

November 2, 2010

DEPARTMENT OF ENERGY

PUBLIC ACCESS TO FEDERAL AWARDEE PERFORMANCE
AND INTEGRITY INFORMATION SYSTEM (FAPIS)

CLASS DEVIATION FOR FEDERAL ACQUISITION REGULATION
(FAR) CLAUSE 52.209-8, UPDATES OF INFORMATION REGARDING
RESPONSIBILITY MATTERS (DEVIATION) (OCT 2010)

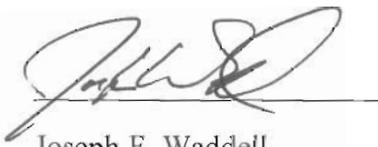
This class deviation revises clause paragraphs (a)(2) and (b)(3) of FAR 52.209-8, Updates of Information Regarding Responsibility Matters, to ease the transition to public availability of information in the Federal Awardee Performance and Integrity Information System (FAPIS). This class deviation implements Section 3010 of Public Law 111-212.

The clause revision informs the contractor when public access to information in FAPIS will be available. For system information that was submitted prior to April 15, 2011, public requests will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated under Executive Order 12600. As required by section 3010 of Public Law 111-212, for system information, except past performance reviews, submitted on or after April 15, 2011, all information posted in FAPIS will be publicly available.

Contracting Officers shall begin using the revised clause in new solicitations and contracts as prescribed at FAR 9.104-7(c). Also, if a current contract will require information, except past performance reviews, to be posted in FAPIS on or after April 15, 2011, the contracting office shall bilaterally modify existing contract to include the revised clause.

This class deviation is effective upon signature and will remain in effect until incorporated in the Federal Acquisition Regulation. This Class Deviation is compliant with Civilian Acquisition Council Letter 2011-01 authorizing the change.

Questions may be directed to either of the following points of contact: for DOE, Barbara Binney at 202-287-1340 or barbara.binney@hq.doe.gov and for NNSA, Stephen Law at 202-286-4321 or Stephen.Law@nnsa.doe.gov.



Joseph F. Waddell

Senior Procurement Executive
NNSA



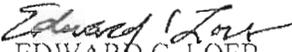
Patrick M. Ferraro
ACTING
Senior Procurement Executive
DOE



GSA Office of Acquisition Policy
CIVILIAN AGENCY ACQUISITION LETTER 2011-01

OCT 14 2010

MEMORANDUM FOR CIVILIAN AGENCIES OTHER THAN NASA

FROM: 
EDWARD C. LOEB
CHAIRMAN
CIVILIAN AGENCY ACQUISITION COUNCIL (CAAC)

SUBJECT: Consultation for Class Deviation – Public Access to Information in the
Federal Awardee Performance and Integrity Information System
(FAPIIS)

The final FAR rule to implement the Federal Awardee Performance and Integrity Information System (FAPIIS), effective April 22, 2010, was published in the Federal Register on March 23, 2010 (FAR Case 2008-027, FAC 2005-40, 75 FR 14059).

Public Law 111-212, enacted on July 29, 2010, requires information in FAPIIS, except past performance reviews, to now reside on a publicly available website. FAR Case 2010-016 was opened on August 25, 2010, to make the corresponding changes to the Federal Acquisition Regulation. FAPIIS system changes are concurrently being developed. The current FAR clause 52.209-8, Updates of Information Regarding Responsibility Matters (version dated APR 2010), contains a statement to contractors that data posted in FAPIIS will not be made public, except information releasable under the Freedom of Information Act (FOIA).

Given the requirements of Public Law 111-212, it is necessary to deviate from use of the current clause in order to ease transition to public availability of information in FAPIIS. This deviation has the effect of reducing the number of contracts that will be awarded containing the current FAR clause, which will then require modification, thus reducing the administrative burden on contracting officers.

A new FAPIIS interim rule, expected to be issued in December 2010, will contain instructions to contracting officers on modifying existing contracts that contain the current FAR clause.

Until such time as the new FAPIIS rule is issued, it is recommended that civilian agencies, other than NASA, authorize a class deviation from FAR clause 52.209-8, Updates of Information Regarding Responsibility Matters (version dated APR 2010), and immediately begin using the attached revised clause in new solicitations and contracts.

This memorandum constitutes consultation with the Chairman of the CAAC.
If you have questions or require additional information regarding this memo or the new
FAPIS clause, please contact Millisa Gary at (202) 501-0699, or by email at
millisa.gary@gsa.gov.

Attachment

Class Deviation - Public Access to FAPIIS

52.209-8 Updates of Information Regarding Responsibility Matters (DEVIATION).

As prescribed at 9.104-7(c), insert the following clause:

UPDATES OF INFORMATION REGARDING RESPONSIBILITY MATTERS (DEVIATION)
(OCT 2010)

(a) (1) The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIIS) on a semi-annual basis, throughout the life of the contract, by posting the required information in the Central Contractor Registration database at <http://www.ccr.gov> (see 52.204-7).

(2) At the first semi-annual update on or after April 15, 2011, the Contractor shall post again any required information that the Contractor posted prior to April 15, 2011.

(b) (1) The Contractor will receive notification when the Government posts new information to the Contractor's record.

(2) The Contractor will have an opportunity to post comments regarding information that has been posted by the Government. The comments will be retained as long as the associated information is retained, *i.e.*, for a total period of 6 years. Contractor comments will remain a part of the record unless the Contractor revises them.

(3) *Public access to information in FAPIIS.* (i) Public requests for system information that was submitted prior to April 15, 2011, will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated under E.O. 12600.

(ii) As required by section 3010 of Public Law 111-212, all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available.

(End of clause)