



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Chief Financial Officer and**  
**Assistant Secretary for Administration**  
Washington, D.C. 20230

## **PROCUREMENT MEMORANDUM 2023-08**

### **ACTION**

**MEMORANDUM FOR:** Senior Bureau Procurement Officials

**FROM:** Olivia J. Bradley  
Senior Procurement Executive and  
Director for Acquisition Management

**SUBJECT:** Federal Acquisition Regulation (FAR) Class Deviation Regarding  
Flexibilities for the Suspending or Debarment Official's  
Correspondence with Contractors

### **Background**

Federal Acquisition Regulation (FAR) Subparts 9.406-3 and 9.407-3 require contractors to be notified of a suspension, proposed debarment, or debarment action from the Suspension and Debarment Official (SDO) via certified mail, return receipt requested. As written, the FAR precludes any other type of notification such as an electronic means of notification.

On April 1, 2020, the Civilian Agency Acquisition Council (CAAC) issued Letter 2020-01 to serve as consultation in accordance with FAR 1.404, allowing agencies to authorize a class deviation to provide flexibilities for SDOs who need to correspond with contractors being suspended, proposed for debarment, or debarred. The CAAC letter allowed agencies to deviate from the FAR to allow greater flexibility for SDOs by providing a means of electronic delivery of notices of suspension, proposed debarment, and debarment to contractors during emergencies and crisis such as the COVID-19 national emergency.

On May 12, 2023, the CAAC issued a Supplement 1 to CAAC letter 2020-01 to update the rationale and noted that Agencies benefited from the increased flexibility for SDO engagement using electronic means. The Interagency Suspension and Debarment Committee recommended the flexibilities be retained and implemented permanently in the FAR.

### **Purpose**

The purpose of this memorandum is to re-issue a class deviation in accordance with FAR 1.404 to provide flexibilities for the SDO to notify contractors of suspensions, proposed debarments, and debarments and to allow contractors to make presentations via telephone or internet.

### **Deviation**

Attachment A provides the changes to the FAR text as revised by this deviation.

**Effective Date**

This class deviation supersedes the deviation in Procurement Memorandum 2020-04 and is effective immediately and remains in effect until rescinded or incorporated into the FAR. Procurement Memorandum 2020-04 is hereby rescinded.

**Questions**

Please direct any questions regarding this Procurement Memorandum to OAM\_Mailbox@doc.gov.

Attachment A – FAR Deviation Text