



# VA Acquisition Update

August 29, 2017

Number 2008-03

1. **Material Transmitted:** The attached pages contain interim revisions issued via approved Class Deviations to the Department of Veterans Affairs Acquisition Regulation (VAAR) Parts 801, 802, 804, 806, 808, 809, 810, 812, 813, 815, 816, 817, 819, 832, 842, 852, 853, and 873. The inserts also incorporate revised text at VAAR 819.307 from a final rule previously published in the Federal Register.

2. **Summary of Changes:** This VA Acquisition Update provides:

- a. Revisions to the VAAR that were published via a final rule in the Federal Register at 80 FR 12564, March 10, 2015, which adopted as a final rule, without change, the interim final rule published in the Federal Register at 78 FR 59865, dated September 30, 2013. The final rule revised the text at VAAR 819.307, SDVOSB/VOSB Small Business Status Protests, as reflected in the electronic Code of Federal Regulations.
- b. Text revisions based on active VAAR Class Deviations issued from September 9, 2010 through June 30, 2017 and still effective, until rescinded or incorporated into the official eCFR revised VAAR. They are listed and summarized below:

| <b>2008 VAAR Active Class Deviations (CD) through 30 June 2017</b> |                                 |                            |   |
|--|---------------------------------|----------------------------|---|
| <b>CD Title</b>  | <b>Effective Date</b>           | <b>VAAR Parts Affected</b> | <b>Summary of Change(s)</b>   |
| Representatives of Contracting Officers                            | Oct 20, 2010                    | 801.603-70                 | This deviation allows COs to issue ordering delegations which grant authority to non-warranted personnel to issue funded delivery orders against VA indefinite delivery vehicles. (Note: See Nov 19, 2014 Class Deviation that provides additional authority at 801.603-70(b)(5).)  |
| DSPE Duties  | Apr 16, 2012                    | 801.304                    | Changes the Deputy Senior Procurement Executive (DSPE) designation from the Associate Deputy Assistant Secretary (ADAS) for Acquisition to the ADAS for Procurement Policy, Systems and Oversight. Additionally, the offices and titles for the Chief Acquisition Officer (CAO) and Senior Procurement Executive (SPE) are updated to reflect the current organizational structure.                       |
| Indefinite-Quantity Contracts                                      | Oct 11, 2012                    | 816.504<br>852.216-70      | To comply with the FAR requirement that contract clauses prescribed in VAAR 816.504 supplement the FAR to satisfy the specific needs of the VA. Particularly, this deviation is to suspend clause 852.216-70, Estimated Quantities.   |
| Ratification of Unauthorized Commitments                           | May 3, 2013                     | 801.602-3 (b)(1)-(3)       | Changes the ratification authority from the Deputy Assistant Secretary (DAS) for Acquisition and Materiel Management to the Head of Contracting Activities (HCAs); clearly identifies the HCAs as the ratification office for all unauthorized commitments in accordance with FAR 1.602-3(b)(2) and (3); and, rescinds ratification authority from the "chief financial officers of the Administrations". |
| Representatives of Contracting Officers                            | Nov 19, 2014                    | 801.603-70                 | Revises the October 20, 2010 deviation (VAIQ 7003833) to allow Heads of Contracting Activities (HCAs) to designate non-warranted personnel as ordering officers for non-VA contracts where prices are pre-established and no further negotiations are required.   |
| Assignment of Contract Audit Services                              | Oct 26, 2015 (dtd Sep 29, 2015) | 842.102                    | Authorizes CFM to obtain audit services directly from GSA Schedule 520, Financial and Performance Audits contractors through Fiscal Year 2020.  |

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| Approval Authority from DSPE to HCAs  | Dec 15, 2015<br>(dtd Dec 2, 2015)   | 832.202-1<br>832.402   | Delegates <u>approval authority from the DSPE to the HCAs</u> or designee for making findings and determinations and approval of contract terms for advance payments.   |
| Language Clarification-Requirements   | Dec 15, 2015<br>(dtd Dec 3, 2015)   | 806.501  | Clarifies language to update title to Advocate for Competition; designates the Deputy Senior Procurement Executive (DSPE) as the Agency Advocate for Competition and also authorizes this authority to other VA procurement officials.  |
| Employee Empowerment Initiative (EEI)   | Dec 15, 2015<br>(dtd Dec 3, 2015)   | 832.202-1(d)<br>832.402  | Delegates approval authority from the DSPE to the HCAs or designee for making findings and determinations and approval of contract terms for advance payments.  |
| Contracts Regarding Option Year Contracts and Terms Exceeding 5 Yrs           | Dec 15, 2015<br>(dtd Dec 2, 2015)   | 817.204  | Delegates authority to approve periods of service beyond 5 years from the DSPE to the HCAs or designee.   |
| Employee Empowerment Initiative (EE)  | Dec 15, 2015<br>(dtd Dec 2, 2015)   | 801.602-70<br>801.602-71<br>801.602-72                         | Revises the oversight process establishing a more decentralized, less labor-intensive oversight process.  |
| Implementation of VFCP as a Result of U.S. Supreme Court Decision (VFCP 2016) | Jul 25, 2016*<br>(Also see March 1, 2017, Attachment 4, Amendment 01 to VAAR 808.002) | 802, 804, 806,<br>808, 810, 812,<br>813, 817, 819,<br>852, 873 | Rescinds class deviation—VAAR part 808 dated May 5, 2016 and moves VA mandatory contract vehicles to VAAR 808.004-70 as non-mandatory, while retaining priority over other existing contract vehicles. This class deviation also adds VAAR 808.002, 808.004-70, 808.405-70, 808.405-2 and 808.405-70 to fully implement the Veterans First Contracting Program as it relates to VAAR part 808, Required Sources of Supplies and Services including the Federal Supply Schedules. This deviation is effective until incorporated in the VAAR or otherwise rescinded. |
| Approval of the Justification   | Aug 8, 2016   | 806.304  | Justifications shall be approved in accordance with the approving officials and thresholds specified in FAR 6.304. VAAR 806.304 text is deleted and marked as "Reserved."   |
| Basic Review Requirements   | Oct 6, 2016   | 801.602-71   | Corrects the Review Levels and Thresholds contained in the previous deviation released on December 2, 2015.   |
| Responsibilities  | Dec 15, 2016  | 815.303  | Delegates to the HCAs the authority to  |

