

Date: December 2, 2015

From: Associate Deputy Assistant Secretary for Procurement Policy, Systems, and Oversight (003A2) and Deputy Senior Procurement Executive

Subj: Class Deviation from VA Acquisition Regulation (VAAR) 832.202-1 and 832.402 (VAIQ 7640793)

To: VA Heads Of Contracting Activities

1. Purpose: To issue a Class Deviation in accordance with the Federal Acquisition Regulation (FAR) 1.404, Class Deviations, and Department of Veterans Affairs Acquisition Regulation (VAAR) 801.404, Class Deviations, to deviate from VAAR 832.202-1 and 832.402.

2. VAAR Sections Impacted: VAAR 832.202-1(d) and 832.402.

3. Effective Date: December 15, 2015.

4. Expiration Date: This class deviation will remain in effect until incorporated into the VAAR or the new VA Acquisition Manual or otherwise rescinded.

5. Applicability: This deviation applies to all procurements subject to FAR subpart 32.2, Commercial Item Purchase Financing, and FAR subpart 32.4, Advance Payments for Non-Commercial Items.

6. Background: The Acting Chief Acquisition Officer (CAO) of the Department of Veterans Affairs (VA) has instituted the Employee Empowerment Initiative (EEI) and one of the outcomes of this initiative is the goal to improve OALC operating efficiency by streamlining decision making and acquisition-related approval processes to the lowest practicable subordinate acquisition activity level. The revised oversight process establishes a more decentralized, less labor-intensive oversight process that efficiently allocates time and resources. This package sets forth the required information in accordance with FAR 1.404 and VAAR 801.404 to support a class deviation to achieve some of the EEI's objectives.

a. Current VAAR 832.202-1 Policy:

832.202-1 Policy.

As provided in FAR 32.202-1(d), contracting officers must obtain the approval of the DSPE before awarding a contract that includes unusual contract financing. The contracting officer must fully support the request with the reasons why the proposed

unusual contract financing is in the best interest of the Government. In addition, contracting officers must not use commercial interim payment or commercial advance payment terms in solicitations or contracts without the approval of the DSPE.

b. Current VAAR 832.402 Policy:

832.402 General.

Authority to make the determination required by FAR 32.402(c)(1)(iii) and to approve contract terms, as provided by FAR 32.402(e)(1), is delegated to the SPE and is further delegated to the DSPE. Before award, contracting officers must submit a request for approval to use advance payment to the DSPE. The request must include the information required by FAR 32.409-1 and must address the standards for advance payment in FAR 32.402(c)(2).

c. Need for Deviation from 832.202-1 and 832.402: VAAR 832.202-1 requires contracting officers to obtain the approval of the DSPE before awarding a contract that includes unusual contract financing. VAAR 832.402 gives the DSPE the authority for making findings and determinations and for approval of contract terms for advance payments. The Chief Acquisition Officer (CAO) directed certain discrete Procurement Decision Making and Review/Approval Authorities will be delegated where practicable to lower subordinate acquisition activity levels in order to foster a more streamlined review and approval process in support of the Employee Empowerment Initiative.

In order to delegate the approval authority below the DSPE to the HCAs or designee, as applicable, a deviation to the current codified VAAR is required. A change to the existing VAAR requires publication in the Federal Register and receipt of public comments. Going forward, most delegations will be contained within the VA Acquisition Manual (VAAM), along with further procedures, guidance and instruction which will permit revising approval levels or office titles and positions in a more expedited fashion without accomplishing a deviation to the codified VAAR. Until the publication of the affected revised VAAR part and the publication of VA's internal procedural guidance via the VAAM, a deviation from the existing VAAR is required to implement EEI recommendations. This package sets forth the required information IAW FAR 1.404 and VAAR 801.404 to support this class deviation.

d. New Policy: This deviation implements EEI by retaining the delegation to the HCAs for the approvals in FAR 32.202-1(d). It also amends the VAAR to designate the paragraph in 832.202-1 as "(d)" to correspond correctly to the delegation of authority to the HCAs in FAR 32.202-1(d). HCAs will also be required to report, no later than December 31st of each calendar year, to the Senior Procurement Executive (SPE) and the DSPE, on number of actions approved for the previous fiscal year. The reporting requirement will be incorporated into the VA Acquisition Manual (VAAM) to be published in the future. The section will read as follows:

832.202-1 Policy.

(d) HCAs shall report, no later than December 31st of each calendar year, to the Senior Procurement Executive (SPE) and the DSPE, on the number of contracts for commercial items with unusual contract financing or with commercial interim or advance payments approved for the previous fiscal year. The report shall include the contract number and amount, the amount of the unusual contract financing or with commercial interim or advance payments approved, and the kind and amount of security obtained for the advance.

832.402 Policy: VAAR 832.402 is amended to delegate authority to the HCAs to make the determination required by FAR 32.402(c)(1)(iii) and to approve advance payments for contracts for non-commercial items. HCAs will be required to report, no later than December 31st of each calendar year, to the Senior Procurement Executive (SPE) and the DSPE, on number of actions approved for the previous fiscal year. The reporting requirement will be incorporated into the VA Acquisition Manual (VAAM) to be published in the future. The section will read as follows:

832.402 General.

(c)(1)(iii) The authority to make the determination required by FAR 32.402(c)(1)(iii) and to approve contract terms is delegated to the head of the contracting activity (HCA). The request for approval shall include the information required by FAR 32.409-1 and shall address the standards for advance payment in FAR 32.402(c)(2). HCAs shall report, no later than December 31st of each calendar year, to the Senior Procurement Executive (SPE) and the DSPE, on number of contracts for non-commercial items with advance payments approved in the previous fiscal year. The report shall include the contract number and amount, the amount of the advance payment, and the kind and amount of security obtained for the advance.

7. Attachment: VA Class Deviation from VA Acquisition Regulation sections 832.202-1, Policy, and 832.402, General.

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/

C. Ford Heard III

Attachment

Distribution:

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Class Deviation

Department of Veterans Affairs Acquisition Regulation (VAAR) 832.202-1, Policy, and 832.402, General

832.202-1 Policy.

(d) HCAs shall report, no later than December 31st of each calendar year, to the Senior Procurement Executive (SPE) and the DSPE, on the number of contracts for commercial items with unusual contract financing or with commercial interim or advance payments approved for the previous fiscal year. The report shall include the contract number and amount, the amount of the unusual contract financing or with commercial interim or advance payments approved, and the kind and amount of security obtained for the advance.

832.402 General.

(c)(1)(iii) The authority to make the determination required by FAR 32.402(c)(1)(iii) and to approve contract terms is delegated to the head of the contracting activity (HCA). The request for approval shall include the information required by FAR 32.409-1 and shall address the standards for advance payment in FAR 32.402(c)(2). HCAs shall report, no later than December 31st of each calendar year, to the Senior Procurement Executive (SPE) and the DSPE, on number of contracts for non-commercial items with advance payments approved in the previous fiscal year. The report shall include the contract number and amount, the amount of the advance payment, and the kind and amount of security obtained for the advance.