

# The Office of Acquisition and Logistics Management Newsletter

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## FAR DEVIATION CLAUSE 52.223-99— ENSURING ADEQUATE COVID SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS

**H**HHS issued a Class Deviation (2021-03) from the Federal Acquisition Regulation regarding implementation of Executive Order 14042, Ensuring Adequate COVID Protocols for Federal Contractors, on October 7, 2021.

**Background:** On September 9, 2021, President Biden signed [Executive Order \(E.O.\) 14042](#) – Ensuring Adequate COVID safety Protocols for Federal Contractors. The Executive Order requires agencies to include a clause requiring contractor and subcontractors at any tier to comply with all guidance for contractor or subcontractor workplace locations as published by the Safer Federal Workforce Task Force (Task Force Guidance) at <https://www.saferfederalworkforce.gov/contractors/>.

**Deviation:** Effective immediately, and no later than October 15, 2021, HHS contracting officers shall insert the clause [52.223-99 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors](#), in all contracts or contract-like instruments for commercial and non-commercial requirements for services, research and development, and construction services, above the micro-purchase threshold (MPT). Covered contractors and subcontractors must comply with all COVID-19 workplace safety protocols and be fully vaccinated no later than the date specified in the task force guidance unless the employee is legally entitled to an accommodation. Please refer to the [class deviation prescription](#) for further details on implementation. The incorporation of the clause must be done via a bilateral modification.

The clause shall not be applied to contracts with Indian Tribes under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or solicitations and contracts if performance is outside the United States or its outlying areas.

Several OALM Communications have since been released to provide further guidance on the implementation of the FAR deviation clause.

**[OALM Communication 22-04](#)**, effective October 18, 2021 -

Contains guidance for contract modifications to include FAR deviation clause 52.223-99 including guidance on SF-30 Blocks 13 and 14, the PRISM Purpose field and the FPDS 6M Description of Requirement field guidance.

When completing the SF-30:

- Section 13 should be checked as “C” and cite the E.O. 14042 as the authority.
- Section 13E should reflect the Contractor is required to sign this document.
- Section 14 – Purpose of the modification, where appropriate, state the following:

**“The purpose of this modification is to include FAR clause deviation clause 52.223-99 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors pursuant with Executive Order 14042.”**

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## FAR DEVIATION CLAUSE 52.223-99— ENSURING ADEQUATE COVID SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS

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For IDIQ parent contracts, add the following text and include the FAR deviation clause in full text:

**“This FAR clause will apply to all existing and future task/delivery orders under this contract.”**

General guidance to the NIH acquisition community:

- Include the clause in any execution of a modification or option;
- Modify the contract to include the clause (as soon as time and resources permit) if there is no immediate modification or option;
- Once the modification for the parent IDIQ contract is issued, no modifications are needed for the task/delivery orders;
- If modifications for some task or delivery orders have already been made, the parent IDIQ contract will still have to be modified.

**OALM Communication 22-05**, effective October 21, 2021 -

Provides updated tracking implementation of E.O 14042. Alert addressed a revision to the PRISM requirements for the description 6M field provided in OALM Communication 22-04.

- When entering the modification in PRISM, include the following in the “Purpose” field:  
**“Deviation Clause 52.223-99 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors is being added to this contract.”**
- Before launching FPDS, add “EO14042” to the beginning of the description in the 6M-Description of Requirement field and check the “Override FPDS Description” box.
- Awards or modifications issued prior to the issuance of this instruction and on or after September 30, 2021 should be updated in FPDS by December 1, 2021 by the Contracting Officer.
- The National Interest Action (NIA) code for COVID **should not be entered** unless the award itself was issued in response to the pandemic.

**OALM Communication 22-07**, effective October 28, 2021 -

Provides additional administrative guidance regarding implementation of E.O. 14042.

- Tailoring of FAR deviation clause 52.223-99 - The FAR deviation clause 52.223-99 can neither be tailored nor have verbiage included to add flexibility.
- Contractor Refusal to Sign Modification or Submit Additional Costs. If any of these issues arise, send a notification to the DAPE mailbox ([dape@od.nih.gov](mailto:dape@od.nih.gov)) with the required information as identified in the communication. Failure of a contractor to sign any new awards will preclude making the award to that contractor.
- Sample Cover Sheet. Contracting officers may use the sample cover sheet to transmit awards or modifications with the FAR deviation clause 52.223-99.

