



441 G St. N.W.
Washington, DC 20548

B-332335

July 15, 2020

The Honorable Ron Johnson
Chairman
The Honorable Gary C. Peters
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Carolyn B. Maloney
Chairwoman
The Honorable James Comer
Ranking Member
Committee on Oversight and Reform
House of Representatives

Subject: *Department of Defense, General Services Administration, National Aeronautics and Space Administration: Federal Acquisition Regulation: Increased Micro-Purchase and Simplified Acquisition Thresholds*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Defense, General Services Administration, National Aeronautics and Space Administration (the agencies) entitled "Federal Acquisition Regulation: Increased Micro-Purchase and Simplified Acquisition Thresholds" (RIN: 9000-AN65). We received the rule on July 1 2020. It was published in the *Federal Register* as a final rule on July 2, 2020. 85 Fed. Reg. 40064. The final rule has an effective date of August 31, 2020.

According to the agencies, the final rule implements a section of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017, Pub. L. No. 114-328, 130 Stat. 2000 (Dec. 23, 2016), and several sections of the NDAA for FY 2018, Pub. L. No. 115-91, 131 Stat. 1283 (Dec. 12, 2017), that increase the micro-purchase threshold, increase the simplified acquisition threshold, and clarify certain procurement terms. The agencies state the rule also aligns some non-statutory thresholds with the micro-purchase threshold and the simplified acquisition threshold.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(30)(A). The final rule was published in the *Federal Register* as a final rule on July 2, 2020. 85 Fed. Reg. 40064. The *Congressional Record* did not indicate when either House of Congress received it, but the agency informed us GSA mailed the final rule to Congress on July 2. Email from Regulatory Secretariat Division, GSA, to Office of General Counsel, GAO, July 15, 2020. The final rule has an effective date of August 31, 2020. Therefore, the final rule does not have the required 60-day delay in effective date.

Enclosed is our assessment of the agencies' compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in cursive script that reads "Shirley A. Jones". The signature is written in black ink and is positioned above the printed name and title.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: William F. Clark
Director, Office of Acquisition Policy
Office of Government-wide Policy
General Services Administration

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF DEFENSE,
GENERAL SERVICES ADMINISTRATION,
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
ENTITLED
“FEDERAL ACQUISITION REGULATION: INCREASED
MICRO-PURCHASE AND SIMPLIFIED ACQUISITION THRESHOLDS”
(RIN: 9000-AN65)

(i) Cost-benefit analysis

The Department of Defense, General Services Administration, National Aeronautics and Space Administration (the agencies) estimated the final rule to create an annualized cost savings of \$46,368,929 for the public and \$155,167,513 for the government, for a total annualized cost savings of \$201,536,442. The agencies stated these amounts are in 2016 dollars at the 7 percent discount rate.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

The agencies prepared a final regulatory flexibility analysis under the Act. The analysis included: (1) a statement of the need for, and the objectives of, the rule; (2) a statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, and a statement of any changes made to the rule as a result of such comments; (3) a description of and an estimate of the number of small entities to which the rule will apply; (4) a description of the projected reporting, recordkeeping, and other compliance requirements of the rule; and (5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The agencies did not discuss the Act in the rule. In their submission to us, the agencies indicated that they considered preparation of an analysis under the Act to be not applicable.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On October 2, 2019, the agencies published a proposed rule. 84 Fed. Reg. 52420. The agencies received comments from six respondents and responded to the comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

The agencies determined that the final rule contains no information collection requirements under the Act.

Statutory authorization for the rule

The agencies promulgated the final rule pursuant to section 2303 *et seq.* of title 10; section 121 of title 40; and section 20113 of title 51, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

The agencies stated the final rule was economically significant and subject to review under the Order.

Executive Order No. 13,132 (Federalism)

The agencies did not discuss the Order in the rule. In their submission to us, the agencies indicated that they considered preparation of an analysis under the Order to be not applicable.