U.S. Department of Transportation

1200 New Jersey Ave., S.E.
Washington, DC 20590

Office of the Secretary of Transportation

MEMORANDUM TO: Department of Transportation (DOT) Chiefs of the Contracting Offices (COCOs)

FROM: Chrishaun Jones
Senior Procurement Executive
Office of the Senior Procurement Executive

CHRISHAUN PATRICE JONES Digitally signed by CHRISHAUN PATRICE JONES Date: 2025.05.31 09:09:53 -04'00'

SUBJECT: Transportation Acquisition Regulation (TAR) Class Deviation (CD) No. 2025-01 – Align the TAR with FAR Class Deviations and CAAC Letter 2025-01 Supplement 1 and CAAC Letter 2025-02 Supplement 1

I. Purpose: This class deviation (CD) is issued in accordance with Transportation Acquisition Regulation (TAR) 1201.404 to revise or add the following TAR subparts/sections. This CD provides policy to align the TAR with the FAR based on revisions required to implement the President's agenda based on issuance of certain executive orders and the revocation of other executive orders which necessitated issuance of DOT-issued FAR class deviations as described in the Background section below.

TAR Parts impacted: 1222, 1223, 1252

a. TAR Part 1222 – Application of Labor Laws to Government Acquisitions
- Subpart 1222.8 - Equal Employment Opportunity
  - Status: Removed and Reserved to align with the FAR.
  - Sections affected:
    - 1222.808 - Complaints
    - 1222.810-70 - Contract clause.

b. TAR Part 1223 – Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace

Note: Title updated as shown in TAR Deviated Text to align with the FAR
- Subpart 1223.3 - Hazardous Identification and Material Safety Data
  - Header updated as shown in TAR Deviated Text to align with the FAR
  - Sections affected:
    - 1223.303 - Renumbered to 1223.304

c. TAR Part 1252 - Solicitation Provisions and Contract Clauses
- Clause 1252.222-72 - Contractor Cooperation in Equal Employment Opportunity and Anti-Harassment Investigations
  - Status: Removed and Reserved to align with the FAR.

II. Effective Date: Immediately.

III. Background: On January 21, 2025, President Trump issued E.O. 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, which revoked E.O. 11246, Equal Employment Opportunity.

On February 15, 2025, the Chair of the Civilian Agency Acquisition Council (CAAC) issued CAAC Letter No. 2025-01, superseded on February 18, 2025 by Supplement 1, in accordance with FAR 1.404(a)(1) to authorize agencies to issue their own class deviations. Supplement 1 to CAAC Letter No. 2025-01 addressed the removal of equal employment opportunity language per revoked E.O. 11246. Several FAR provisions promulgated to enforce E.O. 11246 are not consistent with the direction in E.O. 14173 (see FAR subpart 22.8 and associated provisions and clauses as prescribed at FAR 22.810, as well as affected parts). DOT Office of the Senior Procurement Executive (OSPE), issued FAR CD, titled "Class Deviation No. 2025-01 from the Federal Acquisition Regulation Regarding Executive Orders 14173 and 14168," on March 6, 2025 based on this CAAC letter.

As a result of the issuance of DOT FAR CD 2025-01 on March 6, 2025 to align the TAR with the FAR, it is necessary to immediately revise TAR part 1222 by deviating the currently published TAR to remove and reserve TAR subpart 1222.8 to align with the FAR deviated text at FAR subpart 22.8, which is now reserved, as well as to remove and reserve FAR clause 1252.222-72, Contractor Cooperation in Equal Employment Opportunity and Anti-Harassment Investigations, as the prescription for the clause and the underlying FAR text concerning Equal Employment Opportunity were removed based on the DOT-issued FAR CD 2025-01.

