



VA Acquisition Regulation Update

January 25, 2019

Number 2008-12

1. **Material Transmitted:** The attached pages contain interim revisions issued via approved Class Deviations to the Department of Veterans Affairs Acquisition Regulation (VAAR) parts 813 and 836.
2. **Summary of Changes:** This VAAR Update provides text revisions based on active VAAR Class Deviations issued from August 7, 2018 through January 25, 2019 and still effective, until rescinded or incorporated into the official eCFR revised VAAR.

The changes are listed and summarized below:

2008 VAAR Active Class Deviations August 7, 2018 through January 25, 2019

CD Title & Date/Change	Effective Date	VAAR Parts Affected	Summary of Change(s)
Purchases under Blanket Purchase Agreements (BPAs) Aug 7, 2018	Aug 7, 2018	813.303-5	In this class deviation, 813.305-5(b)(2) is added to allow the Heads of the Contracting Activities (HCA), within their respective activities, to increase the threshold to \$7 million for individual purchases under BPAs, in accordance with FAR 13.303-5(b)(2). This deviation remains in effect until incorporated into the VAAR or the new VA Acquisition Manual (VAAM), or is otherwise rescinded.
Notice to Proceed Nov 7, 2018	Nov 26, 2018	836.213-70(a)	This class deviation establishes policy by revising 836.213-70(a) that the notice to proceed will be sent only after acceptable payment and performance bonds, or payment protection, and completed contract forms have been received. This deviation remains in effect until incorporated into the VAAR or the new VA Acquisition Manual (VAAM), or is otherwise rescinded.

3. Filing Instructions:

Remove pages:	Insert Pages:
813-1 thru 813-8	813-1 thru 813-8
836-5 thru 836-6	836-5 thru 836-6

Effective date: As depicted in the Summary of Changes table.

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 813—SIMPLIFIED ACQUISITION PROCEDURES

Sec.

813.003-70 Policy.

Subpart 813.1 – Procedures

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Subpart 813.2 – Actions at or Below the Micro-Purchase Threshold

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813.303-5 Purchases under BPAs.

813.307 Forms.

AUTHORITY: 38 U.S.C. 8127 and 8128; 40 U.S.C. 121(c) and (d); and 48 CFR 1.301–1.304.

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SUBPART 813.1 – PROCEDURES

[Deviation per [Class Deviation](#)—Veterans First Contracting Program (VFCP 2016), dated July 25, 2016, changes VAAR part 813 by adding VAAR 813.003-70. The deviations are necessary to reflect the Veterans First Contracting Program in subpart 819.70 as it applies to VA contract actions under VAAR part 813. VAAR subpart 819.70 has precedence over other small business programs in [FAR part 19](#). This deviation is effective until incorporated in the VAAR or the VAAM or is otherwise rescinded.]

813.003-70 Policy.

(a) General. The Veterans First Contracting Program in subpart 819.70 applies to VA contracts (see [FAR 2.101](#), Definitions) under this part and has precedence over other small business programs referenced in [FAR part 19](#).

(b) Notwithstanding [FAR 13.003\(b\)\(2\)](#), the contracting officer shall make an award utilizing the priorities for veteran-owned small businesses as implemented within the VA hierarchy of small business program preferences, the Veterans First Contracting Program in subpart 819.70. Specifically, the contracting officer shall consider preferences for verified service-disabled veteran-owned small businesses (SDVOSBs) first, then preferences for verified veteran-owned small businesses (VOSBs). These priorities will be followed by preferences for other small businesses in accordance with [FAR 19.203](#), 819.203-70 and 819.7004.

(c) When using competitive procedures, the preference for restricting competition to verified SDVOSBs or VOSBs is mandatory whenever market research provides a reasonable expectation of receiving two or more offers/quotes from eligible, capable and verified SDVOSBs or VOSBs at fair and reasonable prices that offer best value to the Government.

(1) Pursuant to 38 U.S.C. 8127, contracts under this part shall be set-aside for SDVOSBs or VOSBs, when supported by market research. Contracting officers shall use the applicable set-aside clause prescribed at 819.7009.

(2) Pursuant to 38 U.S.C. 8128 and to the extent that market research does not support an SDVOSB or VOSB set-aside, the contracting officer shall include evaluation factors as prescribed at 815.304 and the evaluation criteria clause prescribed at 815.304-71(a).

(d) The SDVOSB and VOSB eligibility requirements in part 819.7003 apply, including verification of the SDVOSB and VOSB status of an offeror or awardee at the time of submission of offer/quote and prior to award. The offeror must also represent that it meets the small business size standard for the assigned North American Industry Classification Code System (NAICS) code and other small business requirements in [FAR part 19](#) (e.g. subcontracting limitations and non-manufacturer rule).

813.102 Source list.

(a) Pursuant to 819.7002, contracting officers shall use the Vendor Information Pages (VIP) database to verify SDVOSB/VOSB status.

