



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(RESEARCH, DEVELOPMENT AND ACQUISITION)
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

0 4 APR 2014

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Class Deviation - Acquisition of the American Flag

The attached Director, Defense Procurement and Acquisition Policy memorandum of February 21, 2014 is forwarded for your information and action, as appropriate. It informs the Department of Defense (DOD) contracting community of a class deviation regarding the acquisition of American flags using fiscal year 2014 appropriations. Section 8123 of the 2014 DOD Appropriations Act prohibits funds made available under the Act from being used to purchase or manufacture American flags, unless consistent with the requirements of the Berry Amendment.

Contracting officers shall incorporate the clause—Acquisition of the American Flag (Class Deviation 2014-O0010 (FEB 2014))—in all solicitations and contracts for the purchase of American flags that exceed the simplified acquisition threshold, unless the flags are for commissary resale. The deviation will remain in effect until incorporated in the Defense Federal Acquisition Regulation Supplement or rescinded.

Further details are provided within the memorandum. My point of contact is Gabrielle Trickett, gabrielle.trickett@navy.mil, 703-614-9641.

Elliott B Branch
Elliott B. Branch
DASN (AP)

Attachment:
As stated

Distribution:
See next page

SUBJECT: Class Deviation - Acquisition of the American Flag

Distribution:

CMC (LB)

MARCORSYSCOM (CT)

MSC (N10)

NAVAIRSYSCOM (2.0)

NAVFACENCOM (ACQ)

NAVSEASYSCOM (02)

NAVSUPSYSCOM (N7)

ONR (02)

SPAWARSYSCOM (2.0)

SSP (SPN)

Copy to:

AGC (RDA)

DON OSBP



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

FEB 21 2014

In reply refer to
DARS Tracking Number: 2014-O0010

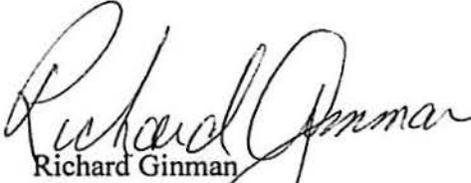
MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION AND PROCUREMENT)
DEPUTY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

SUBJECT: Class Deviation—Acquisition of the American Flag

Effective immediately, when using funds appropriated under the Department of Defense Appropriations Act, 2014 (Public Law 113-76, Division C), contracting officers shall incorporate the attached clause in all solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that are for the acquisition of American flags and have an estimated value that exceeds the simplified acquisition threshold, unless the flags are for commissary resale. This class deviation implements section 8123 of the Department of Defense Appropriations Act, 2014.

Section 8123 states that none of the funds made available in the Act may be used for the purchase or manufacture of a flag of the United States unless such flags are treated as covered items under 10 U.S.C. 2533a(b) (commonly known as the "Berry Amendment").

This class deviation remains in effect until incorporated in the DFARS or otherwise rescinded. My point of contact is Ms. Amy Williams, who may be reached at 571-372-6106, or at amy.g.williams.civ@mail.mil.


Richard Ginman
Director, Defense Procurement
and Acquisition Policy

Attachment:
As stated

252.225-7988 Acquisition of the American Flag.

When using funds appropriated by the Department of Defense Appropriations Act, 2014 (Pub. L. 113-76, Division C), use the following clause in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures, that are for the acquisition of the American flag, with an estimated value that exceeds the simplified acquisition threshold, unless the flags are for commissary resale:

**ACQUISITION OF THE AMERICAN FLAG
(CLASS DEVIATION 2014-00010) (FEB 2014)**

(a) *Definition.*

“United States,” as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) If the Contractor is required to deliver under this contract one or more American flags (Federal Supply Class 8345), such flag(s), including the materials and components thereof, shall be manufactured in the United States, consistent with the requirements at 10 U.S.C. 2533a (commonly known as the “Berry Amendment”):

(c) This clause does not apply to the acquisition of any end items or components related to flying or displaying the flag (e.g., flagpoles and accessories).

(End of clause)