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## FAR DEVIATION CLAUSE 52.223-99— ENSURING ADEQUATE COVID SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS

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**OALM Communication 22-10**, effective November 2, 2021 –

Contains guidance on new and existing orders for GSA Schedules, NIH-Wide IDIQs and BPAs.

- Open Market purchase orders for services, above the MPT, must include the FAR deviation clause. A bilateral modification on all existing OM purchase orders for services will need to be executed as quickly as resources allow.
- For orders under GSA FSS BPAs, Schedule IDIQs and other GSA GWAC vehicles, Contracting Officers must ensure that the contract has been modified to include the FAR deviation clause before an award is made. GSA is in the process of modifying Schedule contracts so the clause will flow down to existing and future orders.
- All base award modifications have been completed for NITAAC GWACs – No action is required.
- Contracting officers placing orders against NIH-Wide IDIQs ([LTASC](#), [NIHBPSS](#), [NIHCATS III](#), [PICS II](#) and [SOAR](#)) must include the FAR deviation clause in the order if the base award modification has not yet been fully executed.
- NIH Open Market BPAs are being modified to include the FAR deviation so it will flow down to all new and existing Calls. All new BPA calls will need to include the FAR deviation clause at the call level until the OM BPAs have been modified.

Check the status of the GSA modifications by visiting their interactive website at <https://d2d.gsa.gov/report/covid-safety-protocols-federal-contractors-public>. Information regarding NITAAC GWACs can be found at <https://nitaac.nih.gov/resources/news/contract-update-executive-order-14042>.

For more information on the Executive Order and the Safer Federal Workforce Task Force, you can visit the following websites:

**General Site** <https://www.saferfederalworkforce.gov/>

**Guidance for Contractors** [https://www.saferfederalworkforce.gov/downloads/Draft%20contractor%20guidance%20doc\\_20210922.pdf](https://www.saferfederalworkforce.gov/downloads/Draft%20contractor%20guidance%20doc_20210922.pdf)

**HHS Deviation** [https://www.acquisition.gov/sites/default/files/page\\_file\\_uploads/HHS-Class\\_deviation\\_2021\\_03\\_perscription\\_of\\_EO\\_14042\\_10.7.2021.pdf](https://www.acquisition.gov/sites/default/files/page_file_uploads/HHS-Class_deviation_2021_03_perscription_of_EO_14042_10.7.2021.pdf)

**HHS Webinar for contractors** <https://access2success.hhs.gov/hhs-acquisition-alert-broadcast/>

**OALM Communications and HHS Acquisition Alerts** <https://oalmsps.od.nih.gov/OAMP/DSAPS/ASRB/SAPhD/SitePages/Home.aspx> \*Must be logged into the NIH VPN to access this SharePoint site.

All questions from the Offices of Acquisitions should be sent to the DAPE mailbox ([dape@od.nih.gov](mailto:dape@od.nih.gov)). Questions from the Delegated Offices of Acquisitions can be sent to DSAPS at the Simplified Acquisition Helpline ([simplifiedacquisitionhelp@od.nih.gov](mailto:simplifiedacquisitionhelp@od.nih.gov)).

This material has also been added to the COVID-19 Guidance website on the DSAPS SharePoint site at <https://oalmsps.od.nih.gov/OAMP/DSAPS/ASRB/SAPhD/SitePages/Home.aspx>.

## NBS PRISM FIELD DEFINITIONS UPDATES AND THE “NIH OPTIMIZE ACQUISITIONS—QUICK REFERENCE GUIDE”

On July 6, 2021, as part of the 'Optimize Acquisitions: Contract Data Quality and Standards' project, the following PRISM field definitions were updated to further clarify the information that should be entered in these fields:

- Purpose (General tab)
- Description (General tab)
- 6M - Description of Requirement (FPDS tab)
- Contractor Key Personnel (General tab)
- Government Contracting Officer Representative (COR) (General tab)

In addition to the above changes, the [NIH Optimize Acquisitions: Quick Reference Guide](#) has been developed to support acquisition staff who routinely process awards and modifications in NBS PRISM. This guide clarifies the information that should be entered in the following PRISM fields:

- Purpose
- Description
- 6M - Description of Requirement
- Contractor Key Personnel

Government Contracting Officer Representative (COR). NOTE: The previous PRISM field name was "Project Officer (COR)."

The guide can be found on the [DAPE Site](#) under [COR Corner Documents](#).

### **What is not Changing**

NIH employees' access, use in PRISM and PRISM roles have not been changed. Likewise, all other PRISM field definitions remain unchanged.

