

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

Title	Class Deviation – Flexibilities for Suspending and Debarring Official's Correspondence with Contractors
Reference Number	DOI-AAAP-0161
Version Number	01
Function(s)	Acquisition
Point of Contact	Lori Vassar
Source of this Requirement	Civilian Agency Acquisition Council (CAAC) Letter 2020-01, Class Deviation from the Federal Acquisition Regulation (FAR) regarding Flexibilities for the Suspending or Debarring Official's Correspondence with Contractors, April 1, 2020
Regulatory and Statutory References	FAR 9.406-3(b), (b)(1), (b)(2)(i), (c), (e)(1), and (e)(2); FAR 9.407-3(b), (b)(1), (b)(2)(i), (c), (c)(5), and (d)(4).; DIAR 1401.404 Class Deviations

Version Detail

Version Number	Date	Author	Description of update
01	04/06/2020	Lori Vassar	Implements the CAAC Deviation and communicates the Department's position on service of notices and presentation by respondents.

Purpose:

This policy issues a class deviation, in accordance with Federal Acquisition Regulation (FAR) 1.404, Department of the Interior Acquisition Regulation System (DIAR) Subpart 1401.4 and [Attachment 1 - CAAC Letter 2020-01, Class Deviation from the Federal Acquisition Regulation \(FAR\) regarding Flexibilities for the Suspending or Debarring Official's Correspondence with Contractors](#) (Attachment 1 - CAAC Letter 2010-02 and Attachment A to the Letter).

Scope:

This policy applies to correspondence, communications, and presentations with the DOI Suspending and Debarring Official in accordance with the CAAC Letter 2020-01, and FAR Subparts 9.4 and 1409.4.

Effective date:

This policy is effective upon signature. Consideration of whether the deviation is still necessary will be given, when DOI employees return to work in their Federal work space.

Background:

FAR 9.406-3 and FAR 9.407-3 currently require contractors to be notified of a suspension, proposed debarment, or debarment action from the SDO via certified mail, return receipt requested. Unfortunately, as written, the FAR precludes any other type of notification such as an electronic means of notification that may be beneficial during times of emergency or crisis such

as those presented by the Novel Coronavirus 2019 (COVID-19) pandemic. CAAC Letter 2020-01 authorizes a class deviation to allow greater flexibility for SDOs by providing a means of electronic delivery of notices of suspension, proposed debarment, and debarment to contractors in addition to certified mail, return receipt requested as required under FAR 9.406-3 and FAR 9.407-3. The class deviation will also allow for greater flexibility in allowing contractors to make presentations via telephone or internet. The areas of the FAR amended by this class deviation are: [FAR 9.406-3\(b\), \(b\)\(1\), \(b\)\(2\)\(i\), \(c\), \(e\)\(1\), and \(e\)\(2\)](#); and [FAR 9.407-3\(b\), \(b\)\(1\), \(b\)\(2\)\(i\), \(c\), \(c\)\(5\), and \(d\)\(4\)](#).

Action:

The DOI Suspending and Debarring Official shall modify future notices as described below:

- Provide notices issued pursuant to FAR 9.406-3(b)(1), (c), (e)(1) and (e)(2) and DIAR 1409.406-3(b) and (e)(2), in accordance with revised procedures set forth in Attachment A – Clause 9.406-3(c) and (e)(1) and (2).
- Provide notices issued pursuant to FAR 9.407-3(b)(1), (c), (d)(4) and DIAR 1409.407-3(b) and (e)(2) in accordance with revised procedures set forth in Attachment A – Clause 9.407-3(c) and (d)(4).
- Provide notices issued pursuant to 9.406-3(b)(1), (c)(4), and DIAR 1409.406-3(b) and 1409.407-3(b) and (c)(2)(iii) to include flexible procedures to allow a contractor (and any specifically named affiliates) to present matters in opposition and participate in fact-finding proceedings via telephone or internet, in accordance with revised procedures set forth in Attachment A – Clause 9.406-3(b)(1) and 9.407-3(b)(1).

Attachments:

The following attachments apply to this policy:

- [Attachment 1- Civilian Agency Acquisition Council \(CAAC\) Letter 2020-01, Class Deviation from the Federal Acquisition Regulation \(FAR\) regarding Flexibilities for the Suspending or Debarring Official's Correspondence with Contractors, April 1, 2020.](#)
- [Attachment A – FAR Deviation Text \(included in Attachment 1\).](#)

Approval Signature

Megan Olsen

Director, Office of Acquisition and Property Management