



Homeland Security

AUG 21 2012

MEMORANDUM FOR: Department of Homeland Security
Heads of the Contracting Activities

FROM: Daniel L. Clever
Deputy Chief Procurement Officer

SUBJECT: Federal Acquisition Regulation Class Deviation (Number 12-03)
Providing Accelerated Payment to Small Business Subcontractors

A handwritten signature in black ink, appearing to read "Daniel L. Clever".

Purpose: This class deviation is issued in accordance with Federal Acquisition Regulation (FAR) 1.404 to implement the requirements of the Office of Management and Budget (OMB) Policy Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors, dated July 11, 2012.

Effective Date: Immediately.

Background: On July 11, 2012, OMB issued Policy Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors.

Deviation: Contracting officers shall use the attached clause to require prime contractors to pay small business subcontractors on an accelerated timetable to the maximum extent practicable. Accordingly, contracting officers shall insert the clause at 52.232-99 (DEVIATION)(AUG 2012) in all new solicitations and resultant contracts after the date this deviation is signed and, to the extent feasible, modify existing solicitations to insert the clause at 52.232-99 (DEVIATION)(AUG 2012). Contracting officers may amend existing contracts to insert this clause in accordance with FAR 1.108(d).

This deviation implements the temporary one-year policy provided by OMB Policy Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors, dated July 11, 2012, which is designed to accelerate payment from federal prime contractors to their small business subcontractors. To assist in expediting contractor payments to small business subcontractors, the Department of Homeland Security (DHS) will provide accelerated payments to all prime contractors after receipt of a proper invoice and all proper documentation while also maintaining necessary DHS internal controls.

Expiration Date: This deviation remains in effect until it is incorporated into the FAR or into the Homeland Security Acquisition Regulation or is otherwise rescinded.

Additional Information: Questions about this class deviation may be directed to Jeremy Olson, who may be reached at (202)-447-5197, or by email at Jerry.Olson@hq.dhs.gov.

Attachment

Distribution

Kelly Curtin, HCA, United States Secret Service

Richard Gunderson, HCA, United States Customs and Border Protection

Claire Grady, HCA, United States Coast Guard

David Dasher, HCA, Office of Selective Acquisitions

Richard Formella, HCA, Federal Law Enforcement Training Center

Daniel McLaughlin, HCA, Office of Procurement Operations

Karen Shelton Waters, HCA, Transportation Security Administration

William Randolph, HCA, United States Immigration and Customs Enforcement

Francis Spampinato, HCA, Federal Emergency Management Agency

**52.232-99, Providing Accelerated Payment to Small Business Subcontractors
(DEVIATION)**

The contracting officer shall insert the following clause in all solicitations and resultant contracts.

**PROVIDING ACCELERATED PAYMENT TO SMALL BUSINESS SUBCONTRACTORS
(DEVIATION) (AUG 2012)**

This clause implements the temporary policy provided by OMB Policy Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors, dated July 11, 2012.

(a) Upon receipt of accelerated payments from the Government, the contractor is required to make accelerated payments to small business subcontractors to the maximum extent practicable after receipt of a proper invoice and all proper documentation from the small business subcontractor.

(b) Include the substance of this clause, including this paragraph (b), in all subcontracts with small business concerns.

(c) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.