

# DOD Class Deviation Offers Some Relief from SAM UEI Headaches

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September 12, 2022

**WHAT:** The U.S. Department of Defense (DOD) has issued a class deviation and related instructions pertaining to the procedures for offeror registration in the System for Award Management (SAM.gov). Under the class deviation, if an offeror can demonstrate it has started or attempted to start the SAM registration process, a contracting officer can apply the procedures of Federal Acquisition Regulation (FAR) 4.1103(b) to allow the contractor to be registered in SAM within 30 days after award or at least three days prior to the first invoice, whichever is first.

**WHEN:** DOD published notice of the class deviation on September 8, 2022. The class deviation is set to remain in effect through October 31, 2022.

**WHAT DOES IT MEAN FOR INDUSTRY:** The U.S. General Services Administration's (GSA) switch from Data Universal Numbering System (DUNS) numbers to Unique Entity IDs (UEI) has caused headaches for contractors and agencies alike, from missed opportunities to payment issues. To provide some relief, DOD's class deviation relaxes the general requirement in FAR 4.1102(a) that offerors are to be registered in SAM.gov at the time of offer or proposal submission. However, under the class deviation, an offeror is not required to be actively registered in SAM.gov until either of two events occur: 30 days after award of the contract or at least three days prior to the date of the contractor's first invoice. (Note: the deviation does not reference the "three days prior to the submission of the first invoice" deadline as stated in FAR 4.1118, but this will likely apply in practice).

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## Practice Areas

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Government Contracts

DOD's class deviation provides DOD contracting officers (COs) a way to mitigate the ongoing delays prospective offerors are experiencing with SAM registration due to contractors seeking UEIs and changes in the SAM entity validation process. Because of the potential negative impacts on contract performance and administration that can result from a lack of SAM registration, DOD has cautioned COs to thoughtfully apply the deviation when the circumstances of a specific procurement allow considering the acquisition strategy and internal contracting business processes.

Contractors who benefit from the deviation should be aware of the required procedures in the class deviation to ensure those procedures are being properly and promptly applied and avoid any issues down the line. The class deviation mandates the following procedures:

- Including FAR 52.204-7 Alternate I in new solicitations that anticipate award prior to October 31, 2022 (existing solicitations with an expected award date prior to October 31, 2022 may be amended to include FAR 52.204-7 Alternate I);
- Using a copy of the ticket an offeror submitted to SAM's Federal Service Desk (FSD) as proof the offeror has started the registration process;
- Providing the FSD ticket number to their SAM lead so that Defense Pricing and Contracting can prioritize the ticket for action with the SAM Program Office;
- Ensuring the offeror has provided responses to required FAR and DFARS provisions such as FAR 4.1202 and DFARS 204.1202, or FAR 12.201(b)(2) if using commercial procedures;
- If using the Procurement Integrated Enterprise Environment (PIEE), ensuring an alternate method is available for offerors to submit their proposals as PIEE requires active SAM registration for proposal submission;
- Monitoring the contractor's completion of SAM registration as soon as possible after award to avoid any impact to contract performance, administration, receipt, and invoicing; and
- Not reporting contract award to the Federal Procurement Data System (FPDS) until the contractor is actively registered in SAM.

For contractors who have questions or are interested in learning more about the entity validation process, GSA is holding a forum to discuss the process on September 14, 2022 at 1:00 p.m. EDT. Questions are due by September 13, 2022 at 12:00 p.m. EDT, and interested parties can register for the forum [here](#).