813.106 Soliciting competition, evaluation of quotations or offers, award and documentation.

(a) Contracting officers may use other than competitive procedures to enter into a contract with a SDVOSB or VOSB when the amount exceeds the micropurchase threshold up to \$5 million.

(b) Requirements exceeding \$25,000 must be synopsisized in accordance with [FAR Part 5](#).

813.106-3 Award and documentation.

The contracting officer may record a quotation on an Abstract of Offers (SF 1409 or 1419), the purchase request if space permits, or other supplemental sheet or form, such as VA Form 10-2237b, Request for Dietetic Supplies.

813.106-70 Soliciting competition, evaluation of quotations or offers, award and documentation – the Veterans First Contracting Program

(a) General. When using competitive procedures under this part, the contracting officer shall use the Veterans First Contracting Program in subpart 819.70 and the guidance set forth in 813.003-70.

(b) Pursuant to 38 U.S.C 8127(b), contracting officers may use other than competitive procedures to enter into a contract with a verified SDVOSB or VOSB for procurements under the simplified acquisition threshold.

(c) Under 38 U.S.C. 8127(c), contracting officers may also award a contract under this part to a firm verified under the Veterans First Contracting Program at subpart 819.70, using procedures other than competitive procedures if—

(1) Such concern is determined to be a responsible source with respect to performance of such contract opportunity;

(2) The anticipated award price of the contract (including options) will exceed the simplified acquisition threshold, but will not exceed \$5,000,000; and

(3) In the estimation of the contracting officer, the contract award can be made at a fair and reasonable price that offers overall best value to the government.

SUBPART 813.2 – ACTIONS AT OR BELOW THE MICRO-PURCHASE THRESHOLD

[Deviation per [Class Deviation](#)—Veterans First Contracting Program (VFCP 2016), dated July 25, 2016, changes VAAR part 813 by adding VAAR 813.203. The deviations are necessary to reflect the Veterans First Contracting Program in subpart 819.70 as it applies to VA contract actions under VAAR part 813. VAAR subpart 819.70 has precedence over other small business programs in [FAR part 19](#). This deviation is effective until incorporated in the VAAR or the VAAM or is otherwise rescinded.]

813.203 Purchase guidelines.

(a)(1) Open market micro-purchases shall be equitably distributed among all verified SDVOSBs or VOSBs to the maximum extent practicable in keeping with the flexibilities inherent in purchases under the micro-purchase threshold.

SUBPART 813.3 – SIMPLIFIED ACQUISITION METHODS

[Deviation per [Class Deviation](#) to add VA Acquisition Regulation (VAAR) 813.303-5, Purchases Under Blanket Purchase Agreements(BPAs), dated August 7, 2018, changes VAAR part 813 by adding VAAR 813.303-5. The deviation is needed to allow the heads of the contracting activities to establish a higher threshold for individual purchases under specified BPAs. This deviation is effective until incorporated in the VAAR or the VAAM, or is otherwise rescinded.]

813.302 Purchase orders.

813.302-5 Clauses.

When using the VA Form 90-2138 or 90-2138-ADP for maintenance contracts

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involving services performed on Government property that have the potential for property damage and liability claims, the contracting officer shall insert in the purchase order the Contractor's Responsibilities clause found at 852.237-70. Applicable maintenance contracts include, but are not limited to, window washing, pest control, and elevator maintenance.

813.303-5 Purchases under BPAs.

(b)(2) In accordance with FAR 13.303-5(b)(2), Heads of Contracting Activities (HCAs), within their respective contracting activities, may increase the limit for individual purchases under BPAs to \$7 million. This higher threshold should only be used when acquisition planning supports the strategy, and it is documented in the contract file.

813.307 Forms.

(a) The following forms provide a purchase or delivery order, vendor's invoice, and receiving report:

- (1) VA Form 90-2138, Order for Supplies or Services.
- (2) VA Form 90-2139, Order for Supplies or Services (Continuation).
- (3) VA Form 90-2138-ADP, Purchase Order for Supplies or Services.
- (4) VA Form 2139-ADP, Order for Supplies and Services (Continuation).

(b) The contracting officer may use the forms specified in paragraphs (a)(1) through (a)(4) of this section instead of OF 347, Order for Supplies or Services, OF 348, Order for Supplies or Services Schedule—Continuation, and SF 1449, Solicitation/Contract/Order for Commercial Items.

(c) The contracting officer or other properly delegated official (see 801.670-3) may use the following order forms when ordering the indicated medical, dental, and ancillary services totaling up to \$10,000 per authorization when such services are not available under existing contracts:

- (1) VA Form 10-7078, Authorization and Invoice for Medical and Hospital Services.
- (2) VA Form 10-7079, Request for Outpatient Medical Services.
- (3) VA Form 10-2570d, Dental Record Authorization and Invoice for

Outpatient Service.

