

Department of the Interior Acquisition, Arts, and Asset Policy (DOI-AAAP)

Title	Class Deviation - Buy America Act Non-Availability Exception
Reference Number	0180
Version Number	1
Function(s)	Acquisition
Point of Contact	Giammo, Antonia S,
Source of this Requirement	Civilian Agency Acquisition Council (CAAC) Letter 2022-01, Class Deviation from the Federal Acquisition Regulation (FAR) Regarding Requirements for Nonavailability Determinations under the Buy American Statute
Regulatory Reference	FAR 1.404, DIAR 1401.404, FAR Part 25

Version Detail

The table below describes the version history of this policy.

Version Number	Date	Author	Description of update
01	2/04/2022	Antonia Giammo	Implements the CAAC deviation for the Department of the Interior to incorporate new Made in America waiver requirements in accordance with Executive Order 14005 and Office of Management and Budget (OMB) memoranda.

Purpose:

Issues a Federal Acquisition Regulation (FAR) Class Deviation to the non-availability text at Part 25.

Scope:

This policy applies to Department of the Interior (DOI) FAR based contracts, including multiple-award contracts.

Effective date:

This policy is effective upon signature and will remain in effect until the FAR is amended or the deviation is otherwise rescinded.

Background:

As part of the implementation of [Executive Order \(EO\) 14005, Ensuring the Future is Made in All of America by All of America's Workers](#), the Office of Management and Budget (OMB) has issued supplemental memoranda regarding waivers to Made in America Laws. [Improving the Transparency of Made in America Waivers](#) prescribes new requirements regarding

nonavailability waiver determinations under the Buy American Act. In accordance with the memorandum, all nonavailability waiver determinations must be submitted to the Made in America Office (MIAO), which is not reflected in Federal Acquisition Regulation (FAR) 25.103(b)(2). Additionally, the memorandum requires FAR 25.103(b)(3) to be amended to reflect the coverage of the waiver submission requirements.

While the FAR Council works on updating the FAR to reflect the requirements of the MIAO memo, the FAR Council is required by the MIAO memo to “provide appropriate policy direction to acquisition offices...to promote consistent application of the guidance” in the MIAO memo, and accordingly issued [Civilian Agency Acquisition Council \(CAAC\) Letter 2022-01, Class Deviation from the Federal Acquisition Regulation \(FAR\) Regarding Requirements for Nonavailability Determinations under the Buy American Statute](#). This policy implements the deviated FAR text from the CAAC Letter at the Department of the Interior.

Action:

Contracting officers shall follow the [attached deviated FAR text](#) until the FAR is amended. As implemented at DOI, the deviated text is different from that provided in CAAC Letter 2022-01 (highlighted).

References:

[Executive Order \(EO\) 14005, Ensuring the Future is Made in All of America by All of America’s Workers](#)
[Made in America Office Memorandum, Improving the Transparency of Made in America Waivers](#)
[Office of Management and Budget Memorandum M-21-26, Increasing Opportunities for Domestic Sourcing and Reducing the Need for Waivers from Made in America Laws](#)

Attachments:

Attachment 1 - [Deviation to FAR Text at Part 25](#)

Approval Signature:

2/4/2022

X Megan Olsen

Megan Olsen
Director, Office of Acquisition and Property Ma...
Signed by: MEGAN OLSEN