

APD ALERT

Federal Awardee Performance and Integrity Information System (FAPIS) Deviation FAR Clause 52.209-8



Purpose

This Alert is to inform all contracting officers of the new requirements for public access to the information posted in the Federal Awardee Performance and Integrity Information System (FAPIS) accessible at the Past Performance Information Retrieval Web site <http://www.ppirs.gov/fapis.html>, and the steps required to comply with the new FAPIS requirement. This requirement applies to all contracts that meet performance evaluation requirements.

Background

Section 3010 of Public Law 111-212, enacted on July 29, 2010, requires information in FAPIS, except past performance reviews, to be posted on a publicly available Web site. An interim rule is under development to implement section 3010, and is expected to be published in December 2010.

The current FAR clause 52.209-8, Updates of Information Regarding Responsibility Matters (version dated APR 2010), was published to support the initial rollout of FAPIS. To begin the transition process and lessen the number of contracts that will require modification when the interim rule is published, the Civilian Agency Acquisition Council (CAAC) Chair issued a Consultation for Class Deviation memoranda letter recommending a class deviation for civilian agencies to authorize (see <https://www.acquisition.gov/comp/caac/caacletters/CAAC-Letter-2011-01.pdf>). The CAAC memoranda letter provided a deviation FAR clause 52.209-8 that complies with section 3010.

Contracting officers should read the CAAC class deviation memoranda letter to fully understand the deviation changes of FAR clause 52.209-8.

Procedure

Effective immediately, contracting officers should incorporate the deviation FAR clause 52.209-8 in all new solicitations and contracts. This clause only needs to be incorporated in contracts that meet performance evaluation requirements.

Contracting officers should ensure no information is posted in the system that would cause harm to contractors and protected by a disclosure exemption under FOIA.

If you have any questions regarding this Alert, please contact Michael Barnes, Chief, Acquisition Programs and Oversight Branch, at 301-504-1734, or via e-mail at Michael.Barnes@ars.usda.gov.

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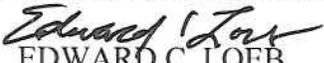
APD ALERT NO. 2011-04



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)