(d) In authorizing patient travel as set forth in VA manual MP-1, Part II, Chapter 3, the contracting officer or other properly delegated official (see 801.670-3) may use VA Form 10-2511, Authority and Invoice for Travel by Ambulance or Other Hired Vehicle, as provided by that manual.

(e) The contracting officer must use SF 182, Request, Authorization, Agreement, and Certification of Training, for procurement of training.

[Deviation per Class Deviation—VAAR 813.307, Forms, and VAAR 853.213, Simplified acquisition procedures (SF's 18, 30, 44, 1165, 1449, and OF's 336, 347, and 348, dated March 31, 2017, as amended March 31, 2018 and July 27, 2018, increases the dollar threshold not to exceed the Simplified Acquisition Threshold for use of VA Form 10-2421, Prosthetics Authorization for Items or Services. This deviation expires July 31, 2019, unless otherwise rescinded.]

(f) The contracting officer may use VA Form 10-2421, Prosthetics Authorization for Items or Services, for prosthetic implants not in excess of the Simplified Acquisition Threshold (SAT). Applicable FAR and VAAR clauses will be added to the form as required. Patient information will not be stored in the Electronic Contract Management System (eCMS). Supporting documentation and Federal Procurement Data System (FPDS) reports will be accomplished in accordance with VA policies.

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836.213 Special procedures for sealed bidding in construction contracting.

836.213-4 Notice of award.

The contracting officer must provide to the contractor a notice of award (letter of acceptance) for any contract award in excess of \$25,000.

836.213-70 Notice to proceed.

[Deviation per [Class Deviation](#) from the VA Acquisition Regulation 836.213-70, Notice to Proceed, dated November 7, 2018 and effective November 26, 2018, revises 836.213-70(a) to require that a notice to proceed will be sent only after the contractor has provided acceptable payment and performance bonds. The class deviation remains in effect until incorporated into the VAAR or the VAAM, or is otherwise rescinded.]

(a) The contracting officer must provide construction contractors with a written notice to proceed for the work. A notice to proceed will be sent only after the contractor has provided performance and payment bonds or payment protection and the completed contract forms, where applicable, and the contracting officer has accepted them.

(b) If the contract provides for liquidated damages, the contracting officer must send the notice to proceed by certified mail, return receipt requested, or any other method that provides signed evidence of receipt. The notice to proceed will advise the contractor that the work must be completed within _____ (insert contract time for completion) calendar days from the date of receipt shown on the certified mail receipt card returned by the post office or on the proof of delivery provided by the delivery service.

(c) If the contract does not provide for liquidated damages, certified mail is not required. In notices to proceed for these contracts, the contracting officer must establish a date for completion that takes into consideration the time required for the notice to arrive by regular mail.

(d) At the time the notice to proceed is sent to the contractor, the contracting officer must furnish a copy to the resident engineer or the Chief, Engineering Service.

(e) The contracting officer must file a copy of the notice to proceed with copy A of the contract. When certified mail or other method of certified delivery is used, the contracting officer must attach the certified mail receipt card returned by the post office or the proof of delivery provided by the delivery service to the copy of the notice to proceed. The contracting officer must file copies of the notice to

proceed with copies C and D of the contract after the date of receipt has been established and indicated on the notice to proceed.

SUBPART 836.5 – CONTRACT CLAUSES

836.500 Scope of subpart.

(a) The clauses and provisions prescribed in this subpart are set forth for use in fixed-price construction contracts in addition to those in FAR Subpart 52.2.

(b) Additional clauses and provisions not inconsistent with those in FAR Subparts 36.5 and 52.2 and those prescribed in this subpart are authorized when determined necessary or desirable by the contracting officer, and when approved as provided in Subpart 801.4.

(c) Clauses and provisions that differ from those contained in FAR Subparts 36.5 and 52.2 and this subpart, but considered essential to the procurement of VA requirements, shall not be used unless the deviation procedure set forth in Subpart 801.4 has been complied with.

836.501 Performance of work by the contractor.

The contracting officer shall insert the clause at 852.236-72, Performance of work by the contractor, in solicitations and contracts for construction that contain the FAR clause at 52.236-1, Performance of Work by the Contractor. When the solicitations or contracts include a section entitled “Network Analysis System (NAS),” the contracting officer must use the clause with its Alternate I.

836.513 Accident prevention.

The contracting officer must insert the clause at 852.236-87, Accident Prevention, in solicitations and contracts for construction that contain the clause at FAR 52.236-13, Accident Prevention.

836.521 Specifications and drawings for construction.

The contracting officer shall insert the clause at 852.236-71, Specifications and drawings for construction, in solicitations and contracts for construction that include the FAR clause at 52.236-21, Specifications and Drawings for Construction.

836.570 Correspondence.

The contracting officer shall insert the clause at 852.236-76, Correspondence, in solicitations and contracts for construction expected to exceed the micro-purchase threshold for construction (currently \$2,000).