

Comment	Recommendations/Suggested Change	Response
Because the DOC clause differs from other agencies', can we/how do we apply the DOC clause in IAAs if there are two different agencies involved?		Where possible, the more restrictive clause should be used.
For GWACS, will the base be modified to include the clause or will it be done at the TO/DO level? For GSA GWACs, will they be modifying the base?		<p>GSA is inserting its deviated clause in its master contracts (Schedules and GWACs) and this clause requires flow down of the GSA deviation clause to subcontracts above the simplified acquisition threshold. In accordance with Executive Order 14042 and associated guidance, DOC has decided to broadly apply the DOC deviation clause in its acquisitions by requiring flow down of the deviation clause to subcontracts above the micro-purchase threshold. Contracting officers shall insert the DOC deviation clause in all new and existing GSA orders.</p> <p>Other agency GWACs and MACs should be reviewed to see what version of the clause is utilized in the base contracts. NASA has issued a deviation with the same thresholds as DOC, for example. If the base contract clause has the same thresholds as the DOC clause, the DOC clause does not need to be added at the order level.</p>
For DOC or NOAA IDIQ or BPA, we assume the base will be modified, correct?		Yes
We are concerned about the application of the clause to existing contracts above MPT by January 2022. Due to the level of effort involved in this task, it would make it difficult for the workforce to be able to focus on other top priorities and Departmental initiatives such as BAS and file digitization.	Therefore, we would like DOC to reconsider the threshold and keep it at the SAT or allow for more time to implement this change in existing vehicles.	A waiver to these may be executed at the SBPO level.
Unlike other guidance we've seen, the PM doesn't exclude contracts/subcontracts with Indian Tribes, Indian-owned or tribally-owned business entities.	Please clarify whether the clause is applicable to DOC contracts with these entities.	The exclusion only applies to non-FAR based contracts. DOC does not have any of these actions.
This paragraph excludes contracts where work is NOT performed on site at a Government facility; however, the Safer Workforce Guidance includes non-federal workplaces and company employees who are not working on a covered Federal contract.	Please clarify which guidance applies.	This exclusion is only for contracts awarded prior to 10/15/2021 that do not contain option periods within this timeframe, and are not otherwise extended.
Will the clause be incorporated unilaterally or must the mod be bilateral?		Bilateral
The memo (under effective date) states that the deviation is effective immediately, but also states that the deviation is effective 1/1/2022.		The memo is effective immediately to allow for inclusion of the clause with several required dates for implementation.
<p>This deviation revises the clause provided by the CAAC letter to replace "simplified acquisition threshold" with "micro purchase threshold" in 52.223-XX(d).</p> <p>Have small business impacts been considered? Deviations implemented at select agencies across the Federal Government could cause negative impacts for small businesses that do business across the Federal Government.</p>	Have small business impacts been considered? Deviations implemented at select agencies across the Federal Government could cause negative impacts for small businesses that do business across the Federal Government.	It was considered, however testing programs that would be required in lieu of vaccinations are also burdensome to small businesses.
I also request that we provide clarity as to the waiver process. We discussed both BPO and Acq Council at our last meeting. Where will the threshold lie for BPO determination vice DOC determination?		The only exceptions allowed to inclusion of the clause are outlined in the PM with the approval level set at the SBPO. There are no DOC approvals needed.
Do PM 2022-01 and clause 1352.223-99 apply to SF182s used to purchase training services from a vendor. In these cases, is the SF182 considered a contract-like instrument requiring the vendors to be in compliance with the Safer Workforce Task Force guidance?		Use of the SF-182 is not considered a procurement action covered by the FAR. As such, the executive order does not cover these actions, similar to grants, even as they may otherwise be considered contract-like instruments. The Office of Human Resources Management was consulted and the threshold for using the SF-182 is the Simplified Acquisition Threshold. As this may not be clear in existing guidance, this will be clarified in future applicable policy.

