item IV; Docket No. FAR–2020–0052; Sequence No. 1]

Federal Acquisition Regulation; Technical Amendments

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make needed editorial changes.

DATES: Effective: May 6, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Lois Mandell, Regulatory Secretariat Division (MVCB), 1800 F Street NW,

2nd Floor, Washington, DC 20405, 202–501–4755. Please cite FAC 2020–06, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 4, 19, 25, and 52 this document makes editorial changes to the FAR.

List of Subjects in 48 CFR parts 4, 19, 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 4, 19, 25, and 52 as set forth below:

- 1. The authority citation for 48 CFR parts 4, 19, 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 4—ADMINISTRATIVE AND INFORMATION MATTERS

4.1102 [Amended]

- 2. Amend section 4.1102 by removing from paragraph (a)(3)(ii) “http://aoprals.state.gov/Web920/danger_pay_all.asp” and adding “<https://aoprals.state.gov/>” in its place.

PART 19—SMALL BUSINESS PROGRAMS

19.102 [Amended]

- 3. Amend section 19.102 by removing from paragraph (a)(1) “<https://www.sba.gov/content/table-small-business-size-standards>” and adding “<https://www.sba.gov/document/support-table-size-standards>” in its place.

PART 25—FOREIGN ACQUISITION

25.301–1 [Amended]

- 4. Amend section 25.301–1 by removing from paragraph (a)(2)(i) “http://aoprals.state.gov/Web920/danger_pay_all.asp” and adding “<https://aoprals.state.gov/>” in its place.

25.301–4 [Amended]

- 5. Amend section 25.301–4 by removing from paragraph (b)(1) “http://aoprals.state.gov/Web920/danger_pay_all.asp” and adding “<https://aoprals.state.gov/>” in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 6. Amend section 52.219–28 by revising the date of the clause and removing from paragraph (d) “<http://aoprals.state.gov/>”

www.sba.gov/content/table-small-business-size-standards” and adding “<https://www.sba.gov/document/support-table-size-standards>” in its place to read as follows:

52.219–28 Post-Award Small Business Program Rerepresentation.

* * * * *

Post-Award Small Business Program Rerepresentation MAY 2020

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■ 7. Amend section 52.223–15 by revising the date of the clause and removing from paragraph (d)(2) “http://www1.eere.energy.gov/femp/procurement/eeep_requirements.html” and adding “<https://www.energy.gov/eere/femp/energy-efficient-products-and-energy-saving-technologies>” in its place to read as follows:

52.223–15 Energy Efficiency in Energy-Consuming Products.

* * * * *

Energy Efficiency in Energy-Consuming Products MAY 2020

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■ 8. Amend section 52.225–19 by revising the date of the clause and removing from paragraphs (b)(1)(ii)(A) and (q)(2)(i) “http://aoprals.state.gov/Web920/danger_pay_all.asp” and adding “<https://aoprals.state.gov/>” in

their places, respectively, to read as follows:

52.225–19 Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States.

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Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States MAY 2020

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[FR Doc. 2020–07111 Filed 5–5–20; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2020–0051, Sequence No. 2]

Federal Acquisition Regulation; Federal Acquisition Circular 2020–06; 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) 2020–06, 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 2020–06, which precedes this document. These documents are also available via the internet at <http://www.regulations.gov>.

DATES: May 6, 2020.

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

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2020–06 and the FAR Case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755.

RULE LISTED IN FAC 2020–06

Item	Subject	FAR Case	Analyst
I	Revocation of Executive Order on Nondisplacement of Qualified Workers	2020–001	Delgado.
II	Applicability of Inflation Adjustments of Acquisition-Related Thresholds	2018–007	Delgado.
III	Tax on Certain Foreign Procurement	2016–013	Delgado.
IV	Technical Amendments.		

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 2020–06 amends the FAR as follows:

Item I—Revocation of Executive Order on Nondisplacement of Qualified Workers (FAR Case 2020–001)

This final rule removes subpart 22.12, entitled “Nondisplacement of Qualified Workers Under Service Contracts”, and a related contract clause, from the FAR. The final rule applies to service contracts which succeed a contract for performance by service employees of the same or similar work at the same location. It removes a requirement for service contractors and their

subcontractors to offer employees of the predecessor contractor and its subcontractors a right of first refusal of employment for positions for which they are qualified. It implements Executive Order 13897 of October 31, 2019, Improving Federal Contractor Operations by Revoking Executive Order 13495. This final rule will not have a significant impact on service contractors and their subcontractors. However, as a result of eliminating the language in FAR subpart 22.12, there will be fewer requirements imposed on contractors to keep records demonstrating compliance on successor contractors.

Item II—Applicability of Inflation Adjustments of Acquisition-Related Thresholds (FAR Case 2018–007)

This final rule makes inflation adjustments of statutory acquisition-related thresholds under 41 U.S.C. 1908 applicable to existing contracts and subcontracts in effect on the date of the adjustment. It implements section 821 of the National Defense Authorization Act for Fiscal Year 2018.

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

Item III—Tax on Certain Foreign Procurement (FAR Case 2016–013)

This final rule withholds a 2 percent tax on contract payments made by the United States (U.S.) Government to foreign persons pursuant to certain contracts. This rule applies to Federal

Government contracts for goods or services that are awarded to foreign persons. It implements the Department of the Treasury final regulations published in the **Federal Register** at 81 FR 55133 on August 18, 2016, under section 5000C of the Internal Revenue Code relating to the 2 percent tax on

payments made by the U.S. Government to foreign entities pursuant to certain contracts.

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

Item IV—Technical Amendments

Editorial changes are made at FAR 4.1102, 19.102, 25.301–1, 25.301–4, 52.219–28, 52.223–15, and 52.225–19.

William F. Clark,

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

[FR Doc. 2020–07112 Filed 5–5–20; 8:45 am]

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