



Homeland
Security

MEMORANDUM FOR: Heads of the Contracting Activities

FROM: Soraya Correa CORREA
Chief Procurement Officer

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SORAYA CORREA
Date: 2020.12.08
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SUBJECT: Homeland Security Acquisition Regulation Class Deviation
(Number 21-02) - Reserve Officer Training Corps and Military
Recruiting on Campus

Purpose: This Homeland Security Acquisition Regulation (HSAR) class deviation requires Department of Homeland Security (DHS) contracting officers to follow the Federal Acquisition Regulation (FAR) coverage when implementing the requirements of 10 U.S.C. § 983 and suspends use of HSAR 3009.470 and HSAR clause 3052.209-71, Reserve Officer Training Corps and military recruiting on campus.

Effective: Immediately.

Background: Section 983 of Title 10 U.S.C. prohibits the award of certain Federal contracts to institutions of higher education that prohibit Reserve Officer Training Corps units or military recruiting on campus. This prohibition applies to contracts funded by DHS and other named federal agencies. In 2003, DHS published a rule in the HSAR to implement 10 U.S.C. § 983. The rule added HSAR subpart 3009.470 and HSAR clause 3052.209-71, Reserve Officer Training Corps and Military Recruiting on Campus. Because the prohibitions at 10 U.S.C. § 983 apply to multiple agencies, the Department of Defense's Regulatory Reform Task Force recommended implementing the statute in the FAR to eliminate the need for agency unique supplemental regulations and to ensure uniformity in the statute's implementation among affected agencies. The FAR Council adopted the recommendation and initiated FAR Case 2018-021. The final rule, effective November 23, 2020, added FAR 9.110 that provides the policy and procedures for implementing the 10 U.S.C. § 983 prohibition, including FAR clause 52.209-14, Reserve Officer Training Corps and Military Recruiting on Campus (Nov 2020). The final rule made other revisions to the FAR at 9.405, 9.405-1, 12.503, 13.005, and 43.105. As a result of implementing 10 U.S.C. § 983 in the FAR, use of HSAR 3009.470 and HSAR clause 3052.209-71, Reserve Officer Training Corps and Military Recruiting on Campus, is no longer required and is suspended.

HSAR Class Deviation: This HSAR class deviation suspends use of HSAR 3009.470 and HSAR clause 3052.209-71, Reserve Officer Training Corps and military recruiting on campus. DHS contracting officers shall follow the coverage in the FAR when implementing 10 U.S.C. § 983.

Expiration: HSAR Class Deviation 21-02 will remain in effect until an HSAR update is published in the Code of Federal Regulations to remove HSAR 3009.470 and HSAR clause 3052.209-71.

Questions or comments about this class deviation may be directed to Ellen Murray at (202) 447-5311, or by email at Ellen.Murray@hq.dhs.gov.

Attachment 1: 3009.470 Reserve Officer Training Corps and military recruiting on campus.
(DEVIATION)

PART 3009 CONTRACTOR QUALIFICATIONS

Subpart 3009.4 Debarment, Suspension, and Ineligibility

3009.470 Reserve Officer Training Corps and military recruiting on campus.

3009.470-1 Definition.

3009.470-2 Policy.

3009.470-3 Procedures.

3009.470-4 Contract clause.

Subpart 3009.4 Debarment, Suspension, and Ineligibility

**3009.470 Reserve Officer Training Corps and military recruiting on campus.
(DEVIATION)**

This section is suspended effective November 23, 2020. Contracting officers shall follow the FAR coverage found primarily at 9.110, Reserve Officer Training Corps and military recruiting on campus, with additional coverage at FAR part 9.405, 12.503, 13.005, and 43.105.

3009.470-1 Definition. (DEVIATION)

This section is suspended effective November 23, 2020. Follow coverage at FAR 9.110, 9.405, 12.503, 13.005, and 43.105.

3009.470-2 Policy. (DEVIATION)

This section is suspended effective November 23, 2020. Follow coverage at FAR 9.110, 9.405, 12.503, 13.005, and 43.105.

3009.470-4 Contract clause. (DEVIATION)

This section is suspended effective November 23, 2020. Follow coverage at FAR 9.110, 9.405, 12.503, 13.005, and 43.105.

**3052.209-71 Reserve Officer Training Corps and military recruiting on campus.
(DEVIATION)**

This clause is suspended effective November 23, 2020. Follow coverage at FAR 52.209-14.