



ACQUISITION  
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE  
3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

In reply refer to  
DARS Tracking Number: 2021-O0009, Revision 2

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)  
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Class Deviation-Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors

Effective immediately, this class deviation revises and supersedes Class Deviation 2021-O0009, Revision 1, issued on December 2, 2021. This revision to the class deviation implements the requirements of a preliminary injunction issued by the United States District Court for the Southern District of Georgia on December 7, 2021, enjoining implementation of the provisions of Executive Order (E.O.) 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, in the United States and its territories. This revision also implements the requirements of the preliminary injunction issued by the United States Federal Court of the Eastern District of Kentucky on November 30, 2021, enjoining the implementation of E.O. 14042's provisions in Kentucky, Ohio, and Tennessee.

Therefore, effective immediately, to ensure compliance with the preliminary injunctions, contracting officers shall not enforce the attached class deviation clause 252.223-7999, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors. Contracting officers shall not include the class deviation clause in new solicitations and shall not enforce the requirements of the clause in existing contracts, task orders, and delivery orders. In addition, contracting officers shall not include this class deviation clause in new contracts or orders and shall not amend existing contracts or orders to incorporate the class deviation clause.

Additional information is available at Safer Federal Workforce at <https://www.saferfederalworkforce.gov/contractors/> and at SAM.gov at <https://sam.gov/opp/d367ff4293a5491ca9b22db470b56024/view>.

Class Deviation 2021-O0009, Revision 2  
Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors

This class deviation remains in effect until further notice. Please direct any comments or questions to Defense Pricing and Contracting, Contract Policy, at [osd.pentagon.ousd-a-s.mbx.asda-dp-c-contractpolicy@mail.mil](mailto:osd.pentagon.ousd-a-s.mbx.asda-dp-c-contractpolicy@mail.mil).

John M. Tenaglia  
Principal Director,  
Defense Pricing and Contracting

Attachment:  
As stated

**252.223-7999 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors (Deviation 2021-O0009)**

As prescribed in Class Deviation 2021-O0009, Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, use the following clause:

ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL  
CONTRACTORS (DEVIATION 2021-O0009) (OCT 2021)

(a) *Definition.* As used in this clause—

*United States or its outlying areas* means—

- (1) The fifty States;
- (2) The District of Columbia;
- (3) The commonwealths of Puerto Rico and the Northern Mariana Islands;
- (4) The territories of American Samoa, Guam, and the United States Virgin Islands; and
- (5) The minor outlying islands of Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Palmyra Atoll, and Wake Atoll.

(b) *Authority.* This clause implements Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, dated September 9, 2021 (published in the *Federal Register* on September 14, 2021, 86 FR 50985).

(c) *Compliance.* The Contractor shall comply with all guidance, including guidance conveyed through Frequently Asked Questions, as amended during the performance of this contract, for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force (Task Force Guidance) at <https://www.saferfederalworkforce.gov/contractors/>.

(d) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts at any tier that exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award, and are for services, including construction, performed in whole or in part within the United States or its outlying areas.

(End of clause)