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GSA Office of Governmentwide Policy

CAAC LETTER 2014-02

MEMORANDUM FOR CIVILIAN AGENCIES OTHER THAN NASA

FROM: WILLIAM F. CLARK 
ACTING CHAIR
CIVILIAN AGENCY ACQUISITION COUNCIL (CAAC)

SUBJECT: Class Deviation from the Federal Acquisition Regulation (FAR)
to Repeal the American Recovery and Reinvestment Act of
2009's (the Recovery Act) Reporting Requirement

On January 17, 2014, the President signed into law the Consolidated Appropriations Act, 2014 (Public Law 113-76). Effective February 1, 2014, section 627 of Division E of the Act repealed the contractor requirements that were in the Recovery Act in sections 1512 (c) and (e)-(h), including the deletion of the reporting requirement for contracts. Section 627 also amended section 1512(d) to require each agency that made recovery funds available to any recipient, to make publicly available detailed spending data as prescribed by the Office of Management and Budget and pursuant to the Federal Funding Accountability and Transparency Act of 2006 (FFATA) (Public Law 109-282).

Although Federal contractors and agencies are no longer required to comply with the reporting requirements of the Recovery Act (52.204-11, American Recovery and Reinvestment Act – Reporting Requirements) both groups are still required to continue their FFATA reporting (see FAR subpart 4.14 and clause 52.204-10, Reporting Executive Compensation and First –Tier Subcontract Awards) on existing contracts.

Section 1512 of Division A of the Recovery Act required that a new clause FAR 52.204-11, American Recovery and Reinvestment Act – Reporting Requirements be developed. This clause provides the instructions for reporting the funding data in the www.federalreporting.gov website. As a result of this statutory change, agencies may notify their contracting officers of this change to the reporting requirement. A message has been posted at www.federareporting.gov notifying Federal contractors of this change. The message states that January 2014 was the last time contractors had to report on the status of recovery awards. In addition, starting on February 1, 2014, agencies and contractors are able to review, make changes and corrections to their

reports thru March 19, 2014, and on March 20, 2014, the website is closed for future reporting. Please review the message at the website for more detailed instructions.

The FAR Council has opened a FAR case to amend the FAR pursuant to implementation of section 627 of Division E of the Consolidated Appropriations Act, 2014. Pending the FAR change, effective immediately, agencies may authorize a class deviation, in accordance with FAR 1.404, that 1) 52.204-11(c) is amended to add that reporting is not required as of February 1, 2014, and 2) the clause prescription at FAR 4.1502 is deleted. Note: Section 1603 of the Recovery Act required that 'All funds appropriated in this Act shall remain available for obligation until September 30, 2010, unless expressly provided otherwise in this Act,' so agencies should evaluate the need for the deviation.

This CAAC letter constitutes consultation with the Chair of the CAAC required by FAR 1.404(a)(1). Agencies are reminded that FAR 1.404 requires agencies to furnish a copy of each approved class deviation to the FAR Secretariat, General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW, 2nd Floor, Attn: Ms. Hada Flowers, Washington, DC 20405. Agencies may also email the deviation to Ms. Flowers at hada.flowers@gsa.gov or send by fax to (202) 501-4067.

If you have any questions or require additional information, please contact Ms. Cecelia L. Davis on (202) 219-0202 or at cecelia.davis@gsa.gov.