



MEMORANDUM FOR: ALL GSA CONTRACTING ACTIVITIES

FROM: JEFFREY A. KOSES **JEFFREY KOSES** Digitally signed by JEFFREY KOSES
Date: 2024.05.10 16:14:13 -0400
SENIOR PROCUREMENT EXECUTIVE
OFFICE OF ACQUISITION POLICY (MV)

SUBJECT: FAR Class Deviation - Clarifying Trade Agreements Act Nonavailability Procedures

1. Purpose.

The purpose of this Federal Acquisition Regulation (FAR) Class Deviation (CD) is to provide clarifications to FAR Part 25 regarding the procedures for Trade Agreements Act (TAA) nonavailability determinations.

2. Background.

FAR Part 25.502(b)(3) includes cross-references which require contracting officers to utilize Buy American Act (BAA) procedures for determining nonavailability (without reference to the procedures for the TAA). This CD updates the cross-reference and provides additional clarity for evaluation of foreign offers for supplies subject to the TAA.

3. Authority.

This class deviation is issued under the authority of FAR 1.404 and General Services Administration Acquisition Manual (GSAM) 501.404.

This class deviation is issued after consultation with the Chair of the Civilian Agency Acquisition Council (CAAC) in accordance with FAR 1.404(a) and GSAM 501.404(a).

4. Applicability.

This CD applies to all GSA contracting activities.

5. Deviation.

See Attachment A of this document for a line-in/line-out of the areas of the FAR being amended by this class deviation.

6. Effective Date and Expiration Date.

This class deviation is effective immediately and remains in effect until rescinded or incorporated into the FAR or GSAM.

7. Point of Contact.

Any questions regarding this class deviation may be directed to Bryon Boyer, GSA Acquisition Policy Division, at GSARPolicy@gsa.gov.

Attachments

- Attachment A – FAR Class Deviation Line-In/Line-Out Text

**ATTACHMENT A
FAR DEVIATION LINE-IN/LINE-OUT TEXT
FOR CLASS DEVIATION CD-2024-03**

FAR Baseline: FAC 2024-04, effective on 05/01/2024

- Additions to baseline made by deviation are indicated by **[bold text in brackets]**
- Deletions to baseline made by deviation are indicated by ~~strikethroughs~~
- Five asterisks (*****) indicate that there are no revisions between the preceding and following parts or sections
- Three asterisks (***) indicate that there are no revisions between the material shown within a section and subsection or subsection

PART 25—Foreign Acquisition

Subpart 25.5—Evaluating Foreign Offers-Supply Contracts

25.502 Application.

(a) ***

(b) ***

- (1) Consider only offers of U.S.-made or designated country end products, unless **[either: (i)]no offers of such end products were received[or (ii) the contracting officer determines that the offers of U.S.-made or designated country end products received are insufficient to fulfill the requirements];**
- (2) ***
- (3) If there were **[either: (i)]no offers of U.S.-made or designated country end products[received or (ii) the contracting officer determines that the offers of U.S.-made or designated country end products received are insufficient to fulfill the requirements],[then the contracting officer shall] make a nonavailability determination (see **[1.704]25.403(b)(2)**) and award on the low offer ~~(see 25.403(c)).~~**