### **Need Help?**

Please contact the OALM Contract Data Management Program Help Desk at [cdmphehelpdesk@mail.nih.gov](mailto:cdmphehelpdesk@mail.nih.gov) or submit an NIH IT help desk ticket.

*This information was previously communicated by OALM on July 15<sup>th</sup>, 2021.*

*OALM COMMUNICATION 21-93.1*

## THANK YOU FOR A SUCCESSFUL FY21

The Supply Management Branch within the Division of Logistics Services would like to thank both our team and our customers for the success we have had this year. While some staff and customers were hard at work from home, others were coming in and out of the office daily. We may not have all been together physically, but the connections, brainstorming, and passion for our mission, only strengthened. Below are just a few of the tasks we were able to come together to accomplish this year:

**Became the #1 Source for Gloves at NIH-** the team at the Supply Center worked endlessly to provide a wide inventory of latex, nitrile, and other gloves for the NIH Community, as well as worked with HHS as a part of the Buy Smarter Initiative.

**Built up our Bulk Hold Program-** with more manufacturer shortages, customers were worried that they would not be able to secure items quick enough. When products would come in stock, they ordered in bulk to avoid running out, but were left without space in their offices and labs for storage. We explained our Bulk Hold Program as an option, which was met with rave reviews. As a reminder, benefits of our Bulk Hold Program are:

- **No extra cost-** when you order items through the Supply Center, you can take advantage of our Bulk Hold Program for no extra cost!

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## THANK YOU FOR A SUCCESSFUL FY21

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- **Items are stored on NIH Property-** this is *convenient* for you when requesting shipment or arranging a pickup.
- **Lower prices-** at the Supply Center, we do market research and maintain existing partnerships with vendors to ensure that items you purchase with us are sold at a lower rate than other vendors.
- **Swift delivery-** items will be delivered to you upon request, leading to reduced wait times and reduced risk of experiencing inventory shortages.

**Assistance to the Clinical Center-** as a valuable partner to the NIH Supply Center, we were thrilled to be able to aid the Clinical Center in their mission this year with just some of the following items:

- 1mL, 25 Gauge x 1” Safety Needles with Syringes
- Nitrile Gloves
- Tyvek Suits
- N95 Masks
- Hand Sanitizer

**Provided 1500 COVID Test Kits to NIEHS’ North Carolina Campus-** while these kits were out of stock most places, we were able to secure them at a great price!

**Aided the Michigan US Border Crisis-** our team worked around the clock to deliver 6 pallets of supplies to 250 migrant children.

**Launched our New Online Catalog-** our new catalog features a better search engine and more categorization.

**Updated our Phone Lines-** our phone lines are now a Call Center! When you call in, don’t forget to press Option 6 for a surprise!

We cannot thank you enough for all of your hard work and dedication. We cannot wait to see what is to come in FY22, including our new warehouse!

If you would like to receive more information or have any questions, contact our Customer Service Team at [NIHSC-CustomerService@od.nih.gov](mailto:NIHSC-CustomerService@od.nih.gov). Thank you and remember - we are ONE NIH!

## FAR AMENDED FOR FAIR OPPORTUNITY ON CERTAIN TO/DOs

**F**AR Case 2020-004 has amended the Federal Acquisition Regulation (FAR) to implement a section of the [National Defense Authorization Act for Fiscal Year 2020](#) that raises the threshold for fair opportunity on certain task and delivery orders to the micro-purchase threshold.

As of 7/12/2021, the following revisions below apply:

<p><a href="#">16.505 (b)(1)(i), (b)(2)(i)</a>  and <a href="#">(b)(2)(ii)(A)</a></p>	<p>Amend section 16.505 by—  a. Removing from paragraph (b)(1)(i) introductory text “\$3,500” and adding “the micro-purchase threshold” in its place;  b. Removing from paragraph (b)(2)(i) introductory text “delivery-order or task-order exceeding \$3,500” and adding “delivery order or task order exceeding the micro-purchase threshold” in its place; and  c. Removing from the paragraph (b)(2)(ii)(A) subject heading “ \$3,500” and adding “the micro-purchase threshold” in its place.</p>	<p><a href="#">FAR Case 2020-004</a></p>
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For additional questions or concerns, please contact the Simplified Acquisition Helpline at [simplifiedacquisitionhelp@od.nih.gov](mailto:simplifiedacquisitionhelp@od.nih.gov).

