



GSA Public Buildings Service

October 5, 2021

MEMORANDUM FOR: REGIONAL COMMISSIONERS, PBS
REGIONAL LEASING DIRECTORS
REGIONAL LEASE ACQUISITION OFFICERS

FROM:

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SUBJECT:

LEASING ALERT (LA-21-15) – Implementation of Executive
Order 14042, Ensuring Adequate COVID Safety Protocols
for Federal Contractors

1. **Purpose.** This Leasing Alert issues leasing guidance to implement Executive Order (EO) 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors. Specifically, this Leasing Alert disseminates the following:
 - a) [FAR Class Deviation CD-2021-13](#), Implementation of Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, along with its Attachments A through D, issued by GSA's Office of Governmentwide Policy (OGP) on September 30, 2021 (Attachment 1 of this Leasing Alert).
 - b) FAR clause 52.223-99, ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (OCT 2021) (DEVIATION). This is a stand-alone version of FAR clause 52.223-99 (Attachment 2 of this Leasing Alert).
 - c) Updated General Clauses, GSA Forms 3517A and 3517B (Attachments 3 and 4 of this Leasing Alert). These templates incorporate FAR clause 52.223-99, in addition to other updates.

2. Background.

- a. In order to ensure the health and safety of the federal workforce and contractor community, the President signed [EO 14042](#). The EO promotes economy and efficiency in Federal procurement by ensuring that contractors and subcontractors that contract with the Federal Government provide COVID-19 safeguards to their workers that perform work on a Federal Government contract. The EO directs the Safer Federal Workforce Taskforce to issue guidance to provide implementation details and the Federal Acquisition Regulatory (FAR) Council to establish a new clause to be included in solicitations and contracts and contract-like instruments.
- b. The Safer Federal Workforce Task Force issued guidance on September 24, 2021, at [saferfederalworkforce.gov](https://www.saferfederalworkforce.gov) which requires:
 - Vaccination of covered contractor employees, except in limited circumstances where an employee is legally entitled to an accommodation;
 - Requirements related to masking and physical distancing while in covered contractor workplaces; and
 - Designation by covered contractors of a person or persons to coordinate COVID-19 workplace safety efforts at covered contractor workplaces.
- c. On September 30, 2021, the Civilian Agency Acquisition Council (CAAC) issued [CAAC Letter 2021-03](#) regarding implementation of EO 14042, which serves as consultation with the CAAC Chair to authorize agencies to issue their own class deviations. Contemporaneously, GSA OGP issued [FAR Class Deviation CD-2021-13](#) attached to this Leasing Alert, to implement the CAAC Letter. [CD-2021-13](#) includes the following attachments:
 - Attachment A: [CAAC Letter 2021-03](#) (embedded within the CD as a link)
 - Attachment B: Sample Cover Letter (to be used for modifying existing contracts)
 - Attachment C: FAS Specific Guidance
 - Attachment D: PBS Specific Guidance
- d. This Leasing Alert supplements the Class Deviation and its attachments by providing additional operational guidance specifically for the leasing program.

3. **Effective Date.** This Leasing Alert is effective as of the date of issuance unless modified, canceled, or reissued.
4. **Applicability.** This Leasing Alert and its attachments are mandatory and apply to all GSA real property leasing activities and activities delegated by GSA to other Federal agencies.
5. **Cancellation.** The following are canceled:
 - General Clauses (Acquisition of Leasehold Interests in Real Property for Small Leases), GSA Form 3517A (REV 07/21)
 - General Clauses (Acquisition of Leasehold Interests in Real Property), GSA Form 3517B (REV 07/21).
6. **Instructions and Procedures.** Guidance concerning implementation of EO 14042 is as follows:

- a. **Mass Modification Process - Bilateral Lease Amendments to Existing PBS Leases (Issuance of Lease Amendments to Lessors for signature)**

The guidance for this modification process is outlined under [CD-2021-13](#), Attachment D, PBS Specific Guidance, Part 2.A.