<p>Required Action exception A(iii) states:</p> <p>..."solicitations and contracts if performance is outside the United States or its outlying areas (the exclusion is limited to employees who are performing work outside the U.S. or its outlying areas)."</p> <p>Does the limitation described in parentheses mean that the clause applies to the contract but employees performing work outside the US don't need to be vaccinated, or does this mean that the clause does not need to be inserted into contracts where performance is outside the US?</p>		<p>The interpretation would be that the clause would need to be included in any contract where there was a mix of employees performing in and outside the US but not in a contract where performance by all employees was exclusively outside of the US. In addition, for those contracts with a mix of employees this FAQ would apply:</p> <p>Q: Do the workplace safety protocols in the Task Force Guidance for Federal Contractors and Subcontractors apply to covered contractor employees who perform work outside the United States? A: No. The workplace safety protocols in the Task Force Guidance do not apply to covered contractor employees who only perform work outside the United States or its outlying areas, as those terms are defined in section 2.101 of the FAR.</p>
<p>Regarding the exception at (ii), does this mean that the SBPO can exempt a particular contract from being modified to include the clause, so long as the contract does not have any options and is not being renewed. For example, a non-severable services or construction contract that doesn't include any options to extend the period of performance?</p>		<p>Yes, (ii) means that as long as you are not extending or exercising an option on a contract it can be exempted.</p>
<p>Per the PM, the clause is applicable to all new contracts in excess of the MPT, effective immediately. The exception at paragraph A(ii) applies to contracts awarded before October 15, 2021 provided the work is not being performed at a government facility and the period of performance ends on or before October 15, 2022 (inclusive of all options). All new contracts (and solicitations for new contracts) must include the clause, whether or not work is performed onsite.</p>		<p>Yes, that is correct.</p>
<p>Clarification is requested since the PM states that awards shouldn't have the COVID NIA code unless the award was issued in response to the pandemic, but doesn't mention mods.</p> <p>"The National Interest Action (NIA) Code for COVID (code P20C) should not be entered unless the award itself was issued in response to the pandemic."</p>		<p>No, the NIA code should not be used in the instance that the modification is only being issued to add the clause.</p>
<p>The PM says exceptions for this deviation could be for actions under the SAP and contracts for products only. Do we have to get an approval from the Senior Bureau Procurement Official every time these exceptions apply or can the CO make that determination?</p>		<p>Approval is required from the SBPO for any of the exceptions, without further delegation.</p>
<p>Will there be further guidance and info provided regarding how we'll verify contractor's attestation for covid-19 vaccines?</p>		<p>We will not be collecting any contractor data in reference to the clause at this time.</p>
<p>The clause states that the clause shall flow down to subcontractors at the time of subcontract award, is that true or should prime contractors flow-it down now?</p>		<p>The requirement to flow down the clause to subcontracts is effective immediately upon acceptance of the clause by the prime contractor either through a modification or a new award. The "on the date of subcontract award" refers to the FAR definition of the Micro Purchase Threshold as of the date of award not the date the clause needs to be included.</p>
<p>Do all contracts need to be modified by Jan 1? Based on the Effective Date section of the PM it appears that extensions, renewals or options to existing contracts awarded before Oct 15 would not be required to be modified until such time as the renewal or option was needed.</p> <p>This deviation is effective immediately for the following: (iii) extensions or renewals of existing contracts awarded on or after October 15, 2021; and (iv) options on existing contracts exercised on or after October 15, 2021.</p>		<p>No. All existing contracts should be modified by January 1, 2022 unless granted an exception by the BPO regardless of when the option is due. The PM states, "This deviation is effective January 1, 2022, for existing contracts."</p>

<p>GSA is planning to modify its contracts by Nov 14. Once modified is it necessary to include the DOC clause because the GSA contracts is being modified at the Master (base) contract level? The comments matrix received from OAM states:</p> <p>"GSA is inserting its deviated clause in its master contracts (Schedules and GWACs) and this clause requires flow down of the GSA deviation clause to subcontracts above the simplified acquisition threshold. In accordance with Executive Order 14042 and associated guidance, DOC has decided to broadly apply the DOC deviation clause in its acquisitions by requiring flow down of the deviation clause to subcontracts above the micro-purchase threshold. Contracting officers shall insert the DOC deviation clause in all new and existing GSA orders."</p> <p>Are we still required to insert the DOC clause at order level for GSA orders?</p>		<p>Yes, you are required to insert the DOC clause.</p>
<p>Is there a date for ES-A modifying Thier Master (base) contracts?</p>		<p>ES-A will need to modify all of their base contracts by January 1, 2022 unless there is an earlier option.</p>
<p>To confirm, the modifications should be issued bilaterally. If there is an issue do we attempt to issue unilaterally and then deal with a claim for equitable adjustment?</p>		<p>The modifications should be issued bilaterally using the appropriate changes clause.</p>