## ACQUISITION POLICY ZONE

### Policy and Guidance Issuances – April 2021 to November 2021

Title	Date	Purpose
21-66 beta.SAM.gov Alert >> The New Design of beta.SAM.gov is Here	4/28/2021	New Design of beta.SAM.gov.
21-83 SAM.gov Alert – Summary of SAM.gov for Contracting Officers	6/15/2021	Summary of the key changes with the new SAM.gov for Contracting Officers.
2021-06 SDO Notification of Delinquent Tax Debt	7/01/21	Highlights the requirement to notify the HHS Suspension and Debarment Official (SDO) in accordance with <a href="#">FAR 9.104-5(a)</a> and <a href="#">FAR 9.104-5(b)</a> when an offeror provides an affirmative response to the existence of an indictment, charge, conviction, civil judgement or Federal tax delinquency.
Policy Flash 21-11 IGCE	7/01/21	A reminder for the HHS acquisition workforce of the importance of developing a sufficiently detailed, accurate, and well documented IGCEs.

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## ACQUISITION POLICY ZONE

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Title	Date	Purpose
Email from Doris Gibson to HCAs and Sustainability Green Procurement Managers	7/02/21	Contracting Officers are encouraged to include specific requirements throughout the solicitation, and examples and sample language have been provided below and at the BioPreferred website.
21-89 SAM.gov Alert – Access to For Official Use Only (FOUO) and Sensitive Data	7/07/21	The launch of the new SAM.gov on May 24, 2021, introduced some changes. There are now two levels of data sensitivity in SAM.gov.
Policy Flash 21-12 IPv6	7/09/21	A reminder for the HHS acquisition workforce of the requirement for the Federal government to expand and enhance its strategic commitment to the transition from Internet Protocol version 4 (IPv4) to Internet Protocol version 6 (IPv6), in order to ensure future growth and innovation in Internet technology and services.
FAR Case 2020-004	7/12/21	FAR 16.505 has been amended (see revisions below) to implement a section of the National Defense Authorization Act for Fiscal Year 2020 that raises the threshold for fair opportunity on certain task and delivery orders to the micro-purchase threshold.
21-93 NBS PRISM: PRISM Field Definitions Update and Quick Reference Guide	7/12/21	PRISM Field definition update.
21-96 SAM.gov Alert – What you need to know about the new Unique Entity ID (UEI) in SAM.gov	7/20/21	By April of 2022, the federal government will stop using the DUNS number to uniquely identify entities registered in the System for Award Management (SAM). At that point, entities doing business with the federal government will use a Unique Entity Identifier (UEI) created in SAM.gov.
21-100 NIH-HHS Definitions and Instructions for PRISM General Tab V1.2 July 2021 [Formerly called the NIH-HHS Data Elements Manual]	7/28/21	Due to the recent update of several PRISM field definitions (OALM Communication 21-93 issued July 12, 2021), the “NIH-HHS Definitions and Instructions Manual” for the PRISM General Tab has been updated to reflect the new definitions. Please note the former title of the manual was called the “NIH-HHS Data Elements Manual.”
Mandatory Use of NIH PRISM Award Forms	8/06/21	Contracting Officers are responsible for ensuring that all award forms are properly generated, and data is validated in NBS PRISM. NIH's use of NBS PRISM and NBS Oracle is documented in the cycle memos used by HHS and the external auditors to ensure sufficient internal controls under OMB Circular A-123.

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## ACQUISITION POLICY ZONE

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Title	Date	Purpose
21-108 SAM.gov Alert - GSA Stakeholder Forum Recap: The New Unique Entity ID in SAM.gov	8/17/21	Please see the attached email from the General Services Administration (GSA) on the recent online stakeholder forum on what the transition to the new Unique Entity ID means for you.
21-112 Deliveries During COVID-19 Emergency	8/27/21	We have had reports of deliveries occurring to buildings that are locked or not occupied, and the delivery was not able to be completed by commercial vendors. Please see attached guidance that was previously sent in December 2020 for on campus and off campus deliveries during the COVID-19 emergency.
21-47.1 Extension of FPDS National Interest Action (NIA) Code for COVID-19	9/01/21	The NIA value 'COVID-19 2020' has been extended to March 30, 2022.
DAPE Guidance on Mandatory Vaccines	9/17/21	At this time, contracting officers (CO), contracting specialist (CS) or contracting officer representatives (COR) shall not communicate any changes or direction regarding any contract or individual contract personnel.
Acquisition Alert 2021-08 HHS Acquisition Review Program	9/29/21	The HHS Acquisition Review Pilot Program has been extended until March 31, 2022.
OAP Guidance: Signature block change	9/29/21	Signature Block for SPE H. Katrina Brisbon Acting, Deputy Assistant Secretary for Acquisitions and Senior Procurement Executive.
DAPE Guidance on EOs	9/29/21	Guidance implementing the contract requirements of <a href="#">Executive Order 14042 Ensuring Adequate COVID Safety Protocols for Federal Contractors</a> . Meanwhile, a lot of information has been posted at the Safer Federal Workforce website <a href="https://www.saferfederalworkforce.gov/new/">https://www.saferfederalworkforce.gov/new/</a> by the Task Force. HHS has also posted information at the Sam.gov website <a href="https://sam.gov/opp/f330f08d9505411d9db033d00ebe202d/view">https://sam.gov/opp/f330f08d9505411d9db033d00ebe202d/view</a>
OAP email regarding Potential Lapse in appropriations	9/30/21	House Clears Extending Government Funding and Delivering Emergency Assistance Act.

