



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

In reply refer to
DARS Tracking Number: 2020-O0017

MEMORANDUM FOR COMMANDER, UNITED STATES CYBER
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DEFENSE FIELD ACTIVITIES

SUBJECT: Class Deviation—Acquisition of Dinnerware or Stainless Steel Flatware

For contracts to be awarded after December 20, 2020, contracting officers shall incorporate the attached clause in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that are for the acquisition of dinnerware or stainless steel flatware and have an estimated value that exceeds the simplified acquisition threshold, unless the dinnerware or stainless steel flatware meet an exception.

This class deviation implements section 854 of the National Defense Authorization Act for Fiscal Year 2020. Section 854 adds dinnerware and stainless steel flatware to the list of covered items at 10 U.S.C. 2533a (commonly known as the “Berry Amendment”), paragraph (b). With some exceptions, covered items under the Berry Amendment may not be procured with funds appropriated or otherwise available if the items are not grown, reprocessed, reused, or produced in the United States.

This class deviation remains in effect until it is otherwise rescinded or until the statutory sunset date of September 30, 2023. My point of contact is Mr. Jeff Grover, who is available at 703-697-9352 or jeffrey.c.grover.civ@mail.mil.

Kim Herrington
Acting Principal Director,
Defense Pricing and Contracting

Attachment
Class Deviation 2020-O0017
Acquisition of Dinnerware and Stainless Steel Flatware

252.225-7969 Acquisition of Dinnerware and Stainless Steel Flatware. (DEVIATION 2020-O0017)

Use the following clause in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for acquisition of commercial items, that are for acquisition of dinnerware or stainless steel flatware with an estimated value that exceeds the simplified acquisition threshold, if the contract is to be awarded after December 20, 2020, and before September 23, 2023, unless the dinnerware or stainless steel flatware is for—

- (a) Acquisitions outside the United States in support of combat operations;
- (b) Acquisitions by vessels in foreign waters;
- (c) Emergency acquisitions by activities located outside the United States for the personnel of such activities; or
- (d) Commissary resale.

ACQUISITION OF DINNERWARE AND STAINLESS STEEL FLATWARE (DEVIATION
2020-O0017) (JUN 2020)

(a) *Definitions.* As used in this clause, “United States” means the 50 States, the District of Columbia, and outlying areas.

(b) *Requirement.* Any dinnerware or stainless steel flatware delivered under this contract shall be produced in the United States, consistent with the requirements at 10 U.S.C. 2533a (commonly known as the “Berry Amendment”).

(c) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts, including subcontracts for commercial items, that are for the acquisition of dinnerware or stainless steel flatware.

(End of clause)