


**CLASS DEVIATION
FINDINGS AND DETERMINATION
CERTIFICATIONS REGARDING THE FEDERAL ACQUISITION
REGULATION (FAR) SUBPART 13.5, TEST PROGRAM FOR CERTAIN
COMMERCIAL ITEMS**

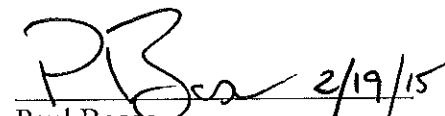
Findings

1. FAR subpart 13.5 authorizes, as a test program, use of simplified procedures for the acquisition of supplies and services in amounts greater than the simplified acquisition threshold but not exceeding \$6.5 million (\$12 million for acquisitions as described in 13.500(e)), including options, if the contracting officer reasonably expects, based on the nature of the supplies or services sought, and on market research, that offers will include only commercial items. The authority to issue solicitations under this subpart became permanent on December 19, 2014 however the language in FAR 13.500 (d) states it expired on January 1, 2015.
2. Section 815 of the National Defense Authorization Act for Fiscal Year 2015, Public Law 113-291, enacted on December 19, 2014, amended section 4202 of the Clinger-Cohen Act of 1996 (division D of Public Law 104-106; 110 Stat. 652; 10 U.S.C. 2304 note) by striking subsection (e) of the Clinger-Cohen Act of 1996. The Clinger-Cohen Act of 1996 first introduced the test program and it has been extended nine times since it was codified in the FAR.
3. The above authority applies to any Executive Federal agency utilizing the FAR, which includes the Department of Energy.
4. The Civilian Agency Acquisition Council (CAAC) issued CAAC Letter 2015-01 on December 29, 2014, authorizing covered agencies to authorize the issuance of a Class Deviation to permanently extend the Commercial Item Test Program in FAR 13.5. An expedited FAR case is being processed to delete the date of expiration for the program in FAR 13.500(d). Pending issuance of the final FAR rule, agencies may authorize a class deviation in accordance with FAR 1.404 to delete FAR 13.500(d). CAAC Letter 2015-01 will serve as the CAAC consult required of the agency official approving the class deviation in accordance with FAR 1.404(a)(1).

Determination

It is hereby determined that a class deviation to delete the date of expiration for the Commercial Item Test Program in FAR 13.5 is appropriate to implement the permanent authority contained in Section 815 of the National Defense Authorization Act for Fiscal Year 2015.


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February 19, 2015
Effective Date

Attachments: CAAC Letter 2015-01
Section 815 of the National Defense Authorization Act for Fiscal Year
2015, Public Law 113-291
Section 4202 of the Clinger-Cohen Act of 1996, (division D of Public Law
104-106; 110 Stat. 652; 10 U.S.C. 2304 note)
FAR 13.5 — Test Program for Certain Commercial Items
FAR 1.4 – Deviations from the FAR