

Date: April 12, 2017

From: Acting Deputy Senior Procurement Executive (DSPE)

Subj: Class Deviation from VA Acquisition Regulation (VAAR) 801.602-75, Review Requirements-OGC (VAIQ 7787826)

To: Heads of Contracting Activities (HCAs)

1. Purpose: This Class Deviation updates the review requirements for the Office of General Counsel under the subject subsection of the VAAR.

2. VAAR Subsection and Subpart Impacted: VAAR 801.602-75

3. Effective Date: Immediately.

4. Expiration Date: Effective until incorporated into the revised VAAR or VA Acquisition Manual (VAAM) or when rescinded.

5. Applicability: This deviation applies to contractual actions identified in Table 801.602-75.

6. Background:

a. **Current VAAR 801.602-75:**

801.602-75 Review requirements - OGC.

(a) Contracting officers must obtain legal review or concurrence from OGC for the following categories of proposed contractual actions.

(1) Each contract termination, final decision, cure letter, or “show cause” notice proposed under any contract where the total value of the contract is \$100,000 or more. A contracting officer may not sign or release a document subject to this provision until OGC has concurred.

(2) Each dispute or claim from a contractor involving a potential total dollar value of \$100,000 or more. A contracting officer may not sign or release a document subject to this provision until OGC has concurred.

(3) Each proposed contract modification, including any proposed modification to a supply or service contract, where the total value of the modification is \$100,000 or more (e.g., a modification for a \$60,000 increase and a \$50,000 decrease equals \$110,000). Contract modifications issued only to exercise contract options are exempt from this review requirement.

(4) Each proposed contract modification granting a time extension of more than 60 days. The Director, Acquisition Resources Service, may waive the pre-approval requirement under this paragraph for an individual facility when the Director determines that the facility has obtained appropriate “consideration” for past time extensions and the extensions were otherwise appropriately granted.

(5) Each proposed modification increasing the value of a letter contract, regardless of dollar value.

(6) Each proposed contract modification for which the contractor takes exception to the accord and satisfaction language specified by VA. The contracting officer may not execute any proposed contract modification under this requirement until the contracting officer receives OGC’s concurrence in the proposed language.

(7) An assignment of claims (see FAR Subpart 32.8 [↗](#)).

(8) Each change or revision to a FAR [↗](#) or VAAR provision or clause or an internal VA-approved clause (e.g., architect/engineer “SP” clauses) not specifically authorized by the regulations.

(9) Each change or revision to a prescribed VA contract form.

(10) A proposed utility construction or connection contract with an anticipated contract award value of \$50,000 or more.

(11) Each proposed novation and change-of-name agreement (see 842.1203).

b. Need for Deviation:

A deviation is required to address workload concerns and to streamline the acquisition review process. To provide relief, thresholds pertaining to contracting officers obtaining legal review or concurrence from OGC were increased. While certain thresholds are mandated for legal review, reviews may be requested at lower levels as determined by each respective HCA’s review process. This will enable the contracting officers the flexibility to perform their duties in a more effective and efficient manner, while allowing OGC to reduce unnecessary workload by eliminating reviews that may be unnecessary and add limited value.

c. New Policy:

801.602-75 Review requirements - OGC.

Contracting officers must obtain legal review or concurrence from OGC for the following contractual actions. While certain contract types and dollar thresholds are mandated for legal review, reviews may be requested at lower levels as determined by each respective HCA’s review process.

Table 801.602-75	
Type of contract actions	Anticipated Contract Award Value
(a) Stop Work Orders (contract termination, final decision, cure letter, “show cause” notice)	All actions
(b) Use of Letter contracts (includes modifications)	All actions
(c) Disputes or claims from a contractor	All actions
(d) An assignment of claims	All actions
(e) Proposed novation agreements and change-of-name agreements	All actions
(f) Construction solicitations, contracts, task orders, and modifications (change orders)	\$7,000,000 or greater
(g) Supply or service solicitations, contracts, task orders, and modifications (change orders)	\$7,000,000 or greater
(h) Proposed task/delivery orders and blanket purchase agreements (includes orders under Federal Supply Schedule contracts)	\$7,000,000 or greater
(i) Proposed cost-reimbursement, incentive, time-and-materials, and labor-hour contracts	\$7,000,000 or greater
(j) Utility service agreements	\$7,000,000 or greater
(k) Solicitations for advisory and assistance services	\$7,000,000 or greater
(l) BPAs for supplies under Federal Supply Schedules (FSS) that are not issued by the National Acquisition Center (NAC)	\$50,000,000 or greater

7. Attachment: VA Class Deviation from VAAR 801.602-75.

Page 4

Subj: Class Deviation from VAAR 801.602-75, Review Requirements – OGC
(VAIQ 7787826)

8. Additional Information: Questions and concerns should be addressed to the Office of Acquisition and Logistics (003A), Procurement, Policy and Warrant Management Service (003A2A) at (202) 632-5288 or email: VA.Procurement.Policy@va.gov.

/s/

Phil W. Parker

Attachment

Class Deviation

Department of Veterans Class Affairs Acquisition Regulation

801.602-75 Review requirements - OGC.

Contracting officers must obtain legal review or concurrence from OGC for the following contractual actions. While certain contract types and dollar thresholds are mandated for legal review, reviews may be requested at lower levels as determined by each respective HCA's review process.

Table 801.602-75	
Type of contract actions	Anticipated Contract Award Value
(a) Stop Work Orders (contract termination, final decision, cure letter, "show cause" notice)	All actions
(b) Use of Letter contracts (includes modifications)	All actions
(c) Disputes or claims from a contractor	All actions
(d) An assignment of claims	All actions
(e) Proposed novation agreements and change-of-name agreements	All actions
(f) Construction solicitations, contracts, task orders, and modifications (change orders)	\$7,000,000 or greater
(g) Supply or service solicitations, contracts, task orders, and modifications (change orders)	\$7,000,000 or greater
(h) Proposed task/delivery orders and blanket purchase agreements (includes orders under Federal Supply Schedule contracts)	\$7,000,000 or greater
(i) Proposed cost-reimbursement, incentive, time-and-materials, and labor-hour contracts	\$7,000,000 or greater
(j) Utility service agreements	\$7,000,000 or greater
(k) Solicitations for advisory and assistance services	\$7,000,000 or greater
(l) BPAs for supplies under Federal Supply Schedules (FSS) that are not issued by the National Acquisition Center (NAC)	\$50,000,000 or greater