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## ACQUISITION POLICY ZONE

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Title	Date	Purpose
22-01 NBS PRISM General Tab – NIH REQUIRED FIELDS Retired Chimpanzee Involvement & New Field Human Fetal Tissue (HFT)	10/07/21	General Tab NIH Required Fields Update.
22-02 FAR DEVIATION Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors	10/08/21	A Class Deviation from the Federal Acquisition Regulation regarding implementation of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, has been issued for HHS.
22-04 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors - Guidance for contract modifications to include FAR Clause 52.223-99	10/18/21	Contains guidance for contract modifications to include FAR deviation clause 52.223-99 including guidance on SF-30 Blocks 13 and 14, the PRISM Purpose field and the FPDS 6M Description of Requirement field guidance.
22-05 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors -	10/21/21	Provides updated tracking implementation of E.O 14042. Alert addressed a revision to the PRISM requirements for the description 6M field provided in OALM Communication 22-04 .
22-07 ADMINISTRATIVE GUIDANCE - Implementation of Executive Order 14042	10/28/21	Provides additional administrative guidance regarding implementation of E.O. 14042.
22-10 Implementation of Executive Order 14042 (EO14042) - Guidance on New and Existing Orders for GSA Schedules, NIHWide IDIQs and BPAs	11/2/21	This communication provides guidance on how to handle new and existing orders including those issued under General Services Administration (GSA) schedules, NIH-wide indefinite-delivery indefinite-quantity (IDIQ) contracts and blanket purchase agreements (BPAs).

## ACQUISITION TRAINING INFORMATION

### Acquisition Training at NIH

Acquisition Training Classes that are offered by the NIH Training Center can be accessed at the following link: [Acquisition Management Courses](#)

### Federal Acquisition Certification Coursework

CON courses and other Federal Acquisition Certification required courses can be found at the [NIH Training Center](#), [Federal Acquisition Institute](#), and [Defense Acquisition University](#).

### Section 508 Accessibility Training

Section 508 Accessibility Training courses can be accessed at: [CIT Section 508 Accessibility Training Website](#).

### Green Purchasing Training

Green Purchasing Training and other Green Training courses can be found at: [OALM Green Purchasing Website](#).

## NEWS FROM THE BPA PROGRAM

Need to make a quick buy?  
Looking to create value for your customer?  
Not sure what a BPA is?



Contact the BPA Helpline at 301-496-5212 or the Helpdesk [BPAProgramBranch@od.nih.gov](mailto:BPAProgramBranch@od.nih.gov) for more information.

## NIH BLANKET PURCHASE AGREEMENT (BPA) LISTS AVAILABLE ONLINE

**L**ists of all NIH Blanket Purchase Agreements (BPAs) can be found at the NIH Blanket Purchase Agreement [webpage](#).

This location contains Two BPA Lists:

1. Complete vendor alphabetical list;
2. Vendor list sorted by commodity; and

If you have any questions or need further clarification, please contact the BPA helpline at 301-496-5212 or [email](#).

# Mahalo iā 'oe

**“Thank You” in Hawaiian**

**SPECIAL THANKS**

**We'd like to thank all those who contributed to this issue  
and to future editions of the OALM Newsletter.**

The OALM Newsletter will be published four (4) times in calendar year 2022. We encourage staff to submit articles that would be of interest to our readers. We will do our best to include such articles in future editions of the OALM Newsletter.

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If you have any questions or comments regarding the information, policy and/or procedures published in this issue, you may contact Jesse Lee at the e-mail address above. For future issues please contact the Simplified Acquisitions Helpline on 301-496-0400 or via e-mail at [OALMnewsletter@mail.nih.gov](mailto:OALMnewsletter@mail.nih.gov) and you will be referred to the appropriate editor.