



MEMORANDUM FOR Heads of the Contracting Activities
FROM: SORAYA CORREA
Soraya Correa CORREA
Chief Procurement Officer
SUBJECT: Class Deviation 21-01 from Homeland Security Acquisition Manual 3032.702 Contract Funding Policy (e) and (f) for certain requirements

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Date: 2021.03.12
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1. Purpose:

This class deviation from the Homeland Security Acquisition Manual (HSAM) suspends the HSAM limitations on the use of incremental funding of fixed-price, time-and-material or labor hour contracts for services to facilitate the rapid procurement of services and supplies required to support Unaccompanied Alien Children (UAC) while in DHS custody awaiting transfer to Health and Human Services.

2. Background:

The Federal Acquisition Regulation provides policy on incremental funding only for cost type contracts. HSAM 3032.702(e) restricts use of incremental funding of fixed-price, time-and-material, or labor-hour contracts to only during a Continuing Resolution (CR) or the short-term apportionment immediately following a CR. Paragraph (f) prohibits the use of incremental funding for non-severable services and all supplies.

It is imperative the Department maximize funding flexibility to provide quick and efficient mission critical response efforts for UAC. DHS must take immediate measures to provide shelter, meals, medical care, and other related services and supporting supplies for UAC. In this situation, strict compliance with HSAM requirements could result in failure to procure, or to provide essential supplies and materials when needed. Delays in procuring services and related supplies for UAC in DHS custody could pose a substantial risk to human life, health and safety.

3. Applicability:

This class deviation applies to all new procurements and modifications to existing contracts or orders for supplies and materials in support of UAC in DHS custody.

4. Effective Date: This is effective upon signature.

5. Component Responsibilities and Actions:

Effective immediately for procurements of supplies and materials in support of UAC requirements, contracting officers may incrementally fund fixed-price, time-and-materials and labor-hour contracts for services, including non-severable services. The policy for supplies to be fully funded remains in effect.

Awards and modifications using incremental funding must comply with the following requirements:

1. The Contracting Officer ensures the file includes documentation that clearly explains how the procurement supports UAC in DHS custody;
2. Approved one level above the contracting officer;
3. The funds to be obligated are not restricted by a statutory prohibition against incremental funding;
4. The contract or order is incrementally funded using funds available, unexpired, as of the date the funds are obligated;
5. The contract or order includes the information in HSAM 3032.702 to ensure the contractor accepts the limitations of the Government's liabilities under the incrementally funded contract or order; and
6. The responsible financial officer agrees in writing to provide full funding promptly upon receipt.

6. Expiration Date:

This class deviation expires September 30, 2021 unless otherwise modified or rescinded.

7. Additional Information:

Questions regarding this class HSAM deviation should be directed to Catherine Benavides, Catherine.Benavides@hq.dhs.gov.