- PBS Office of Leasing will issue bilateral lease amendments to Lessors for signature.
- All existing leases, regardless of dollar value, will be modified through this process.
- Bilateral amendments will be generated and sent using automation (e.g., DocuSign, Google script, Macro, etc.).
- The mass modifications for existing leases will incorporate the clause at FAR 52.223-99.
- Each Lessor signs the modification and returns it to the Administrative Lease Contracting Officer (ALCO). After the Lessor returns the signed modification, the ALCO will countersign and return the fully signed modification to the Lessor.
- ALCOs will be responsible for executing the bilateral lease amendments and tracking progress/status.
- The PBS Office of Leasing will issue lease amendments to lessors for signature no later than October 15, 2021.

Note that leases above the simplified lease acquisition threshold (SLAT) may not be extended or renewed unless the lessor agrees to this bilateral modification.

b. **RLPs issued on or after October 15, 2021**

RLP packages must include the updated General Clauses, GSA Form 3517A or 3517B (Attachments 3 and 4, respectively) which incorporate FAR Clause 52.223-99. Note that the attached General Clauses also reflect the following additional updates:

- Changed the date of FAR Clause 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN from JUN 2020/ALTERNATE III (JUNE 2020) to SEP 2021/ALTERNATE III (JUNE 2020)
- Changed the date of FAR Clause 52.219-16 LIQUIDATED DAMAGES- SUBCONTRACTING PLAN from JAN 1999 to SEP 2021
- Changed the date of FAR Clause 52.219-28 POST AWARD SMALL BUSINESS PROGRAM REREPRESENTATION from NOV 2020 to SEP 2021

c. For RLPs issued prior to the October 15, 2021, lease contracting officers (LCOs) or their designees should follow the following guidance:

1) For lease projects, where GSA has issued the RLP as of October 15, 2021, but had not issued a request for Final Proposal Revisions (FPR) by that date, the LCO **must** issue an RLP **amendment** transmitting the updated **General Clauses** (Attachments 3 or 4). All offerors **must** acknowledge receipt of the RLP **amendment**, by signing it and returning it, along with the attached **General Clauses**. The updated **General Clauses** **must** be included in the signed lease contract.

2) For lease projects, where **GSA** has issued the RLP, but FPR were due prior to October 15, 2021, the LCO is not required to **amend** the RLP and reopen negotiations. However, the LCO **must** transmit to the apparent successful offeror either:

i. FAR Clause 52.223-99 (Attachment 2), or

ii. Updated **General Clauses** (Attachments 3 or 4).

The apparent successful offeror must acknowledge receipt; the signed lease contract must include either FAR Clause 52.223-99 or the updated General Clauses.

- d. For offers received through the Automated Advanced Acquisition Platform (AAAP), the FY22 RLP package will be updated to include the updated General Clauses, GSA Form 3517B. Offerors who initiated an FY22 offer prior to the AAAP RLP amendment, will be notified of the AAAP RLP amendment by email from the Office of Leasing.
- e. Offerors who do not agree to the inclusion of FAR Clause 52.223-99 shall be deemed as technically unacceptable by the LCO.
- f. Lease extensions or renewal actions above the SLAT

As noted under 6.a above, leases above SLAT may not be extended or renewed if the lease does not contain this modification. Therefore, prior to executing an extension or exercising an option, the LCO must confirm that the bilateral modification has been executed.

Attachments:

- **Attachment 1**, GSA Class Deviation CD-2021-13, with its attachments
- **Attachment 2**, FAR Clause 52.223-99, ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (OCT 2021) (DEVIATION)
- **Attachment 3**, General Clauses, GSA Form 3517A (REV 10/21)
- **Attachment 4**, General Clauses, GSA Form 3517B (REV 10/21)

COVER PAGE FOR ATTACHMENTS 1 THROUGH 4