

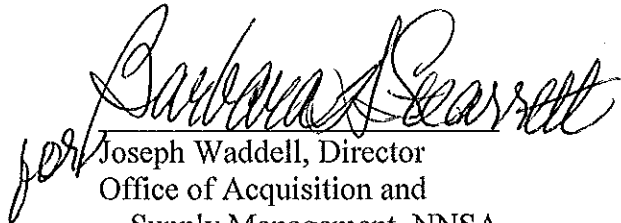
**CLASS DEVIATION
FINDINGS AND DETERMINATION
CERTIFICATIONS REGARDING THE FEDERAL ACQUISITION
REGULATION (FAR) SUBPART 13.5, TEST PROGRAM FOR CERTAIN
COMMERCIAL ITEMS**

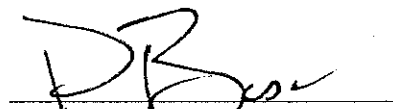
Findings

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 expired on January 1, 2012. Under FAR 13.500(d), contracting officers may award contracts after the expiration of this authority only for solicitations issued before the expiration of the authority.
2. Section 822 of the National Defense Authorization Act for Fiscal Year 2013, Public Law 112-239, 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) subsection (e) by striking '2012' and inserting '2015' and made it effective as of January 1, 2012. The Clinger-Cohen Act of 1996 first introduced the test program and it has been extended eight 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 Civilian Agency Acquisition Letter (CAAL) 2013-02 on January 14, 2013, authorizing covered agencies to authorize the issuance of a Class Deviation to extend the Commercial Item Test Program in FAR 13.5. An expedited FAR case is being processed to change 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 change the program expiration date in FAR 13.500(d) to January 1, 2015. CAAL 2013-02 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 extend the Commercial Item Test Program in FAR 13.5 is appropriate to implement the extended authority contained in Section 822 of the National Defense Authorization Act for Fiscal Year 2013.


for Joseph Waddell, Director
Office of Acquisition and
Supply Management, NNSA


Paul Bosco, Director
Office of Acquisition and
Project Management, DOE

February 21, 2013
Effective Date

Attachments: CAAC Letter 2013-02
Section 822 of the National Defense Authorization Act for Fiscal Year
2013, Public Law 112-239
FAR 13.5 — Test Program for Certain Commercial Items
FAR 1.4 – Deviations from the FAR