



October 6, 2020

MEMORANDUM FOR: Heads of Contracting Activity

FROM: David R. Dasher //s//
Deputy Assistant Secretary for the Office of Acquisitions
Senior Procurement Executive

SUBJECT: Federal Acquisition Regulation (FAR) Class Deviation (2020-05) – Implementation of the United States-Mexico-Canada-Agreement (USMCA)

EFFECTIVE DATE: Immediately

EXPIRATION DATE: This class deviation is effective upon signature and remains in effect until the statutory change is incorporated in the FAR or this deviation is rescinded.

PURPOSE: This memorandum approves a class deviation from the Federal Acquisition Regulation (FAR) to implement the United States-Mexico-Canada Agreement (USMCA), as enacted by Congress in the United States-Mexico-Canada Agreement Implementation Act (Pub. L. 116-113).

BACKGROUND: Civilian Agency Acquisition Council (CAAC) Letter 2020-05, Enactment of the United States-Mexico-Canada Agreement Implementation Act (Pub. L. 116-113) implemented the USMCA, which became effective July 1, 2020. It supersedes the North American Free Trade Agreement (NAFTA); therefore, references to NAFTA are replaced with USMCA. Although Canada is still a designated country under the World Trade Organization Government Procurement Agreement, Canada is no longer a Free Trade Agreement country, because Chapter 13 of the USMCA (government procurement) applies only to the United States and Mexico. Therefore, references to Canada as a Free Trade Agreement country are deleted, including the \$25,000 threshold. Mexico thresholds remain unchanged.

AUTHORITY: This class deviation is issued under the authority of the Federal Acquisition Regulation FAR 1.404 and the Department of Health and Human Services Acquisition Regulation HHSAR 301.401. CAAC Letter 2020-05, CAAC Consultation to Issue a Class Deviation for Implementation of the United States-Mexico-Canada Agreement, issued June 29, 2020 (Attachment 1) by the Chair of the Civilian Agency Acquisition Council (CAAC), constitutes consultation with the Chair of the CAAC as required by FAR 1.404(a)(1).

DEVIATION: This class deviation amends several areas of the Federal Acquisition Regulation (FAR) including: FAR Part 4; FAR Part 13; FAR Part 18; FAR Part 22; FAR Part 25; FAR Part 27 and FAR Part 52. Contracting officers should apply the full text of the relevant deviated Federal Acquisition Regulation (FAR) provisions and contract clauses as provided in Attachment A and ensure the changes detailed are reflected in clauses, solicitations and awards, when applicable.

The provisions and clauses included in this class deviation are listed below:

- FAR 52.204-8 Annual Representations and Certifications (DEVIATION 2020-05);
- FAR 52.212-3 Offeror Representations and Certifications—Commercial (DEVIATION 2020-05);
- FAR 52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (DEVIATION 2020-05)
- FAR 52.222-19 Child Labor—Cooperation with Authorities and Remedies (DEVIATION 2020-05);
- FAR 52.225-3 Buy American—Free Trade Agreements—Israeli Trade Act (DEVIATION 2020-05);
- FAR 52.225-4 Buy American—Free Trade Agreement—Israeli Trade Act Certificate (DEVIATION 2020-05);
- FAR 52.225-5 Trade Agreements (DEVIATION 2020-05);
- FAR 52.225-11 Buy American—Construction Materials Under Trade Agreements (DEVIATION 2020-05); and
- FAR 52.225-23 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials Under Trade Agreements (DEVIATION 2020-05).

ATTACHMENTS:

Attachment 1: CAAC Letter 2020-05- CAAC Consultation to Issue a Class Deviation for Implementation of the United States-Mexico-Canada Agreement

Attachment A: CAAC Letter Attachment A-FAR Deviated Text and Clauses

(Class Deviation 2020-05)