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|   |                       |                            | designate an individual other than the contracting officer as the Source Selection Authority (SSA) for a particular acquisition or group of acquisitions.   |
| Nonmanufacturer Rule Waiver to SBA  | Feb 17, 2017          | 819.102                    | Adds section VAAR 819.102(f)(4) and (5), which requires the Head of the Contracting Activity (HCA) to approve any request for a Nonmanufacturer Rule waiver prior to submission to the Small Business Administration (SBA) for class waivers or for a specific solicitation; and the use of other than competitive procedures or restricted competition, as defined in 38 U.S.C. 8127, for procurements where SBA has issued a class waiver to the Nonmanufacturer Rule.  |
| Implementation of VFCP as a Result of U.S. Supreme Court Decision (Revised) (VFCP FEB 2017) | Mar 1, 2017           | 808.002                    | This deviation includes changes to the VAAR to amend the implementation of the Veterans First Contracting Program (VFCP) originally set forth in Attachment 4 to Class Deviation (VFCP 2016), dated July 25, 2016, and revises VAAR 808.002 only, as set forth in Attachment 4, Amendment 01. (All other language contained in the original Class Deviation, VFCP 2016, remains in effect, to include the text set forth in the original Attachment 4 with the exception of the revised VAAR 808.002 issued as a result of this deviation.) |
| Increased Dollar Threshold to the Simplified Acquisition Threshold for VA Form 10-2421      | Mar 31, 2017          | 813.307<br>853.213         | Increases the dollar threshold to not to exceed the Simplified Acquisition Threshold for use of VA Form 10-2421, Prosthetics Authorization for Items or Services. This deviation expires March 31, 2018, unless otherwise rescinded.  |
| Review Requirements- OGC  | Apr 12, 2017          | 801.602-75                 | Updates the review requirements for the Office of General Counsel.  |
| Debarment, Suspension, and Ineligibility  | Jun 2, 2017           | 802.101<br>809.400         | Implements a broader definition of "willful and intentional misrepresentation" of SDVOSB and VOSB status, implements specific processes and criteria pursuant to 38 U.S.C. § 8127(g), and updates VA's policies and procedures for suspensions and debarments, which includes earlier changes issued via a Class Deviation on Apr 30, 2015 to 802.101 and 809.400. The earlier  |

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|  |                       |                            | deviation removed definitions for <i>D&amp;S Committee</i> and <i>Debarring official</i> and added new definitions for <i>S&amp;D Committee</i> and the <i>Suspending and Debarring Official (SDO)</i> which is continued in the new Jun 2, 2017 deviation. Also rescinds the Apr 30, 2015 class deviation. |

### 3. Filing Instructions:

| <b>Remove pages:</b> | <b>Insert Pages:</b> |
|----------------------|----------------------|
| TOC-1 thru TOC-4     | TOC-1 thru TOC-4     |
| 801-1 thru 801-40    | 801-1 thru 801-38    |
| 802-1 thru 802-6     | 802-1 thru 802-6     |
| 804-1 thru 804-4     | 804-1 thru 804-4     |
| 806-1 thru 806-6     | 806-1 thru 806-8     |
| 808-1 thru 808-6     | 808-1 thru 808-10    |
| 809-1 thru 809-14    | 809-1 thru 809-16    |
| 810-1 thru 810-4     | 810-1 thru 810-4     |
| 812-1 thru 812-6     | 812-1 thru 812-6     |
| 813-1 thru 813-6     | 813-1 thru 813-8     |
| 815-1 thru 815-8     | 815-1 thru 815-8     |
| 816-1 thru 816-6     | 816-1 thru 816-6     |
| 817-1 thru 817-6     | 817-1 thru 817-6     |
| 819-1 thru 819-22    | 819-1 thru 819-28    |
| 832-1 thru 832-10    | 832-1 thru 832-10    |
| 842-1 thru 842-6     | 842-1 thru 842-6     |
| 852-1 thru 852-57    | 852-1 thru 852-64    |
| 853-1 thru 853-6     | 853-1 thru 853-6     |
| 873-1 thru 873-16    | 873-1 thru 873-16    |

**Effective date:** As depicted in the Summary of Changes table.