



SOCIAL SECURITY

MEMORANDUM

Date: October 30, 2023 **Refer To:** S1QC

To: Office of Acquisition and Grants Staff

From: Kimberly Strickland //s//
Procurement Analyst, Division of Policy and Purchase Card Administration (DPPCA),
Office of Acquisition Support

Subject: Flash Notice (FN) 22_24-01 – Class Deviation from the Federal Acquisition Regulation (FAR) Regarding Legal Challenges to Executive Order (E.O.) 14026, Increasing the Minimum Wage for Federal Contractors.

Purpose

This FN implements the agency's approval of a FAR class deviation pursuant to the October 10, 2023, Civilian Agency Acquisition Counsel (CAAC) Letter 2024-01 (see below). The Letter authorized a clause deviation regarding a September 26, 2023, court order in litigation challenging E.O. 14026.

Policy and Procedure

Effective immediately, contracting staff must:

1. For new contracts:
 - a. For solicitations not yet issued, insert the deviated clause 52.222-55, Minimum Wages for Contractor Workers Under Executive Order 14026 DEVIATION (OCT 2023), in solicitations and contracts that include the clause at 52.222-6, Construction Wage Rate Requirements, or 52.222-41, Service Contract Labor Standards, where work is to be performed, in whole or in part, in the United States.
 - b. For solicitations that have been issued but where an award has not been made, the solicitation must be amended to replace FAR clause 52.222-55 (JAN 2022) with the deviated FAR clause 52.222-55 DEVIATION (OCT 2023).
2. For existing contracts:

- a. When extending, renewing, or exercising an option, replace FAR clause 52.222-55 (JAN 2022) with the deviated clause FAR 52.222-55 DEVIATION (OCT 2023) through bilateral modifications. If the contracting officer is unable to incorporate the deviated clause in an existing contract through bilateral modification, then the contracting officer shall not enforce the requirements of FAR clause 52.222-55 (JAN 2022) for federal contracts or subcontracts to which the States of Texas, Louisiana, or Mississippi, including their agencies, are a party.
 - b. For all other existing contracts, the contracting officer shall not enforce the requirements of FAR clause 52.222-55 (JAN 2022) for federal contracts or subcontracts to which the States of Texas, Louisiana, or Mississippi, including their agencies, are a party.
3. Only use the deviated clause, 52.222-55 DEVIATION (OCT 2023), while the injunction is in effect.
4. Attachment 2 provides the Microsoft Word version of the deviation clause for inclusion in solicitations and contracts. The deviated clause will be added to SSA's Streamlined Acquisition System clause templates.

Further Information

Direct questions regarding this FN to Kimberly Strickland, Procurement Analyst, DPPCA, at (410) 965-9550 or Kimberly.Strickland@ssa.gov.

Attachments

Attachment 1 – CAAC Letter 2024-01



CAAC Letter
2024-01_10.10.2023.pdf

Attachment 2 – FAR 52.222-55 DEVIATION (Oct 2023)



52.222-55 Deviation
Oct 2023.docx

Attachment 3 – Agency Class Deviation Approval



Class Deviation_EO
14026_Increasing Min