

Raising the Roofs . . . and Floors: Acquisition Thresholds in the Time of Emergency

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As many contractors have heard, the President [declared](#) a state of emergency under the Stafford Act. What will this mean for acquisitions conducted while the COVID-19 emergency continues? In this post, I'll dig into some contractor-specific effects of that declaration: modifying the micro-purchase, simplified acquisition, and commercial purchase acquisition thresholds.

Here are the thresholds that will be increased for responsive supplies and services:

- Micro-purchase thresholds—from \$10,000 to \$20,000 for purchases made inside the United States and to \$30,000 for purchases made outside the United States.
- Simplified acquisition threshold—from \$250,000 to \$750,000 for domestic purchases and \$1.5 million for purchases outside the United States.
- Commercial items—agencies can use simplified acquisition procedures for purchases up to \$13 million.

One thing that bears repeating is that these increased acquisition thresholds only apply to supplies or services needed to respond to the emergency. The increases don't apply to all supplies and services ordered by the government.

This limitation is built into the FAR's definitions for these thresholds. The higher dollar amounts apply to "acquisitions of supplies or services that, as determined by the head of the agency, are to be used . . . to support response to an emergency." [FAR 2.101](#). This definition depends on how the agency will use the services or supplies. So, if it's not clear from the solicitation language, be sure to check with the contracting officer. Similarly, the threshold for simplified procedures for certain commercial items "may be increased when it is determined the acquisition is to . . . support response to an emergency." [FAR 18.202](#).

Here are a few things to keep in mind on how the changes in these various acquisition thresholds have a cascading impact on other rules. While this doesn't cover every affected rule, it hits the main ones. For more information, take a look at the comprehensive [Emergency Acquisitions Guide](#) that the OMB put out a few years ago to help agencies prepare; it's listed in the FAR as the go-to resource guide for these types of situations.

For micro-purchases, agencies can use a purchase card. Plus, there is no requirement for a written contract and no clauses or provisions are required. [FAR 13.201](#). In addition, purchases below the micro-purchase must be made through certain required sources including Federal Prison Industries and AbilityOne contractors. [FAR 8.002](#). The government can look to small business and SBA socioeconomic businesses only after looking at the required sources first.

For purchases under the simplified acquisition threshold, agencies can make use of various flexibilities for publicizing the effort. Limited competition is authorized, including soliciting from a single source or use of a brand name specification, but the rationale must be documented. FAR [13.106-1](#), [11.105](#).

For commercial item acquisitions, FAR part 12 policies and procedures apply, including optional streamlined procedures for evaluation and solicitation. This includes combining the synopsis and the solicitation into a single document under [FAR 12.603](#). And, in some instances can allow for shorter response periods than would be possible under other types of acquisitions. For instance, based on circumstances, the contracting officer may allow for less than a 30-day response time for receipt of offers under FAR [12.205](#) and [5.203\(b\)](#).

These acquisition thresholds affect small business rules as well. Under [FAR 19.502-2](#), purchases between the micro-purchase threshold and the simplified acquisition threshold are usually automatically set aside for small businesses. Purchases above the simplified acquisition threshold must be considered for small business set-aside if there is likely to be more than two reasonably priced offerors and such purchases are also to be considered for set-aside to small business socioeconomic contracting program businesses (e.g. 8(a) or SDVOSB).

In addition, the limitations on subcontracting do not apply to small business set-aside contracts with a value that is greater than the micro-purchase threshold but less than or equal to the simplified acquisition threshold. [13 C.F.R. § 125.6](#). Similarly, the nonmanufacturer rule does not apply to small business set-aside acquisitions with an estimated value between the micro-purchase threshold and the simplified acquisition threshold. [13 CFR § 121.406](#).

Finally, the [Buy American Act](#) only applies above the micro-purchase threshold or if the “supply portion of a contract for services that involves the furnishing of supplies (e.g., lease) exceeds the micro-purchase threshold.” [FAR 25.100](#). So, for those supplies that will meet agency’s needs to respond to the COVID-19 emergency, pay attention to the increased micro-purchase threshold and the Buy American Act might not apply.

The bottom line is that these increased acquisition thresholds apply only for supplies and services the agency needs to respond to the COVID-19 emergency. However, that will likely end up being a great deal of services and supplies. Changing the acquisition thresholds affects many other acquisition rules, including the major ones discussed above. This temporary increase will impact a great number of acquisitions. Stay tuned for more updates throughout the coming week.