

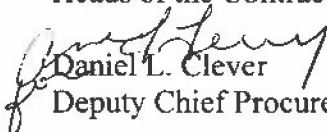


Homeland Security

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

JAN 17 2013

FROM:


Daniel L. Clever
Deputy Chief Procurement Officer

SUBJECT: Class Deviation from the Federal Acquisition Regulation (FAR) Subpart 13.5, Test Program for Certain Commercial Items

Purpose: The purpose of this memorandum is to issue a class deviation in accordance with FAR 1.404, in order that contracting officers at the Department of Homeland Security may continue to utilize the authority at FAR Subpart 13.5 to issue solicitations and award contracts under the Commercial Items Test Program beyond the stated expiration date of January 1, 2012.

Effective Date: Immediately

Background: On January 14, 2013, the Civilian Agency Acquisition Council (CAAC) issued Civilian Agency Acquisition Letter 2013-02 encouraging civilian agencies to issue a class deviation to change the expiration date at FAR 13.500(d) to January 1, 2015. FAR Subpart 13.5 authorizes, as a test program, the use of simplified procedures for acquisition of certain commercial items in amounts greater than the simplified acquisition threshold, but not exceeding \$6.5 million (\$12 million for acquisitions as described in 13.500(e)). Section 822 of the National Defense Authorization Act for Fiscal Year 2013, Public Law 112-239, extended the authority for the test program until January 1, 2015. An expedited FAR case is being processed by the CAAC to change the date of expiration of the test program. Pending a final rule, it is appropriate for DHS to issue a class deviation in accordance with FAR 1.404 to extend the authorities of the test program.

Expiration Date: This class deviation will remain in effect until rescinded or until publication of the forthcoming FAR final rule that will serve to extend the test program for certain commercial items until January 1, 2015.

Attachments:

- DHS Class Deviation from the Federal Acquisition Regulations (FAR) Subpart 13.5 – Test Program for Certain Commercial Items, dated January 17, 2013
- Civilian Agency Acquisition Letter 2013-02, dated January 14, 2013

Additional Information: Questions or comments about this class deviation may be directed to David Duda at (202) 447-5415, or by email at David.Duda@hq.dhs.gov

**Class Deviation from the Federal Acquisition Regulation (FAR)
Subpart 13.5 – Test Program for Certain Commercial Items**

Findings

On January 14, 2013, the Civilian Agency Acquisition Council issued Civilian Agency Acquisition Letter 2013-02 encouraging civilian agencies to issue a class deviation to change the expiration date at FAR 13.500(d) to January 1, 2015.


Subpart 13.5 authorizes, as a test program, use of simplified procedures for the acquisition of supplies and services in amounts greater than the simplified acquisition threshold but not exceeding \$6.5 million (\$12 million for acquisitions as described in 13.500(e)), including options, if the contracting officer reasonably expects, based on the nature of the supplies or services sought, and on market research, that offers will include only commercial items.

FAR 13.500(d) provides authority to issue solicitations under this test program until January 1, 2012. Section 822 of the National Defense Authorization Act for Fiscal Year 2013, Public Law 112-239, extended the authority for the test program until January 1, 2015.

Determination

In accordance with FAR 1.404, I hereby issue a class deviation so that contracting officers at the Department of Homeland Security may continue to use the authority in FAR Subpart 13.5 to issue solicitations and award contracts beyond the stated expiration date of January 1, 2012.

An expedited FAR case is being processed to change the date of expiration of the test program to January 1, 2015. This class deviation will remain in effect until rescinded or until publication of a final rule that will serve to extend the test program for certain commercial items.

for 

Daniel L. Clever
Deputy Chief Procurement Officer
Department of Homeland Security

January 17, 2013


Date



GSA Office of Governmentwide Policy
CIVILIAN AGENCY ACQUISITION LETTER 2013-02

January 14, 2013

MEMORANDUM FOR CIVILIAN AGENCIES OTHER THAN NASA

FROM: LAURA AULETTA 
CHAIR
CIVILIAN AGENCY ACQUISITION COUNCIL (CAAC)

SUBJECT: Class Deviation from the Federal Acquisition Regulation (FAR)
13.5, Test Program for Certain Commercial Items

This memorandum serves as consultation for agency class deviations to extend the Commercial Item Test Program in FAR 13.5. Section 822 of the National Defense Authorization Act for Fiscal Year 2013, Public Law 112-239, extended the authority for the test program until January 1, 2015.

An expedited FAR case is being processed to change the date of expiration for the program in FAR 13.500(d). Pending issuance of the final FAR rule, agencies may authorize a class deviation in accordance with FAR 1.404 to change the program expiration date in FAR 13.500(d) to January 1, 2015.

This CAAC memorandum constitutes consultation with the Chair of the CAAC required by FAR 1.404(a)(1). Agencies are reminded that FAR 1.404 requires agencies to furnish a copy of each approved class deviation to the FAR Secretariat, General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, 7th Floor, ATTN: Hada Flowers, Washington, DC, 20417. Agencies may also email the deviation to Ms. Flowers at hada.flowers@gsa.gov or send by fax to 202-501-4067.

If you have questions or require additional information regarding this memorandum, please contact Michael O. Jackson at (202) 208-4949 or by email at michaelo.jackson@gsa.gov.