



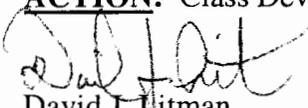
**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

# Memorandum

Subject: **ACTION:** Class Deviation to TAR 1252.237-70

Date: October 27, 2005

From:   
David J. Litman  
Senior Procurement Executive

Reply to  
Attn. of:

To: Procurement Management Council Members

In accordance with Transportation Acquisition Regulation (TAR) 1201.404, I authorize a class deviation from the requirements of TAR 1252.237-70, Qualifications of Contractor Employees. This deviation is necessary for the timely implementation of Federal Information Processing Standards Publication (FIPS PUB) 201, Personal Identity Verification of Federal Employees and Contractors, which implements Homeland Security Presidential Directive 12.

Because of the urgency in implementing FIPS PUB 201, consultation with the Chairperson of the Civilian Agency Acquisition Council has been determined unnecessary by the Senior Procurement Executive in accordance with Federal Acquisition Regulation 1.404.

This class deviation applies to all solicitations and contracts issued or awarded after October 27, 2005. For those needing additional time to implement this requirement, such implementation must occur by November 10, 2005, and remains effective until issuance of a TAR change or as otherwise rescinded.

The applicable clause is attached.

Attachment

**1252.237-70 Qualifications of contractor employees.**

As prescribed in (TAR) 48 CFR 1237.110(a), insert the following clause:

**QUALIFICATIONS OF CONTRACTOR EMPLOYEES (DEVIATION)  
(MAY 2005)-Alternate I (October 2005)**

- a. Definitions. As used in this clause- "Sensitive Information" is any information that, if subject to unauthorized access, modification, loss, or misuse, or is proprietary data, could adversely affect the national interest, the conduct of Federal programs, or the privacy of individuals specified in The Privacy Act, 5 U.S.C. 552a, but has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.
- b. Work under this contract may involve access to DOT facilities, sensitive information, or resources (e.g., computer systems). To protect sensitive information, which shall not be disclosed by the contractor unless authorized in writing by the contracting officer, the contractor shall provide training to any contractor employees authorized to access sensitive information, and upon request of the Government, provide information to assist the Government in determining an individual's suitability to have authorization.
- c. The Contracting Officer may require dismissal from work under this contract those employees deemed incompetent, careless, insubordinate, unsuitable, or otherwise objectionable, or whose continued employment is deemed contrary to the public interest or inconsistent with the best interest of national security.
- d. Contractor employees working on this contract must complete such forms as may be necessary for security or other reasons, including the conduct of background investigations to determine suitability. Completed forms shall be submitted as directed by the Contracting Officer. Upon the Contracting Officer's Technical Representative (COTR) or Project/Program manager (PM) request, the Contractor's employees shall be fingerprinted, or subject to other investigations as required.
- e. The Contractor shall ensure that contractor employees are citizens of the United States of America or aliens who have been lawfully admitted for permanent residence or employment (indicated by immigration status) as evidenced by Bureau of Citizenship and Immigration Services documentation; and
- f. The Contractor shall immediately notify the COTR or PM when an employee's status changes (e.g., employee's transfer, completion of a project, retirement or termination of employment) that may affect the employee's eligibility for access to the facility, sensitive information, or resources.

g. To ensure the requirements of FIPS 201, Personal Identity Verification (PIV) of Federal Employees and Contractors, are met, the Contractor shall:

1. Provide a listing of personnel for whom an identification (ID) card is requested to the COTR or PM who will provide a copy of the listing to the card issuing office. This may include Contractor and subcontractor personnel. Follow issuing office directions for submittal of an application package(s).

2. While visiting or performing work on a DOT facility, as specified by the issuing office, PM or COTR, ensure that contractor employees prominently display their identification card.

3. Promptly deliver to the issuing office: (1) all ID cards assigned to an employee who no longer requires access to the facility; and (2) all expired ID cards within five (5) days of their expiration or all cards at time of contract termination, whichever occurs first.

4. Immediately report any lost or stolen ID cards to the issuing office and follow their instructions.

h. The Contractor shall include the substance of this clause in all subcontracts at any tier where the subcontractor may have access to Government facilities, sensitive information, or resources.

i. Failure to comply with these requirements may result in withholding of final payment.

(End of clause)