



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

In reply refer to
DARS Tracking Number: 2025-O0003

MEMORANDUM FOR COMMANDER, UNITED STATES CYBER
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Class Deviation—Restoring Merit-Based Opportunity in Federal Contracts

Effective immediately, contracting officers shall—

- Not take any action to implement or enforce Executive Order (E.O.) 11246, Equal Employment Opportunity, as implemented in Federal Acquisition Regulation (FAR) subpart 22.8;
- Not use the solicitation provisions and contract clauses prescribed at FAR 22.810 or 22.407(a)(4);
- Not review the representations in the System for Award Management that are based upon those solicitation provisions; and
- Not follow the procedures in Defense Federal Acquisition Regulation Supplement (DFARS) subpart 222.8 or DFARS Procedures, Guidance, and Information subpart 222.8.

Contracting officers shall—

(1) Not use the following solicitation provisions and contract clauses in new solicitations and contracts:

- (a) 52.222-21, Prohibition of Segregated Facilities.
- (b) 52.222-22, Previous Contracts and Compliance Reports.
- (c) 52.222-23, Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity for Construction.
- (d) 52.222-24, Preaward On-Site Equal Opportunity Compliance Evaluation.
- (e) 52.222-25, Affirmative Action Compliance.

- (f) 52.222-26, Equal Opportunity.
- (g) 52.222-27, Affirmative Action Compliance Requirements for Construction.
- (h) 52.222-29, Notification of Visa Denial.

(2) For new solicitations and contracts, use the paragraphs in the attached solicitation provisions and contract clauses in lieu of those paragraphs in the provisions and clauses in FAR part 52, as appropriate.

(3) Amend open solicitations to—

(a) Remove the solicitation provisions and contract clauses in paragraph (1) of this class deviation; and

(b) Use the paragraphs in the attached solicitation provisions and contract clauses in lieu of those paragraphs in the provisions and clauses in FAR part 52, as appropriate.

(4) Modify existing contracts to remove the contract clauses in paragraph (1) of this class deviation and incorporate the paragraphs in the attached solicitation provisions and contract clauses in lieu of those paragraphs in the provisions and clauses in FAR part 52, as appropriate. Contracting officers are not required to modify contract actions nearing the end of the period of performance (i.e., less than 6 months remaining) and without options to extend.

This class deviation implements E.O. 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, and E.O. 14168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government. E.O. 14173 revoked E.O. 11246, which was the source of the coverage at FAR subpart 22.8. E.O. 14168 directs the Government to not use the term “gender” in Federal policies and documents.

This class deviation remains in effect until implemented in the FAR and DFARS. Direct questions to DPCAP/DARS at osd.dfars@mail.mil.

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John M. Tenaglia
Principal Director,
Defense Pricing, Contracting, and
Acquisition Policy

Attachment:
As stated

52.204-8 Annual Representations and Certifications.

Substitute the following paragraphs (c)(1)(xiv) and (xv) for those paragraphs in the provision at Federal Acquisition Regulation (FAR) 52.204-8:

ANNUAL REPRESENTATIONS AND CERTIFICATIONS (MAR 2025) (DEVIATION 2025-O0003)

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(c) * * *

(1) * * *

(xiv) [Reserved]

(xv) [Reserved]

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52.212-3 Offeror Representations and Certifications—Commercial Products and Commercial Services.

Substitute the following paragraph (d) for that paragraph in the provision at FAR 52.212-3:

OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (MAR 2025) (DEVIATION 2025-O0003)

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(d) [Reserved]

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52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services.

Substitute the following paragraphs (b)(33), (34), and (e)(1)(ix) and (x) for those paragraphs in the clause at FAR 52.212-5:

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (MAR 2025) (DEVIATION 2025-O0003)

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(b) * * *

* * * * *

__(33) [Reserved]

__(34) [Reserved]

* * * * *

(e)(1) * * *

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(ix) [Reserved]

(x) [Reserved]

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Alternate II (MAR 2025) (DEVIATION 2025-O0003). Substitute the following paragraphs (e)(1)(ii)(I) and (J) for those paragraphs in Alternate II of FAR 52.212-5:

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(e)(1) * * *

(ii) * * *

* * * * *

(I) [Reserved]

(J) [Reserved]

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52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services).

Substitute the following paragraphs (a)(1)(vii) and (viii) for those paragraphs in the clause at Federal Acquisition Regulation 52.213-4:

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES)
(MAR 2025) (DEVIATION 2025-O0003)

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(a) * * *

(1) * * *

* * * * *

(vii) [Reserved]

(viii) [Reserved]

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52.222-9 Apprentices and Trainees.

Substitute the following paragraph (c) for that paragraph in the clause at Federal Acquisition Regulation 52.222-9:

APPRENTICES AND TRAINEES (MAR 2025) (DEVIATION 2025-O0003)

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(c) [Reserved]

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52.244-6 Subcontracts for Commercial Products and Commercial Services.

Substitute the following paragraphs (c)(1)(xi) and (xii) for those paragraphs in the clause at Federal Acquisition Regulation 52.244-6:

SUBCONTRACTS FOR COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (MAR 2025) (DEVIATION 2025-O0003)

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(c)(1) * * *

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(xi) [Reserved]

(xii) [Reserved]

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