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October 6, 2010

MEMORANDUM

To: Clients and Friends

From: Pamela J. Mazza

Date: October 6, 2010

Re: **Final Rule Amending Acquisition-Related Thresholds for Inflation**

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On August 30, 2010, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council issued a final rule ("Rule") amending the Federal Acquisition Regulation ("FAR") to implement section 8076 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, which requires an adjustment every 5 years of acquisition-related thresholds for inflation. See 75 Fed. Reg. 53129 (Aug. 30, 2010). According to the Federal Register notice, if these thresholds were not adjusted for inflation, the number of contracts subject to the acquisition-related threshold would continue to grow, because more and more contracts would be below the stated thresholds. The Rule has an effective date of October 1, 2010.

Below is a summary of the threshold adjustments which we believe will have the most relevance to our clients. For a complete list of the thresholds amended by the Rule, please see 75 Fed. Reg. 53129.

- FAR § 19.502-2: increases (1) the threshold under which contracts are required to be set aside exclusively for small business concerns from $100,000 to $150,000; and (2) the threshold over which contracting officers must set aside acquisitions for small business participation, when certain conditions are met, from $100,000 to $150,000

- FAR § 19.702: raises the prime contractor subcontracting plan threshold from $550,000 to $650,000 and from $1 million to $1.5 million for construction.

- FAR § 19.805-1: increases the value over which an acquisition offered to the SBA under the 8(a) Program shall be awarded on the basis of competition limited to eligible 8(a) firms from $5.5 million to $6.5 million for acquisitions assigned manufacturing NAICS codes; and from $3.5 million to $4 million for all other acquisitions.

- FAR § 19.1202-2: increases the thresholds provided for the evaluation of acquisitions for participation in the small disadvantaged business participation program from $550,000 to $650,000, and from $1 million to $1.5 Million for construction.

- FAR § 19.1306: increases the thresholds for award of a sole source HUBZone contract from $5.5 million to $6.5 million for requirements within the NAICS codes for manufacturing, and from $3.5 million to $4 million for requirements within any other NAICS code.

- FAR § 19.1406: increases the thresholds for award of a sole source service-disabled veteran-owned small business concern contract from $5.5 million to $6 million for requirements within the NAICS codes for manufacturing, and from $3 million to $3.5 million for requirements within any other NAICS code.

- FAR § 6.304: increases the thresholds associated with the mandatory justification that is required for other than full and open competition. For example, the threshold under which the contracting officer's certification will serve as approval for other than full an open competition (unless higher approving level is established by agency procedures), was raised from $550,000 to $650,000.

- FAR Part 13: amends various thresholds relating to the acquisition of supplies and services including construction, research and development, and commercial items, the aggregate amount of which does not exceed the simplified acquisition threshold. For example, the $100,000 threshold under FAR § 13.003(b)(1), under which the acquisition of supplies or services shall be set aside exclusively for small business concerns was increased to $150,000, and the $250,000 threshold for acquisitions for supplies and services that are to be used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical or radiological attack and are awarded and performed or purchase to be made inside the United States, was increased to $300,000.

If you would like our assistance in understanding the new changes to the FAR, how it will impact your firm, and what changes you may need to make to address the new thresholds, please do not hesitate to contact us at 202-857-1000.