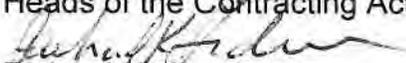


APR 22 2010



Homeland  
Security

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

**FROM:**   
Richard K. Gunderson  
Acting Chief Procurement Officer

**SUBJECT:** Class Deviation from the Federal Awardee Performance and Integrity Information System at Federal Acquisition Regulation (FAR) Subpart 9.4 (Number 10-02)

**Purpose:** The purpose of this memorandum is to issue a class deviation in accordance with FAR 1.404, to remove the requirement that debarring and suspending officials at the Department of Homeland Security enter information on administrative agreements in the Federal Awardee Performance and Integrity Information System (FAPIIS).

**Effective Date:** April 22, 2010

**Background:** On April 14, 2010, the Civilian Agency Acquisition Council (CAAC) issued CAAC Letter 2010-02, with an update on April 15, 2010. CAAC Letter 2010-02 authorizes civilian agencies to issue a class deviation to the requirements at FAR 9.406-3(f)(1) and (f)(2) and 9.407-3(e)(1) and (e)(2) that debarring and suspending officials enter information on administrative agreements into FAPIIS. FAPIIS contains specific information on the integrity and performance of covered Federal agency contractors and grantees. It is designed to improve the Government's ability to evaluate the business ethics and expected performance of prospective contractors. The FAPIIS rule, FAR Case 2008-027 (75 FRN 14059), effective April 22, 2010, requires that contracting officials, debarring and suspending officials, and awardees enter various types of information into the system. However, at present, the FAPIIS system is not configured to accept information pertaining to administrative agreements. As a result, debarring and suspending officials are not able to comply with the FAR requirements. A future version of the system scheduled to launch in late summer 2010, will have the capability to accept this information. Pending implementation of the capability in FAPIIS, it is reasonable and practical for DHS to issue a class deviation in accordance with FAR 1.404 to remove the requirement for debarring and suspending officials to enter information on administrative agreements into FAPIIS.

**Expiration Date:** This class deviation will remain in effect until rescinded.

**Attachments:**

- DHS Class Deviation from the Federal Awardee Performance and Integrity Information System at Federal Acquisition Regulation (FAR) Subpart 9.4 dated April 16, 2010
- Civilian Agency Acquisition Letter 2010-02, dated April 14, 2010
- Civilian Agency Acquisition Letter 2010-02, dated April 15, 2010

**Additional Information:** Questions or comments about this class deviation may be directed to Gloria Sochon at (202) 447-5307, or by email at [gloria.sochon@dhs.gov](mailto:gloria.sochon@dhs.gov).

**Class Deviation from the Federal Acquisition Regulation (FAR)  
Federal Awardee Performance and Integrity Information System at Subpart 9.4**

**Findings**

On April 14, 2010, the Civilian Agency Acquisition Council (CAAC) issued CAAC Letter 2010-02, with an update on April 15, 2010. CAAC Letter 2010-02 authorizes civilian agencies to issue a class deviation to the requirements at FAR 9.406-3(f)(1) and (f)(2) and 9.407-3(e)(1) and (e)(2) that debarring and suspending officials enter information on administrative agreements into the Federal Awardee Performance and Integrity Information System (FAPIS).

FAPIS contains specific information on the integrity and performance of covered Federal agency contractors and grantees. The FAPIS rule, FAR Case 2008-027 (75 FRN 14059), effective April 22, 2010, requires that contracting officials, debarring and suspending officials, and awardees enter various types of information into the system.

At present, the FAPIS system is not configured to accept information pertaining to administrative agreements. As a result, debarring and suspending officials are not able to comply with the requirements at FAR 9.406(f) and FAR 9.407-3(e) to enter information on administrative agreements into FAPIS.

A future version of the system scheduled to launch in late summer 2010, will have the capability to accept this information.

**Determination**

In accordance with FAR 1.404, I hereby issue a class deviation to FAR 9.406-3(f) and FAR 9.407(e) so that debarring and suspending officials at the Department of Homeland Security are not required to enter information on administrative agreements into FAPIS.

