

**CLASS DEVIATION
FINDINGS AND DETERMINATION
IMPLEMENTATION OF THE MEMORANDUM,
IMPROVING THE TRANSPARENCY OF MADE IN AMERICA WAIVERS**

Findings

1. The subject Memorandum was signed by the Director, Made in America Office, and Acting Administrator for Federal Procurement Policy on October 26, 2021. The Memorandum provides specific guidance to agencies, with regards to waivers under the Buy American Statute. The Made in America Office (MIAO) Memorandum builds on the guidance in OMB Memorandum M-21-26, Increasing Opportunities for Domestic Sourcing and Reducing the Need for Waivers from Made in America Laws, dated June 11, 2021. OMB Memorandum M-21-26 outlined initial management steps to help agencies prepare for and support a centralized strategic waiver review process as required by Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers, dated January 28, 2021, and published in the Federal Register at 86 FR 7475.
2. The Civilian Agency Acquisition Council (CAAC) issued CAAC Letter 2022-01 on November 16, 2021, authorizing agencies to issue class deviations to implement the MIAO Memorandum. The Federal Acquisition Regulation (FAR) Council intends to open a new FAR case to implement the changes to the waiver process.
3. CAAC letter 2022-01 constitutes consultation in accordance with FAR 1.404 with the Chair of the CAAC allowing agencies to authorize a class deviation to implement the changes.

Determination

It is hereby determined that a class deviation (using the FAR Deviation text included in CAAC Letter 2022-01) is appropriate to implement the MIAO Memorandum. This class deviation is effective upon the date of signature and will remain in effect until canceled or until the FAR is amended.

John R. Bashista,
Director
Office of Acquisition Management,
Department of Energy

S. Keith Hamilton, P.E.,
Deputy Associate Administrator
Acquisition and Project Management
and Senior Procurement Executive
National Nuclear Security Administration

Attachment: CAAC Letter 2022-01 with FAR Deviation text