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# Federal Acquisition Regulation: Limitation of Authority Regarding Extraordinary Contractual Actions

A Rule by the [Defense Department](#), the [General Services Administration](#), and the [National Aeronautics and Space Administration](#) on [07/30/2024](#)

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**DOCUMENT STATISTICS****ENHANCED CONTENT****Federal Acquisition Regulation: Limitation of Authority Regarding Extraordinary Contractual Actions (FAR Case 2023-007)**

FAR-2023-0007 (<https://www.regulations.gov/docket/FAR-2023-0007>)

**ENHANCED CONTENT****PUBLISHED DOCUMENT****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 James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, to increase the approval threshold for Congressional committee notification.

**DATES:**

Effective August 29, 2024.

**FOR FURTHER INFORMATION CONTACT:**

For clarification of content, contact Malissa Jones, Procurement Analyst, at 571-882-4687 or by email at [malissa.jones@gsa.gov](mailto:malissa.jones@gsa.gov) (<mailto:malissa.jones@gsa.gov>). For information pertaining to status or publication schedules contact the Regulatory Secretariat Division at 202-501-4755 or [GSAREgSec@gsa.gov](mailto:GSAREgSec@gsa.gov) (<mailto:GSAREgSec@gsa.gov>). Please cite FAC 2024-06, FAR Case 2023-007.

## SUPPLEMENTARY INFORMATION:

### I. Background

DoD, GSA, and NASA are amending the FAR to implement section 822(a)(3) of the James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2023, which increased the Congressional committee notification threshold under Public Law 85-804 (41 U.S.C. 1431 (<https://www.govinfo.gov/link/uscode/41/1431>)) to \$150 million.

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

The statute that applies to the publication of the FAR is 41 U.S.C. 1707 (<https://www.govinfo.gov/link/uscode/41/1707>). Subsection (a)(1) of 41 U.S.C. 1707 (<https://www.govinfo.gov/link/uscode/41/1707>) 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 does not have a significant effect or impose any new requirements on contractors or offerors. The rule simply amends FAR 50.102-3(b)(4) to increase the Congressional committee notification threshold to \$150 million. This change will reflect the new threshold in 50 U.S.C. 1431 (<https://www.govinfo.gov/link/uscode/50/1431>).

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

This rule amends FAR 50.102-3(b)(4) to increase the Congressional committee notification threshold to \$150 million reflecting the new threshold in 50 U.S.C. 1431 (<https://www.govinfo.gov/link/uscode/50/1431>). This rule does not impose any new requirements on contracts at or below the SAT, or to acquisitions for commercial products and commercial services, including COTS items.

### IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 (as amended by E.O. 14094 (</executive-order/14094>)) and 13563 direct agencies to assess 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 (</executive-order/13563>) emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866 (</executive-order/12866>), Regulatory Planning and Review, dated September 30, 1993.

### V. Congressional Review Act

Pursuant to the Congressional Review Act, DoD, GSA, and NASA will send this rule to each House of the Congress and to the Comptroller General of the United States. The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget has determined that this rule does not meet the standards under 5 U.S.C 804(2) (<https://www.govinfo.gov/link/uscode/5/804>).

## 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) (<https://www.govinfo.gov/link/uscode/41/1707>) (see section II. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612 (<https://www.govinfo.gov/link/uscode/5/601>)) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

## VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501-3521 (<https://www.govinfo.gov/link/uscode/44/3501>)).

## List of Subjects in 48 CFR Part 50 (<https://www.ecfr.gov/current/title-48/part-50>)

- 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 part 50 (<https://www.ecfr.gov/current/title-48/part-50>) as set forth below:



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## PART 50—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT

1. The authority citation for 48 CFR part 50 (<https://www.ecfr.gov/current/title-48/part-50>) continues to read as follows:

**Authority:** 40 U.S.C. 121(c) (<https://www.govinfo.gov/link/uscode/40/121>); 10 U.S.C. chapter 4 (<https://www.govinfo.gov/link/uscode/10/401>) and 10 U.S.C. chapter 137 (<https://www.govinfo.gov/link/uscode/10/13701>) legacy provisions (see 10 U.S.C. 3016 (<https://www.govinfo.gov/link/uscode/10/3016>)); and 51 U.S.C. 20113 (<https://www.govinfo.gov/link/uscode/51/20113>).

### 50.102-3 [Amended]

2. Amend section 50.102-3 in paragraph (b)(4) by removing “\$35 million” and adding “\$150 million” in its place.

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