

FAR Alert Notice (FAN)
Issuance of Proposed Rules and Federal Acquisition Circular 2005-98

This *FAR Alert Notice (FAN)* provides awareness to the acquisition workforce about upcoming regulatory changes.¹ This FAN highlights noteworthy proposed rules, and interim and final rules recently published in the released Federal Acquisition Circular (FAC) that impact the acquisition workforce.²

A brief description of each rule is provided below with hyperlinks to an expanded version of the rules. Agencies are encouraged to disseminate this FAN widely across their acquisition workforce.

| Rules at a Glance |
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| <u>Proposed Rules</u> See notice below under Proposed Rules |
| <u>FAC 2005-98 (published on May 1, 2018)</u> FAR Case 2017-007, Task and Delivery-Order Protests FAR Case 2017-008, Duties of Office of Small and Disadvantaged Business Utilization FAR Case 2017-004, Liquidated Damages Rate Adjustment FAR Case 2015-039, Audit of Settlement Proposals |

Proposed Rules - Proposed rules are published more often than FACs. To provide timely updates to the acquisition community, the proposed rules will now be posted in real time on acquisition.gov - click on Proposed Rules in the moving banner at the top of the page. To receive automatic email notices of the latest proposed rules as well as other FAR related news, go to <https://listserv.gsa.gov/cgi-bin/wa.exe?A0=ACQUISITIONNEWS>, and click on “Subscribe” and select either regular or digest – see below for definitions of regular and digest.³

Final Rules

FAC 2005-98 (Published on May 1, 2018)

[FAR Case 2017-007, Task and Delivery-Order Protests](#)

This final rule amends the FAR to implement section 835 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114-328) to raise the threshold for task-and delivery-order protests from \$10 million to \$25 million (applicable to DoD, NASA, and the Coast Guard) and to repeal the sunset date for the authority to protest the placement of an order (for the other civilian agencies), which was also previously repealed by the GAO Civilian Task and Delivery Order Protest Authority Act of 2016 (Pub. L. 114-260). This rule will become effective on May 31, 2018.

¹ This FAR Alert was established by the Office of Federal Procurement Policy (OFPP) in 2012 to help improve agency awareness of regulatory changes. GSA prepares the FAN for dissemination to the acquisition workforce via the FAI website. Questions about the individual rules should be directed to the analyst in the “For Further Information Contact” paragraph of the rule.

² Proposed rules announce future changes being considered to the Code of Federal Regulations (CFR), include proposed regulatory text, and solicit public comments. Interim rules announce immediate changes to the CFR and are effective immediately upon publication, or on a specified date after publication, but may be amended based on public comment. Final rules make permanent changes to the FAR after considering public comment, if required. Final rules are effective on a specified date after publication.

³ Definitions/Instructions - “Regular” means you get one message at a time just like regular email. “Digest”, of which there are several types means that instead of getting each message as it is sent, the person gets one message per day made up of all the messages sent to the list that day, the digest usually has an index of subject lines at the top linking to all the messages.

[FAR Case 2017-008, Duties of Office of Small and Disadvantaged Business Utilization](#)

This final rule amends the FAR to reflect additional duties for agencies' Office of Small and Disadvantaged Business Utilization, or for DoD's Office of Small Business Programs, which were added to section 15(k) of the Small Business Act by the NDAA for FY 2017. This rule only provides information regarding the internal operating procedures of the Government. This rule will become effective on May 31, 2018.

[FAR Case 2017-004, Liquidated Damages Rate Adjustment](#)

This final rule amends the FAR to implement Department of Labor (DOL) regulations to adjust for inflation the rate of liquidated damages assessed or enforced by DOL for violations of the overtime provisions of the Contract Work Hours and Safety Standards Act. Currently, the DOL rule set the rate of liquidated damages at \$26 per individual for each violation. Since this rate will continue to change annually for inflation, this FAR rule incorporates a reference to the DOL regulations, so an annual FAR change will not be necessary. This rule will become effective on May 31, 2018.

[FAR Case 2015-039, Audit of Settlement Proposals](#)

This final rule amends the FAR to raise the dollar threshold requirement for the audit of prime contract settlement proposals and subcontract settlements from \$100,000 to \$750,000 to align with the threshold in FAR 15.403-4(a)(1) for obtaining certified cost or pricing data. This rule will become effective on May 31, 2018.