



MEMORANDUM FOR BUREAU CHIEF PROCUREMENT OFFICERS

FROM: SHANNA WEBBERS, Shanna R. Webbers Digitally signed by Shanna R. Webbers
Date: 2018.10.29 12:52:30 -04'00'
SENIOR PROCUREMENT EXECUTIVE, ACTING
OFFICE OF THE PROCUREMENT EXECUTIVE

SUBJECT: **Class Deviation— The Federal Acquisition Regulation to remove the requirement that contracting officers make a best procurement approach determination to use an interagency acquisition.**

- 1. PURPOSE:** The purpose of this acquisition bulletin (AB) is to issue a class deviation to the Federal Acquisition Regulation (FAR). This class deviation gives effect to section 875 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Pub. L. 115-232) which removes the statutory requirement for a best procurement approach determination when using an interagency acquisition (see [FAR 17.502-1\(a\)](#)).
- 2. EFFECTIVE DATE:** Upon issuance
- 3. EXPIRATION DATE:** This AB will expire upon the incorporation of this statutory change in the FAR or otherwise superseded or rescinded by the SPE.
- 4. BACKGROUND:** The NDAA for FY19 (Public Law 115-232) (see section 875) removes the best procurement approach determination requirement when using an interagency acquisition. [FAR Case 2018-015](#) has been opened by the FAR Council to implement this statutory change in the FAR by removing FAR 17.502-1(a) and references to that provision. However, it takes time for the FAR to be amended. As a result, the Chair of the Civilian Agency Acquisition Council (CAAC) issued [CAAC Letter 2018-04](#) on September 27, 2018 authorizing civilian agencies, which includes the U.S. Department of the Treasury (Treasury), to issue a deviation from the FAR in order to implement this statutory change prior to the FAR being amended¹. The Senior Procurement Executive (SPE) has determined issuance of such a deviation will provide substantial administrative efficiencies for Treasury, specifically it will decrease the amount of documentation required when processing these types of acquisitions. Overall, this class deviation from the FAR is authorized in accordance with FAR 1.404 and Department of Treasury Acquisition Regulation (DTAR) 1001.404.

¹This CAAC Letter constitutes consultation with the Chair of the CAAC as required by FAR 1404(a)(1).



DEPARTMENT OF THE TREASURY
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5. **DESCRIPTION OF THE DEVIATION:** Attachment A of this Acquisition Bulletin (AB) provides the FAR citations being amended to implement the statutory change described herein. The FAR baseline used for this class deviation is FAC Number 2005-101, effective October 26, 2018 which is available at <https://www.acquisition.gov>.
6. **REQUIRED BUREAU ACTIONS:** Bureau Chief Procurement Officers shall take immediate steps to:
 - a. Update related Bureau policies and procedures, and guidance impacted by this deviation; and
 - b. Ensure dissemination of this AB to all acquisition personnel to ensure full awareness and compliance.
7. **ADDITIONAL INFORMATION:** Questions regarding this AB can be directed to Mr. Thomas O'Linn, who may be reached at thomas.olinn@treasury.gov or OfficeoftheProcurementExecutive@treasury.gov.
8. **ATTACHMENTS:**
 - a. Attachment A - Acquisition Bulletin No. 19-01 – Class Deviation (Deviation No. 2019-00001)

**Attachment A –
Acquisition Bulletin No. 19-01 –
Class Deviation (Deviation No. 2019-00001)**

The below represents the FAR citations being amended by this AB. This AB authorizes a class deviation to implement the removal of the best procurement approach determination requirement to use an interagency acquisition prescribed by FAR 17.502-1(a) until such time the FAR is amended (see section 875 of the NDAA for FY 2019 (Pub. L. 115-232)).

The FAR baseline used for this class deviation is FAC Number 2005-101, effective October 26, 2018 (see <https://www.acquisition.gov>). Changes to the FAR text as authorized by this deviation are shown by ~~strikethrough~~ text (i.e. deletions) and by bracketed yellow highlighted text (i.e. additions). ***** are used to show there is no change in the FAR text proceeding or following as a result of this deviation.

