



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

In reply refer to
DARS Tracking Number: 2024-O0008

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—Revision of Small Purchase Exception for the Acquisition of U.S. Flags

Effective immediately, contracting officers shall use the attached clause in lieu of the clause at DFARS 252.225-7006, Acquisition of the American Flag, in solicitations and contracts that exceed \$10,000, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, unless a waiver is granted.

The Secretary of Defense may waive the restriction at DFARS 225.7002-1(a), for the purchase of U.S. flags in an amount greater than \$10,000 if the Secretary determines such waiver is appropriate.

This class deviation implements section 832 of the National Defense Authorization Act of Fiscal Year 2024 (Pub. L. 118-31). Section 832 adds U.S. flags to the list of covered items in 10 U.S.C. 4862(b) and revises the exception for small purchases as provided in 10 U.S.C. 4862(h) for the acquisition of U.S. flags. The new restriction requires that contracting officers comply with 10 U.S.C. 4862, Requirement to buy certain articles from American sources (commonly known as the Berry Amendment), when acquiring U.S. flags under a DoD contract. In addition to the restriction at DFARS 225.7002-1(b), the restriction at 10 U.S.C. 4862(a)(5) now requires full domestic production of U.S. flags acquired by DoD and applies to acquisitions greater than \$10,000 for contracts and subcontracts for the procurement of U.S. flags.

This class deviation remains in effect until incorporated into the Defense Federal Acquisition Regulation Supplement or until otherwise rescinded. My point of contact is Mr. Jeffrey Grover, DPC/CP who is available at jeffrey.c.grover.civ@mail.mil.

Class Deviation 2024-O0008
Revision of Small Purchase Exception for the Acquisition of U.S. Flags

John M. Tenaglia
Principal Director,
Defense Pricing and Contracting

252.225-7006 Acquisition of the American Flag (DEVIATION 2024-O0008).

Insert the following deviation clause in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, that exceed \$10,000 and that are for the acquisition of the American flag.

ACQUISITION OF THE AMERICAN FLAG (DEVIATION 2024-O0008) (DATE)

- (a) *Definition.* “United States,” as used in this clause, means the 50 States, the District of Columbia, and outlying areas.
- (b) If the Contractor is required to deliver under this contract one or more American flags (Product or Service Code 8345), such flag(s), including the materials and components thereof, shall be manufactured in the United States, consistent with the requirements at 10 U.S.C. 4862 (commonly known as the “Berry Amendment”).
- (c) This clause does not apply to the acquisition of any end items or components related to flying or displaying the flag (e.g., flagpoles and accessories).
- (d) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts, including subcontracts for the acquisition of commercial products and commercial services.

(End of clause)