

CLASS DEVIATION FROM THE FEDERAL ACQUISITION REGULATION

Determination and Findings

In accordance with Civilian Agency Acquisition Council (CAAC) Letter 2021-03, *Class Deviation From the Federal Acquisition Regulation Regarding Implementation of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors*, the Department of Commerce is authorizing a class deviation that implements the requirements of Executive Order 14042, *Ensuring Adequate COVID Safety Protocols for Federal Contractors*.

Findings

- Executive Order 14042, *Ensuring Adequate COVID Safety Protocols for Federal Contractors*, directs executive departments and agencies to ensure that covered contracts and contract-like instruments include a clause that the contractor and any subcontractors (at any tier) shall incorporate into lower-tier subcontracts. This clause shall specify that the contractor or subcontractor shall, for the duration of the contract, comply with all guidance for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force (“Task Force”), provided that the Director of the Office of Management and Budget (“OMB”) approves the Task Force Guidance (the or this “Guidance”) and determines that the Guidance, if adhered to by covered contractors, will promote economy and efficiency in Federal contracting
- The CAAC Letter 2021-03 allows agencies to authorize a class deviation to include a clause that implements Executive Order 14042 and directs the contractor to comply with all guidance, including guidance conveyed through Frequently Asked Questions, as amended during the performance of a contract, for contractor and subcontractor workplace locations published by the Safer Federal Workforce Task Force and include the substance of this clause in subcontracts at any tier that exceeds the simplified acquisition threshold.
- The Department of Commerce conducted a consultation in accordance with FAR 1.404 with the chairperson of the CAAC on October 01, 2021, to revise (d) of the provided clause 52.223-99 to replace “simplified acquisition threshold” with “micro purchase threshold.”
- FAR Case 2021-021, *Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors*, was opened to make appropriate amendments in the FAR to reflect the requirements of Executive Order 14042.
- Contracting officers are provided clause 1352.223-99 to implement the requirements of the order.

Determination

In accordance with FAR 1.404, I hereby authorize this class deviation to include the clause 1352.223-99.

This class deviation will remain in effect until rescinded or fully incorporated into the FAR.

Approved:

Barry E. Berkowitz
Senior Procurement Executive and
Director for Acquisition Management

Date: