



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

In reply refer to
DARS Tracking Number: 2021-O0009

MEMORANDUM FOR COMMANDER, UNITED STATES CYBER
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DEFENSE FIELD ACTIVITIES

SUBJECT: Class Deviation—Ensuring Adequate COVID-19 Safety Protocols for Federal
Contractors

Effective immediately, contracting officers shall insert the clause 252.223-7999, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors (Deviation 2021-O0009), in the following solicitations, contracts, task orders, delivery orders, and modifications thereof that are for services (including construction) performed in whole or in part within the United States or its outlying areas:

- Solicitations issued on or after October 15, 2021, and contracts, task orders, and delivery orders awarded pursuant to those solicitations, that are expected to exceed the simplified acquisition threshold (SAT).
- Contracts, task orders, and delivery orders, awarded on or after November 14, 2021, from solicitations issued before October 15, 2021, that exceed the SAT.
- All extensions or renewals, issued on or after October 15, 2021, of contracts, task orders, and delivery orders that exceed the SAT.
- All options exercised, on or after October 15, 2021, on contracts, task orders, and delivery orders that exceed the SAT.
- Existing indefinite-delivery, indefinite-quantity contracts that are anticipated to have orders that exceed the SAT and that have an ordering period that extends beyond October 15, 2021.

Class Deviation 2021-O0009
Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors

The deviation clause is not required in contracts or subcontracts with Indian Tribes under the Indian Self-Determination and Education Assistance Act (the exclusion would not apply to a procurement contract or subcontract under the Federal Acquisition Regulation (FAR) to an Indian-owned or tribally-owned business entity).

In accordance with the Safer Federal Workforce Task Force Guidance and FAR 1.108(d)(2) and (3), contracting officers may insert the deviation clause in—

- Solicitations issued prior to October 15, 2021;
- Contracts, task orders, or delivery orders awarded before November 14, 2021, resulting from solicitations issued before October 15, 2021;
- Solicitations, contracts, task orders, and delivery orders that are valued at or below the SAT and are for services (including construction) performed in whole or in part within the United States and its outlying areas; or
- Solicitations, contracts, task orders, and delivery orders for the manufacturing of products.

When modifying existing contracts, task orders, or delivery orders in accordance with this deviation, contracting officers shall use a bilateral modification to incorporate the deviation clause.

This class deviation implements the requirements of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, dated September 9, 2021, which directs agencies to include a clause in certain contracts to ensure that contractors comply with all guidance for contractor and subcontractor workplace locations published by the Safer Federal Workforce Task Force at: <https://www.saferfederalworkforce.gov/contractors/>.

This class deviation remains in effect until incorporated into the FAR or until otherwise rescinded. Please direct any comments or questions to Defense Pricing and Contracting, Contract Policy, at osd.pentagon.ousd-a-s.mbx.asda-dp-c-contractpolicy@mail.mil.

John M. Tenaglia
Principal Director,
Defense Pricing and Contracting

Attachment
As stated

252.223-7999 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors (Deviation 2021-O0009)

As prescribed in Class Deviation 2021-O0009, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, use the following clause:

ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (DEVIATION 2021-O0009) (OCT 2021)

(a) *Definition.* As used in this clause –

United States or its outlying areas means—

- (1) The fifty States;
- (2) The District of Columbia;
- (3) The commonwealths of Puerto Rico and the Northern Mariana Islands;
- (4) The territories of American Samoa, Guam, and the United States Virgin Islands; and
- (5) The minor outlying islands of Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Palmyra Atoll, and Wake Atoll.

(b) *Authority.* This clause implements Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, dated September 9, 2021 (published in the *Federal Register* on September 14, 2021, 86 FR 50985).

(c) *Compliance.* The Contractor shall comply with all guidance, including guidance conveyed through Frequently Asked Questions, as amended during the performance of this contract, for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force (Task Force Guidance) at <https://www.saferfederalworkforce.gov/contractors/>.

(d) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts at any tier that exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award, and are for services, including construction, performed in whole or in part within the United States or its outlying areas.

(End of clause)