

Class Deviation – Regarding Agriculture Acquisition Regulation (AGAR) Clause 452.204-70

Purpose: This memorandum approves a class deviation from the AGAR to update clause 452.204-70.

Authority: This class deviation is issued under the authority of AGAR 401.404 with written approval from the Senior Procurement Executive (SPE).

Background: This AGAR class deviation implements the changes described below.

- 1) Removes AGAR provision 452.204-70, *Inquiries* (FEB 1988), in its entirety.
- 2) Adds a new AGAR clause 452.204-70, *Modification for Contract Closeout* (JULY 2022).

Deviation: As prescribed in USDA’s Contracting Desk Book 404.804 and 413.302-5, insert the following clause:

AGAR 452.204-70, Modification for Contract Closeout (DEVIATION JULY 2022)

“Upon contract closeout for contracts utilizing Simplified Acquisition Procedures (SAP) according to FAR Part 13.

- (a) If unobligated funds in the amount of \$1000 or less remain on the contract, the Contracting Officer (CO) shall issue a unilateral modification for deobligation. The contractor will receive a copy of the modification but will not be required to provide a signature. The CO shall immediately proceed with contract closeout upon completion of the period of performance, receipt and acceptance of supplies or services, and final payment.
- (b) If unobligated funds of more than \$1000 remain on the contract, the CO shall issue a bilateral modification for deobligation. The contractor will receive a copy of the modification and will be required to provide a signature. (The CO may also request a Release of Claims be completed by the contractor, although not required for contract and orders using SAP.) If the bilateral modification and Release of Claims are not returned to the CO within 60 days, the CO shall release the modification as unilateral and proceed with contract closeout upon completion of the period of performance, receipt and acceptance of supplies or services, and final payment.”

(End of clause)

Action: Contracting Officers shall use the AGAR clause 452.204-70 in all new solicitations and contracts that use the SAP according to FAR Part 13.

Effective Date: This deviation is effective immediately and remains in effect until it is incorporated in the AGAR or otherwise rescinded.

Point of Contact: Questions regarding this deviation may be directed to Procurement.Policy@usda.gov.

Attachment

Attachment

AGAR Deviation Text

Baseline is AGAR latest version, date May 5, 2016

Deviations are shown by **bold additions** and ~~strikeouts~~.

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~~452.204-70 Inquiries.~~

— As prescribed in 404.7001, insert the following provision:

INQUIRIES (FEB 1988)

— ~~Inquiries and all correspondence concerning this solicitation should be submitted in writing to the Contracting Officer. Offerors should contact only the Contracting Officer issuing the solicitation about any aspect of this requirement prior to contract award.~~

—————(End of provision)

452.204-70, Modification for Contract Closeout

As prescribed in USDA's Contracting Desk Book 404.804 and 413.302.5, insert the following clause:

Modification for Contract Closeout (DEVIATION JULY 2022)

“Upon contract closeout for contracts utilizing Simplified Acquisition Procedures (SAP) according to FAR part 13,

- (c) If unobligated funds in the amount of \$1000 or less remain on the contract, the Contracting Officer (CO) shall issue a unilateral modification for deobligation. The contractor will receive a copy of the modification but will not be required to provide a signature. The CO shall immediately proceed with contract closeout upon completion of the period of performance, receipt and acceptance of supplies or services, and final payment.**
- (d) If unobligated funds of more than \$1000 remain on the contract, the CO shall issue a bilateral modification for deobligation. The contractor will receive a copy of the modification and will be required to provide a signature. (The CO may also request a Release of Claims be completed by the contractor, although not required for contract and orders using SAP.) If the bilateral modification and Release of Claims are not returned to the CO within 60 days, the CO shall release the modification as unilateral and proceed with contract closeout upon completion of the period of performance, receipt and acceptance of supplies or services, and final payment.”**

(End of clause)