



OFFICE OF THE UNDER SECRETARY OF DEFENSE

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WASHINGTON, DC 20301-3000

ACQUISITION
AND SUSTAINMENT

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: Contracting Updates with the Termination of the COVID-19 Emergency

On April 10, 2023, the President signed into law H.J. Res. 7, which terminated the national emergency related to the COVID-19 pandemic. The emergency declaration made by the President on March 13, 2020, authorized Federal assistance to supplement State and local pandemic response efforts and met the definition of “emergency” at 42 U.S.C. 5122. As this national emergency declaration has terminated, contract awards shall not use emergency acquisition flexibilities that were permitted by the national emergency declaration. Additionally, implementation guidance, such as COVID-19 acquisition-specific reporting, based on the emergency is superseded by the termination. Finally, the emergency declaration served as the basis for multiple class deviations that were issued to support the COVID-19 emergency. The following class deviations will either be rescinded or addressed through a follow-on effort, as annotated below:

- Class Deviation 2020-O0012—Undefinitized Contract Actions During the National Emergency for the Coronavirus Disease 2019, dated June 23, 2021, will be rescinded in full.
- Class Deviation 2020-O0010—Progress Payment Rates, Revision 1, dated April 16, 2020, will be superseded and revised to return to a customary progress payment rate of 80% for large businesses. This will be done in a manner that minimizes disruption. The effective date and details of the planned prospective change for new contracts are forthcoming. The Department anticipates Revision 2 will retain the 95% progress payment rate for small businesses that was introduced by Class Deviation 2020-00010, issued on March 20, 2020.
- Class Deviation 2021-O0004—Requirements for Contractor Personnel Performing in the U.S. Southern Command Area of Responsibility, dated February 18, 2021, will be maintained in force until codified through a DFARS case at a later date.

- Class Deviation 2020-O0016—Original Documents, Signatures, Seals, and Notarization, dated April 30, 2020, will be maintained in force concurrently with CAAC Letter 2020-04, applicable to Federal Civilian agencies, until codified through FAR Case 2021-001, Increased Efficiencies with Regard to Certified Mail, In-person Business, Mail, Notarization, Original Documents, Seals, and Signatures. Estimated publication date is July 2023.
- Class Deviation 2020-O0014—Flexibilities for Electronic Delivery of Information Related to Suspensions and Debarments, dated April 20, 2020, will be maintained in force concurrently with CAAC Letter 2020-01 applicable to Federal Civilian agencies, until codified through FAR Case 2019-015 Improving Consistency Between Procurement & Non-Procurement Procedures on Suspension and Debarment. Estimated publication date is September 2023.
- Class Deviation 2020-O0021—Revision 3, Section 3610 Reimbursement Requests, dated March 23, 2021, will be maintained in force until such time that all reimbursement actions can be determined as complete.
- Class Deviation 2020-O0013—Revision 4, CARES Act Section 3610 Implementation, dated March 23, 2021, will be maintained in force until such time that all reimbursement actions can be determined as complete.

I commend the adaptability and professionalism demonstrated by the DoD Contracting workforce, who in consultation with Government program managers and requirements owners, persevered throughout the emergency. Your efforts in executing these authorities were critical in facilitating DoD's ability to support and assist the federal response to garner every resource possible to defeat this pandemic. The magnitude of support in contract actions and dollars that were executed by the DoD Contracting community serve as a testament to these qualities. You executed 67,265 contracts valued at over \$75B. In addition, you executed 540 Other Transaction agreements valued at over \$10B, and 3,765 Financial Assistance actions valued at over \$3B.

This memo and related documents are posted on the DPC website at www.acq.osd.mil/asda/dpc/cp/policy/covid-19.html. My point of contact for this memorandum is Lt Col Jason Holman, DPC, Contract Policy, at osd.pentagon.ousd-a-s.mbx.dpc-cp@mail.mil.

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Defense Pricing and Contracting