**(WORD VERSION)**

**Attachment A to Procurement Memorandum 2017-05**

**FAR Class Deviation to Implement an Act to Enhance Whistleblower Protection**

**for Contractor Employees**

**(CAAC Letter 2017-02)**

**PART 3 - IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST**

\* \* \* \* \*

**Subpart 3.9 Whistleblower Protections for Contractor Employees**

**3.900 Scope of subpart.**

This subpart implements various statutory whistleblower programs. This subpart does not implement 10 U.S.C. 2409, which is applicable only to DoD, NASA, and the Coast Guard.

1. 41 U.S.C. 4705 (in effect before July 1, 2013). Sections 3.901 through 3.906 of this subpart implemented 41 U.S.C. 4705, applicable to civilian agencies other than NASA and the Coast Guard.
2. 41 U.S.C. 4712 (in effect on and after July 1, 2013). Section 3.908 of this subpart implements the pilot program, applicable to civilian agencies other than NASA and the Coast Guard, except as provided in paragraph (d) of this section.
3. Section 743 of Division E, Title VII of the Consolidated and further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions), implemented in 3.909, applicable to all agencies.
4. Contracts funded by the American Recovery and Reinvestment Act. Section 3.907 of this

subpart implements section 1553 of the American Recovery and Reinvestment Act of

2009 (Pub. L. 111- 5), and applies to all contracts funded in whole or in part by that Act.

\* \* \* \* \*

**3.908-9 Contract clause**.

The contracting officer shall insert the clause at 52.203-17, Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights, in all solicitations and contracts that exceed the simplified acquisition threshold, for both commercial items and for other than commercial items.

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**PART 52-SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**\* \* \* \* \***

**52.212-4 Contract Terms and Conditions-Commercial Items (Deviation 2017-02)**.

As prescribed in 12.301(b)(3), insert the following clause:

CONTRACT TERMS AND CONDITIONS-COMMERCIAL ITEMS

(DEVIATION 2017-02) (AUG 2017)

(a)\* \* \* \* \*

\* \* \* \* \*

(r) *Compliance with laws unique to Government contracts*. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

\* \* \* \* \*

**52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items (Deviation 2017-02).**

As prescribed in 12.301(b)(4), insert the following clause:

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS-COMMERCIAL ITEMS (DEVIATION 2017-02)

(AUG 2017)

\* \* \* \* \*

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

\_\_\_ (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 4704 and 10 U.S.C. 2402).

\_\_\_ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (41 U.S.C. 3509)).

\_\_\_ (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (June 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

\_\_\_ (4) 52.203-17, Contractor Employee Whistleblower Rights and

Requirement to Inform Employees of Whistleblower Rights (April 2014) (41 U.S.C. 4712) relating to whistleblower protections).

The paragraphs below are renumbered

\* \* \* \* \*

**52.301 Solicitation provisions and contract clauses (Matrix).**

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| --- | --- | --- | --- |
| PROVISION OR CLAUSE | PRESCRIBED IN | \* \* \* \* \* columns not shown  \* \* \* \* \* | CI |
| \* \* \* \* \* |  |  |
| 52.203-17 Contractor Employee  Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights. | 3.908-9 | A |
| \* \* \* \* \* |  |  |