



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE CHIEF FINANCIAL OFFICER

September 01, 2017

ACQUISITION ALERT 2017-05

TO: Heads of Contracting Activity
Office of Chief Financial Officer/Contracts and Acquisition Management
Federal Student Aid/Federal Student Aid Acquisition

FROM: Angela Billups, Ph.D.
Deputy Chief Acquisition Officer and Senior Procurement Executive

SUBJECT: Civilian Agency Acquisition Council Letter 2017-01 – Class Deviation

Purpose: This alert is to authorize adherence to the attached Civilian Agency Acquisition Council (CAAC) Letter 2017-01 - Class Deviation implementing Public Law 115-11 which disapproves the Fair Pay and Safe Workplaces final rule.

1. **Deviated Language:** FAR Part 22 – Application of Labor Laws to Government Acquisitions
2. **Applicability:** This Class Deviation applies to all solicitations and resulting contract awards
3. **Effective Date:** Immediately
4. **Expiration Date:** When the FAR has been updated or the CAAC Letter 2017-01 (Class Deviation) is otherwise rescinded
5. **Background and Other Details:** See attached
6. **Required Actions and Guidance:**
 - a. **Amendment and Modification of Existing Solicitations and Contracts:** Many sections of the FAR rule that implemented the FAIR Pay and Safe Workplaces requirements were already enjoined by the United States District Court for the District Court of Texas. However, the Court Order did not enjoin implementation of those sections of, or the clause in, the FAR rule addressing paycheck transparency requirements. This includes FAR 22.2005, 22.2007(d), and the clause 52.222-60. The requirements related to paycheck transparency, which became effective for new solicitations issued on or after January 1, 2017, are now null and void with the signing into law of Public Law 115-11 on March 27, 2017. The CAAC has undertaken rulemaking to formally remove the paycheck transparency requirements from the FAR. However, because the requirements became null and void with the signing into law of Public Law 115-11, agencies should not wait for the formal rescission of the requirements from the FAR by the CAAC to comply with Public Law 115-11.

Contracting Officers shall:

- I. Ensure new solicitations do not include the clause at FAR 52.22-60;
- II. If a solicitation has been issued with the clause at FAR 52.22-60, amend those solicitations immediately to remove that clause; and
- III. If a contract has been issued that contains the clause at FAR 52.222-60, modify the contract to delete that clause.

b. **Updated Clause Language:** Please note the provision at FAR 52.212-3 has been revised, the revisions can be found in the attached on Page 4. This revised version of the provision reflects the updates enacted by Public Law 115-11.

7. **Attachment:** CAAC Letter 2017-01, dated June 12, 2017

8. **Additional Information:** Contact Gregory Fields, gregory.fields@ed.gov