Additionally, on February 15, 2025, the Chair of the Civilian Agency Acquisition Council (CAAC) issued CAAC Letter No. 2025-02, superseded on February 18, 2025 by Supplement 1, in accordance with FAR 1.404(a)(1) to authorize agencies to issue their own class deviations. Supplement 1 to CAAC Letter No. 2025-02 partially implemented Section 2 of E.O. 14148, Initial Rescissions of Harmful Executive Orders and Actions, of January 20, 2025 (see 90 FR 8237), which revoked E.O. 14057, Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability, of December 8, 2021. The removal of requirements related to E.O. 14057 eliminates all non-statutory sustainability requirements or preferences in purchases of food service wares, including paper straws. In addition to removing requirements related to E.O. 14057, the CD also reflects recent updates to Code of Federal Regulation (CFR) citations for the U.S. Department of Agriculture's BioPreferred Program, a statutory purchasing preference program. DOT OSPE issued FAR CD, titled "Class Deviation No. 2025-02 from the Federal Acquisition Regulation Regarding Executive Orders 14148 and 14208," on March 6, 2025, based on this CAAC letter.

IV. Applicability: This CD applies to all DOT Operating Administrations (OAs), the Office of the Secretary of Transportation (OST), and the Office of the Inspector General's (OIG), excluding the Federal Aviation Administration (FAA) per TAR 1201.104(d), and applies to all DOT solicitations and contracts, as appropriate.

V. Expiration Date: This CD remains in effect until the requirements are incorporated into the TAR, or is otherwise rescinded, whichever occurs first.

Attachment 6 - Solicitation Provisions and Contract Clauses

VI. Point of Contact: Questions or comments regarding this CD may be directed to DOTAcquisitionPolicy@dot.gov.

Attachments:

A. TAR Deviation Text

Attachment A: TAR Deviation Text

Transportation Acquisition Regulation (TAR) Class Deviation (CD) No. 2025-01 – TAR Part 1222, 1222.8; Part 1223, 1223.3, and Part 1252, 1252.222-72 (DEVIATION) (MAY 2025)

CLASS DEVIATION

TAR Text Baseline is 48 CFR chapter 12 dated April 29, 2025.

Additions are shown as **[bolded and bracketed]** and deletions are shown in strikethrough ~~deletions~~.

TAR Text unchanged shown as asterisks.

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PART 1222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 1222.1—Basic Labor Policies
Sec.
1222.101 Labor relations.
1222.101-70 Admittance of union representatives to DOT installations.
1222.101-71 Contract clauses.

Subpart 1222.8~~—Equal Employment Opportunity~~ [[RESERVED] (DEVIATION)(MAY 2025)]
~~1222.808 Complaints.~~
~~1222.810-70 Contract clause.~~

Authority: 5 U.S.C. 301; 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

PART 1222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

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Subpart 1222.8~~—Equal Employment Opportunity~~ [[RESERVED]] [(DEVIATION)(MAY 2025)]

~~1222.808 Complaints.~~

~~Contractors shall, in good faith, cooperate with the Department of Transportation in investigations of Equal Employment Opportunity (EEO) complaints processed pursuant to 29 CFR part 1614 and in accordance with clause 1252.222-72 as prescribed in this subpart.~~

~~1222.810-70 Contract clause.~~

~~The contracting officer shall insert the clause at 1252.222-72, Contractor Cooperation in Equal Employment Opportunity and Anti-Harassment Investigations, in solicitations, contracts, and orders that include the clause at FAR 52.222-26, Equal Opportunity.~~

PART 1223~~—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE~~ [ENVIRONMENT, SUSTAINABLE ACQUISITION, AND MATERIAL SAFETY] [(DEVIATION)(MAY 2025)]

Subpart 1223.3—Hazardous Material Identification ~~and Material Safety Data~~ [, Material Safety Data, and Notice of Radioactive Materials]

Sec.

