



Federal Maritime Commission

October 13, 2021

Class Deviation from Federal Acquisition Regulation
Implementation of Executive Order 14042,
Ensuring Adequate COVID Safety Protocols for Federal Contractors (2022-001)

Purpose:

This class deviation is issued in accordance with Federal Acquisition Regulation (FAR) 1.404. The purpose of this deviation is to implement Executive Order 14042 Ensuring Adequate COVID Safety Protocols for Federal Contractors.

Background:

Background: On September 30, 2021, 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 was issued. CAAC Letter 2021-03 serves as consultation in accordance with FAR 1.404, authorizing agencies to issue a class deviation to implement Executive Order 14042 Ensuring Adequate COVID Safety Protocols for Federal Contractors.

September 9, 2021, Executive Order (E.O.) 14042 was signed by the President and published in the Federal Register at 86 FR 50985 on September 14, 2021. The E.O. requires agencies to include a clause requiring contractors and subcontractors at any tier to comply with all guidance for contractor workplace locations as published by the Safer Federal Workforce Task Force (Task Force Guidance). This clause applies to solicitations and contracts for services, including construction.

Guidance:

Contracting Officers shall include the clause into the following

- New contracts entered into on or after October 15, 2021;
- New solicitations issued on or after October 15, 2021;
- Extensions or renewal of existing contracts; and
- Exercise of options on existing contracts

Applicability:

1. The clause is required in all solicitations, contracts, orders, and agreements for supplies and services, except as indicated below.
 - Micro-Purchases;
 - Solicitations and contracts if performance is outside the United States or its outlying areas (the exclusion is limited to employees who are performing work only outside the U.S. or its outlying areas);
 - Contracts and subcontracts with Indian Tribes under the Indian Self Determination and Education Assistance Act (Public Law 93-638) (the exclusion would not apply to a procurement contract or subcontract under the FAR to an Indian-owned or tribally-owned business entity);
 - Employees who perform work outside the United States or its outlying areas, as those terms are defined in section 2.101 of the Federal Acquisition Regulation; or
 - Subcontracts solely for the provision of products.

2. The Federal Maritime Commission is strongly encouraging the clause in Contracts or subcontracts whose value is equal to or less than the SAT.

Requirements:

- Existing Solicitations – Contracting Officer shall amend solicitations to incorporate FAR clause at 52.223-99 and obtain the signature of the vendor.
- Existing Contracts above the Simplified Acquisition Threshold – Contracting Officer shall issue a bi-lateral modification to incorporate the FAR clause at 52.223-99.

Clause Changes:

52.223-99 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors. (OCT 2021) (DEVIATION)

Expiration:

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

Should you have any questions concerning this Class Deviation, please contact Michelle Calhoun on 202-523-5901 or mcalhoun@fmc.gov.

Patrick M. Moore
Senior Procurement Executive

Attachment:

52.223-99 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors. (OCT 2021) (DEVIATION)