



DEFENSE LOGISTICS AGENCY
HEADQUARTERS
8725 JOHN J. KINGMAN ROAD, SUITE 2533
FORT BELVOIR, VIRGINIA 22060-6221

IN REPLY
REFER TO J-33

MAY 6 2004

MEMORANDUM FOR PROCLTR DISTRIBUTION LIST

SUBJECT: Extension of Class Deviation to Federal Acquisition Regulation (FAR) 51.101(a),
Use of Government Sources by Contractors

This memorandum extends the class deviation issued March 4, 2002, under FARS DEV 02-02, Subject: Class Deviation to Federal Acquisition Regulation (FAR) 51.101(a), Use of Government Sources by Contractors (attached). This deviation has been implemented in the Defense Logistics Acquisition Directive (DLAD). Contracting officers should review language in DLAD at 51.1; 90.501(a) (107); and 90.1101(b) (15).

This class deviation to the FAR Subpart 51.101(a), use of Government Sources by Contractors, permits DLA contracting officers to authorize DLA contractors access to Government supply sources for DLA managed National Stock Numbered (NSN) or Part Numbered (P/N) items under other than cost-reimbursement contracts. Such access shall be limited to items that are stocked or available under DLA contracts, and shall be granted only when the contracting officer can clearly demonstrate a benefit to the Government as outlined in FAR 51.102(a). This extension makes the class deviation effective through March 4, 2009.

CLAUDIA S. KNOTT
Senior Procurement Executive

Attachment





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DLA-J-33
FARS DEV 02- 02

MAR 0 4 2002

MEMORANDUM FOR PROCLTR DISTRIBUTION LIST

SUBJECT: Class Deviation to Federal Acquisition Regulation (FAR) 51.101(a), Use of Government Sources by Contractors

This class deviation to the FAR Subpart 51.101(a), Use of Government Sources by Contractors, permits DLA contracting officers to authorize DLA contractors access to Government supply sources for DLA managed National Stock Numbered (NSN) or Part Numbered (P/N) items under other than cost-reimbursement contracts. Such access shall be limited to items that are stocked or available under DLA contracts, and shall be granted only when the contracting officer can clearly demonstrate a benefit to the Government as outlined in FAR 51.102(a). The rationale for this decision must be documented, coordinated with the managing Inventory Control Point (ICP), approved by the procuring ICP Director of Contracting, and included in the contract file. Attached is the DLAD language implementing this deviation.

This deviation shall not apply to commodities where contractor access to discounted or favorable pricing is prohibited by law, such as pharmaceuticals.

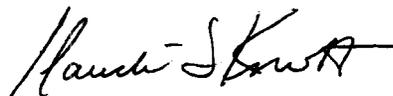
HQ DLA Supply Management Division, J-332, and Acquisition Programs Division, J-335 shall ensure that the requirement to restrict issues to those items authorized in the contract, and generate reports for audit to prevent material diversion, are addressed in Business Systems Modernization. Until such time as an automated tracking tool becomes available, contracting officers must ensure that a method is established to track and audit contractor access to Government sources of supply before contractors may be authorized access.

Before each use of this deviation authority, notification must be provided to DLA J-335. The notification shall include a description of the acquisition and the period of performance. Annually on the anniversary date of a contract awarded utilizing this deviation, or upon completion of the contract, whichever is sooner, a report shall be submitted to DLA J-335 documenting the benefits that have accrued to the Government through the use of this deviation. The report shall document the cost savings, reduced customer wait time, increased supply availability, or other benefit, and provide a complete explanation of how the benefits were determined.

This class deviation is issued pursuant to the authority delegated to me by the Director of Defense Procurement, September 30, 1999 (see also DFARS 201.404(b)(ii)). It is effective



immediately, and may be used provided the contracting activity has established a method to track and audit contractor access to Government sources of supply. This deviation shall remain in effect for a two-year trial period during which time metrics will be collected to determine the benefit of this deviation to the Government. This class deviation expires 2 years from the date of this memorandum.