1223.30~~3~~**[4]** Contract clause**[s]. [(DEVIATION)(MAY 2025)]**

Subpart 1223.70—Safety Requirements for Selected DOT Contracts

1223.7000 Contract clauses.

Authority: 5 U.S.C. 301; 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

PART 1223~~—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE~~ [ENVIRONMENT, SUSTAINABLE ACQUISITION, AND MATERIAL SAFETY] [(DEVIATION)(MAY 2025)]

Subpart 1223.3—Hazardous Material Identification and Material Safety Data

1223.30~~3~~[4] Contract clause[s].

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PART 1252 -- SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 1252.1—Instructions for Using Provisions and Clauses
Sec.
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Subpart 1252.2—Text of Provisions and Clauses

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1252.222-72 ~~Contractor Cooperation in Equal Employment Opportunity and Anti-Harassment Investigations.~~ [[RESERVED] (DEVIATION)(MAY 2025)]

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Subpart 1252.3—Provision and Clause Matrix
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Authority: 5 U.S.C. 301; 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

PART 1252 -- SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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Subpart 1252.2—Text of Provisions and Clauses

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1252.222-72 ~~Contractor Cooperation in Equal Employment Opportunity and Anti-Harassment Investigations.~~ [[RESERVED] (DEVIATION)(MAY 2025)]

~~As prescribed in 1222.810-70, insert the following clause:~~

~~Contractor Cooperation in Equal Employment Opportunity and Anti-harassment Investigations (NOV 2022)~~ [(DEVIATION)(MAY 2025)]

~~(a) *Definitions*. As used in this clause—~~

~~*Complaint* means a formal or informal complaint that has been filed with DOT management, DOT agency Equal Employment Opportunity (EEO) officials, the Equal Employment Opportunity Commission (EEOC), the Office of Federal Contract Compliance Programs (OFCCP) or a court of competent jurisdiction.~~

~~*Contractor employee* means all current Contractor employees who work or worked under this contract. The term also includes current employees of subcontractors who work or worked under this contract. In the case of Contractor and subcontractor employees who worked under this contract, but who are no longer employed by the Contractor or subcontractor, or who have been assigned to another entity within the Contractor's or subcontractor's organization, the Contractor shall provide DOT with that employee's last known mailing address, email address, and~~

~~telephone number, if that employee has been identified as a witness in an EEO or Anti-Harassment complaint or investigation.~~

~~*Good faith cooperation* means, but is not limited to, making Contractor employees available, with the presence or assistance of counsel as deemed appropriate by the Contractor, for:~~

~~(1) Formal and informal interviews by EEO counselors, the OFCCP, or other Agency officials processing EEO or Anti-Harassment complaints;~~

~~(2) Formal or informal interviews by EEO investigators charged with investigating complaints of unlawful discrimination filed by Federal employees;~~

~~(3) Reviewing and signing appropriate affidavits or declarations summarizing statements provided by such Contractor employees during EEO or Anti-Harassment investigations;~~

~~(4) Producing documents requested by EEO counselors, EEO investigators, OFCCP investigators, Agency employees, or the EEOC in connection with a pending EEO or Anti-Harassment complaint; and~~

~~(5) Preparing for and providing testimony in depositions or in hearings before the Merit Systems Protection Board, EEOC, OFCCP, and U.S. District Court.~~

~~(b) *Cooperation with investigations*. In addition to complying with the clause at FAR 52.222-26, Equal Opportunity, the Contractor shall, in good faith, cooperate with the Department of Transportation in investigations of EEO complaints processed pursuant to 29 CFR part 1614 and internal Anti-Harassment investigations.~~

~~(c) *Compliance*. Failure on the part of the Contractor or its subcontractors to comply with the terms of this clause may be grounds for the Contracting Officer to terminate this contract for default or for cause in accordance with the termination clauses in the contract.~~

~~(d) *Subcontract flowdown*. The Contractor shall include the provisions of this clause in all subcontract solicitations and subcontracts awarded, at any tier, under this contract.~~

~~(End of clause)~~

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