This class deviation is effective April 22, 2010.

This class deviation will remain in effect until rescinded.



Richard K. Gunderson  
Acting Chief Procurement Officer  
Department of Homeland Security

22 APR 10  
Date



CIVILIAN AGENCY ACQUISITION LETTER 2010-02

APR 14 2010

MEMORANDUM FOR CIVILIAN AGENCIES OTHER THAN NASA

FROM:

AL MATERA

CHAIRMAN

CIVILIAN AGENCY ACQUISITION COUNCIL

SUBJECT: Consultation for Class Deviations – Federal Awardee Performance and Integrity Information System (FAPIIS) at FAR Subpart 9.4.

On March 23, 2010, the FAR Council published a final rule in the Federal Register (75 FR 14058), which amended the Federal Acquisition Regulation (FAR) to implement section 872 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009. Section 872 requires the establishment of a data system containing specific information on the integrity and performance of covered Federal agency contractors and grantees. The data system titled, the Federal Awardee Performance and Integrity Information System (FAPIIS) is available at [www.ppirs.gov](http://www.ppirs.gov) and [www.cpaars.esd.disa.mil](http://www.cpaars.esd.disa.mil).

FAPIIS is designed to improve the Government's ability to evaluate the business ethics and expected performance of prospective contractors and grantees, and protect the Government from doing business with entities that are not responsible sources.

In addition to providing one-stop access to the Excluded Parties List System (EPLS) and the Past Performance Information Retrieval System (PPIRS), FAPIIS will collect and house information relating to:

- contracting officials' determinations of non-responsibility (*i.e.*, agency assessments that awardees do not meet requisite responsibility standards to perform for the Government);
- terminations for default or cause;
- agency defective pricing determinations; and
- awardee self-reporting of criminal convictions, civil liability, and adverse administrative actions.

The FAPIIS rule requires that contracting officials, debarring and suspending officials and awardees enter various types of information in the data system. Specifically, FAR

9.406-3(f)(1) and 9.407-3(c)(1) requires that debarring and suspending officials input in FAPIIS, information on administrative agreements entered into to resolve a suspension or debarment proceeding. However, at present, the FAPIIS data system is not configured to accept information pertaining to administrative agreements. A future version of the system scheduled to launch in late summer 2010, will have the capability to accept this information so that suspending and debarring officials will be able to fully comply with the FAPIIS requirement.

Until such time as FAPIIS is updated to collect information on administrative agreements, it is recommended that civilian agencies, other than NASA, authorize a class deviation from the FAR provisions at 9.406-3(f)(1) and 9.407-3(e)(1), in accordance with FAR 1.404. This memorandum constitutes consultation with the Chairperson of the CAAC.

If you have questions or require additional information regarding this memo or the FAPIIS requirement, please contact Millisa Gary at (202) 501-0699, or by email at [millisa.gary@gsa.gov](mailto:millisa.gary@gsa.gov).



April 15, 2010

MEMORANDUM FOR CIVILIAN AGENCIES OTHER THAN NASA

FROM:   
AL MATERA  
CHAIRMAN  
CIVILIAN AGENCY ACQUISITION COUNCIL

SUBJECT: Civilian Agency Acquisition Council (CAAC) Letter 2010-02,  
Consultation for Class Deviations – Federal Awardee Performance and  
Integrity Information System (FAPIIS) at FAR Subpart 9.4.

In the subject letter, I advised that until such time as FAPIIS is updated to collect information on administrative agreements, Civilian Agencies other than the National Aeronautics and Space Administration should, pursuant to FAR 1.404, seek a class deviation from the FAR provisions at 9.406-3(f)(1) and 9.407-3(e)(1). For clarity, the deviation should also include the FAR provisions at 9.406-3(f)(2) and 9.407-3(e)(2). This removes both the requirement and the timeframe for submission of information on administrative agreements until further notice.

If you have questions or require additional information regarding this memo or the FAPIIS requirement, please contact Millisa Gary at 202.501-0699, or by email at [millisa.gary@gsa.gov](mailto:millisa.gary@gsa.gov).