CLAUDIA S. KNOTT
Executive Director
Logistics Policy and Acquisition Management

Attachment

PART 51[f256]

USE OF GOVERNMENT SOURCES BY CONTRACTORS

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SUBPART 51.1 - CONTRACTOR USE OF GOVERNMENT SUPPLY SOURCES

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51.100 Scope of subpart.

For DLA, "Government source of supply" includes items in DLA inventories and on existing DLA contracts. (For DLA-managed items, this includes items coded with Acquisition Advice Codes D (centrally managed, stocked, and issued); H (direct vendor delivery, non-stocked items); and, Z (numeric stockage objective (NSO) items).

51.101 Policy.

(a)(4) A class deviation permits DLA contracting officers to authorize DLA contractors access to DLA-managed items under other-than cost-reimbursement contracts.

51.102 Authorization to use Government supply sources.

(a)(i) A class deviation to FAR Part 51.101(a) permits DLA contractors to access DLA sources of supply when such use is specifically authorized in their DLA contracts. This access will integrate advantageous pricing and/or delivery terms into DLA's new business arrangements.

(a)(ii) This deviation shall not apply to commodities where contractor access to discounted or favorable pricing is prohibited by law, such as pharmaceuticals.

(e)(4) Contractor access to DLA sources of supply is limited to DLA-managed National Stock Numbered (NSN) or Part Numbered (P/N) items provided to DoD customers that are specifically authorized under the DLA contract. Supplies accessed under this authority may only be used in the performance of the contract that authorizes the access. The contract should specify any ceiling quantities that may apply to an item. Authorization must be limited to stocked items or items available under existing DLA contracts. DLA contractors will be authorized access to DLA sources of supply for NSN(s) or P/N(s) only when the contracting officer can clearly demonstrate a benefit to the Government as outlined in FAR 51.102(a). The rationale supporting this decision will be coordinated with the managing Inventory Control Point (ICP), documented in writing for each NSN/P/N, signed by the contracting officer, approved by the procuring ICP Director of Contracting, and included in the contract file.

(f)(1)(a)(i) The authorizing ICP shall ensure contractors order only DLA-managed items as authorized in the contract, including, as a minimum, that supplies sold are used only in the performance of authorized contracts and, any benefit from this use is passed on to the Government.

(f)(1)(a)(ii) To demonstrate the benefits of permitting contractor access to Government sources of supply, the price of each item obtained from a Government source of supply should be the Government price charged to the contractor plus a handling fee determined fair and reasonable by the contracting officer. Items contractors order must be reconciled against items authorized in their contracts. Periodic reconciliation of the quantities DLA sold to the contractor with the quantities of those same items the contractor supplied to DoD customers, or holds under surge responsibilities, under the authorizing contract will provide the visibility needed to monitor contractor's usage and trigger appropriate action for improper use. In the case of improper use, the contracting officer shall determine the appropriate corrective action.

(b) The contract shall include language requiring the contractor to ensure that, as the contract nears completion, no purchases are made that would result in Government

supply source items remaining with the contractor after contract completion. The contracting officer should also monitor performance to ensure this is not occurring. Special provisions must be made for Surge items.

51.103 Ordering from Government supply sources.

(d) When contractor use of a DLA-managed supply sources is determined to be the best value, considering price, delivery and other factors, contract language should hold the contractor responsible to meet the delivery requirements whether or not Government supply sources are used. Failure to meet the contract delivery requirements is a contractor caused delay.

SUBPART 90.5 - CONTRACT REVIEW PROCEDURES

90.501 Checklists.

TAB NO. 43 AWARD/CONTRACT AND CORRESPONDENCE

107[f314]. *If the contract authorizes use of Government supply sources, are mechanisms in place to monitor appropriate usage? (DLAD 51.102(f)(1))*

SUBPART 90.11 - ACQUISITION PLANNING

90.1101 [f315] *Contents of written acquisition plans (Paragraphs are numbered to conform with coverage at FAR 7.105 and DFARS 207.105.)*

(15[f319]) *Contractor use of Government supply sources. For contractor(s) authorized use of DLA-managed supply sources, describe the diversion control mechanism(s) in place to ensure access is limited to authorized items in authorized quantities, and contractor use of DLA supplies is proper. (DLAD 51.102(f)(1).)*