MEMORANDUM FOR JOANNA ROSATO
REGIONAL COMMISSIONER
PUBLIC BUILDINGS SERVICE

FROM: JEFFREY A. KOSES
SENIOR PROCUREMENT EXECUTIVE
OFFICE OF ACQUISITION POLICY (MV)

SUBJECT: Class Deviation- Piloting Central Reporting for Davis-Bacon Reports (DATA Act Section 5 Procurement Pilot)

1. Purpose. This class deviation allows Contracting Officers in the PBS Mid-Atlantic Region to participate in the Piloting Central Reporting for Davis-Bacon Reports (DATA Act Section 5 Procurement Pilot) by incorporating the attached clause 52.222-8 Payrolls and Basic Records (DEVIATION 2016-11) in place of the basic version of FAR clause 52.222-8.

2. Background. In May 2014, the Digital Accountability and Transparency Act of 2014 (DATA Act) was enacted into law. The DATA Act is making federal spending data more accessible and searchable as well as serves as a tool for better oversight and data-centric decision-making. A primary component of the DATA Act is to standardize processes and data to reduce reporting burden on contractors.

As part of the implementation of the Data Act, federal agencies will be doing procurement pilots for select FAR reports that are currently reported across the Federal government. The first pilots, titled Piloting Central Reporting for Davis-Bacon Reports (DATA Act Section 5 Procurement Pilot), will target collection of reports required under FAR 52.222-8. These pilots will require contractors doing business with the Federal Government to submit FAR required reports to a central portal in an efficient and effective manner rather than multiple locations and to each contracting officer.

3. Effective Date. This class deviation is effective upon the date of signature and expires until cancelled or until incorporated into the FAR.
4. References.

- Digital Accountability and Transparency Act of 2014 (DATA Act) (P.L. 113-101)
- Data Collection Pilot Central Portal: https://fardatacollection.sam.gov/login
- OMB Max FAR Data Collection Pilot webpage: https://community.max.gov/display/Acquisition/FAR+Data+Collection+Pilot

5. Instructions. Insert the attached clause, 52.222-8 Payrolls and Basic Records (DEVIATION 2016-11), in place of the basic version of FAR clause 52.222-8 for contracts where the contractor is participating in the Piloting Central Reporting for Davis-Bacon Reports (DATA Act Section 5 procurement pilot).

6. Expanding the Pilot Beyond PBS Mid-Atlantic Region. PBS is authorized to expand the use of this class deviation beyond the Mid-Atlantic Region upon approval of the Assistant Commissioner for the PBS Office of Acquisition Management.

7. Point of Contact. Any questions regarding this memo should be directed to Mr. Kevin Funk, Procurement Analyst, General Services Acquisition Policy Division, at (202) 357-5805, or via email to kevin.funk@gsa.gov.

Attachment

cc: Michael Gelber
    Acting Commissioner
    Public Buildings Service

Chaun Benjamin
    Acting Assistant Commissioner
    Office of Acquisition Management
    Public Buildings Service
Attachment

52.222-8 Payrolls and Basic Records (DEVIATION 2016-11)(March 2017)

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) (Construction Wage Rate Requirement statute)), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Construction Wage Rate Requirements, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B), the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b)(1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer [payroll data to www.sam.gov]. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause, except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee’s social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be obtained from the U.S. Department of Labor Wage and Hour Division website at http://www.dol.gov/whd/forms/wh347.pdf. The Prime Contractor is responsible for the submission of copies of payrolls [data] by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Contracting Officer, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes
of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a Prime Contractor to require a subcontractor to provide addresses and social security numbers to the Prime Contractor for its own records, without weekly submission to the Contracting Officer [www.sam.gov].

(2) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify [state]—
(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause and that such information is correct and complete;
(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR part 3; and
(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of payroll data to www.sam.gov will contain the “Statement of Compliance” required by subparagraph(b)(2) of this clause.

(4) The falsification of any statement in this clause may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit the Contracting Officer or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit required records or to make them available, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(End of clause)