1. FAR 4.603 is amended as follows:

4.603 Policy.

(c) Agencies awarding assisted acquisitions or direct acquisitions must report these actions and identify the Program/Funding Agency and Office Codes from the applicable agency codes maintained by each agency at FPDS. These codes represent the agency and office that has provided the predominant amount of funding for the contract action. For assisted acquisitions, the requesting agency will receive socioeconomic credit for meeting agency small business goals, where applicable. Requesting agencies shall provide the appropriate agency/bureau component code as part of the written interagency agreement between the requesting and servicing agencies (see 17.502-1 ~~(b)(1)~~ **[(a)(1)]**).

2. FAR 8.404 is amended as follows:

8.404 Use of Federal Supply Schedules.

(b)(1) *****

(2) For orders over \$550,000, see [subpart 17.5](#) for additional requirements for interagency acquisitions. ~~For example, the requiring agency shall make a determination that use of the Federal Supply Schedule is the best procurement approach, in accordance with 17.502-1(a).~~

3. FAR 17.502-1 is amended as follows:

17.502-1 General.

~~(a) Determination of best procurement approach.~~

~~(1) Assisted acquisitions. Prior to requesting that another agency conduct an acquisition on its behalf, the requesting agency shall make a determination that the use of an interagency acquisition represents the best procurement approach. As part of the best procurement approach determination, the requesting agency shall obtain the concurrence of the requesting agency's responsible contracting office in accordance with internal agency procedures. At a minimum, the determination shall include an analysis of procurement approaches, including an evaluation by the requesting agency that using the acquisition services of another agency —~~

~~(i) Satisfies the requesting agency's schedule, performance, and delivery requirements (taking into account factors such as the servicing agency's authority, experience, and expertise as well as customer satisfaction with the servicing agency's past performance);~~

~~(ii) Is cost effective (taking into account the reasonableness of the servicing agency's fees); and~~

~~(iii) Will result in the use of funds in accordance with appropriation limitations and compliance with the requesting agency's laws and policies.~~

~~(2) Direct acquisitions. Prior to placing an order against another agency's indefinite-delivery vehicle, the requesting agency shall make a determination that use of another agency's contract vehicle is the best procurement approach and shall obtain the concurrence of the requesting agency's responsible contracting office. At a minimum, the determination shall include an analysis, including factors such as:~~

~~(i) The suitability of the contract vehicle;~~

~~(ii) The value of using the contract vehicle, including —~~

~~(A) The administrative cost savings from using an existing contract;~~

~~(B) Lower prices, greater number of vendors, and reasonable vehicle access fees; and~~

~~(iii) The expertise of the requesting agency to place orders and administer them against the selected contract vehicle throughout the acquisition lifecycle.~~

~~[(a)](b) Written agreement on responsibility for management and administration.~~

~~*****~~

~~[(b)](e) Business-case analysis requirements for multi-agency contracts and governmentwide acquisition contracts. *****~~

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4. FAR 35.017-3 is amended as follows:

35.017-3 Using an FFRDC.

(a) All work placed with the FFRDC must be within the purpose, mission, general scope of effort, or special competency of the FFRDC.

(b) Where the use of the FFRDC by a nonsponsor is permitted by the sponsor, the sponsor shall be responsible for compliance with paragraph (a) of this subsection.

(1) The nonsponsoring agency shall ~~prepare a determination in accordance with 17.502-1(a) and~~ provide the documentation required by 17.503(e) to the sponsoring agency.

(2) When a D&F is required pursuant to 17.502-2(c), the nonsponsoring agency ~~may incorporate the determination required by 17.502-1(a) into~~ [shall prepare] the D&F and provide the documentation required by 17.503(e) to the sponsoring agency.

(3) When permitted by the sponsor, a Federal agency may contract directly with the FFRDC, in which case that Federal agency is responsible for compliance with part 6.