



**U.S. Department
of Transportation**

1200 New Jersey Ave., S.E.
Washington, DC 20590

Office of the Secretary
of Transportation

MEMORANDUM TO: Department of Transportation (DOT) Chiefs of the Contracting
Offices (COCOs)

FROM: Willie H. Smith WILLIE HERBERT SMITH Digitally signed by WILLIE
Senior Procurement Executive Date: 2024.03.29
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SUBJECT: Transportation Acquisition Regulation (TAR) Class Deviation
(CD) No. 2024-02 – TAR 1202.101, 1239.7103(f), 1245.102-
70, 1245.107-70, and 1252.245-70

I. Purpose: This CD is issued in accordance with TAR 1201.404 to revise or add the following TAR subparts/sections. This CD provides policy to implement in DOT contracts certain requirements pertaining to Information Technology Implementation Memorandum (ITIM) 2023-003-Rev 1, Department of Transportation Requirements for International Travel with Government Furnished Equipment (GFE), dated February 2, 2023, and to make clear that contractors are prohibited from:

- a. Working abroad with GFE, Data Systems and Government Furnished Information (GFI) while on personal or unofficial travel,
- b. Using personal equipment to access GFI and DOT data systems, and
- c. Using GFE/GFI while on official travel abroad unless prior authorizations for official DOT funded travel and use of GFE/GFI abroad have been obtained.

TAR Parts impacted:

- a. TAR Subpart 1202.1 – Definitions, and section 1202.101, Definitions.
- b. TAR Part 1239 - Acquisition of Information Technology, and section 1239.7103(f), Responsibilities.
- c. TAR Part 1245 - Government Property, and Subpart 1245.1 – General to include:
 - (1) Section 1245.102-70, Policy - use of GFE or personal equipment while on personal or official international travel.
 - (2) Section 1245.107-70, Contract clause.
- d. TAR Part 1252 - Solicitation Provisions and Contract Clauses, and a new clause at 1252.245-70, Prohibition on Use of Government Furnished Equipment or Information—Official, Unofficial, and Personal International Travel.

II. Effective Date: Immediately.

III. Background: In January 2023, the Office of the Chief Information Officer (OCIO) convened a working group to discuss Contractors Working Abroad with GFE. The OCIO indicated there were incidents of contractors working abroad though there was no DOT policy in place. The working group identified multiple issues (credentialing, cybersecurity, resources for oversight, etc.) to be resolved prior to implementing policy on use of GFE/GFI while performing DOT support services abroad.

To address some critical immediate issues, on February 2, 2023, OCIO published ITIM 2023-003-Rev 1, Department of Transportation Requirements for International Travel with Government Furnished Equipment. The ITIM focuses on use of GFE in an international travel status and prohibits using GFE while on personal or unofficial travel. It also provides an approval process for using GFE while on official travel.

This CD will implement the ITIM's prohibition on using personal equipment while on international travel, using GFE while on personal or unofficial travel internationally, and prohibiting contractors working abroad on DOT support services unless on approved DOT funded travel orders. Additionally, the CD proscribes requirements for the program office and contracting officer that must be included in the solicitations and contracts to ensure proper approvals prior to contracting for services while working abroad. DOT acknowledges that to implement the proposed changes on a permanent basis requires rulemaking, in accordance with 41 U.S.C. 1707. A proposed rule for public comment is being prepared based on the content from this class deviation.

A TAM note will also be implemented to provide program and contracting offices with guidance and processes necessary to ensure approvals and documentation required when contractors are working abroad.

IV. Required Actions: For all solicitations and contracts where government furnished property is provided or access to Government data and information systems is required in the performance of services, contracting officers shall insert the clause at 1252.245-70, Use of Government Furnished Equipment or Information—Official, Unofficial, and Personal International Travel. COs must use the deviated language in the Attachment A of this CD when incorporating the following clause into new solicitations and contracts issued or awarded after the effective date of this CD:

- a. TAR 1252.245-70 – Use of Government Furnished Equipment or Information — Official, Unofficial, and Personal International Travel.

V. Applicability: This CD applies to all DOT Operating Administrations (OAs), the Office of the Secretary of Transportation (OST), and the Office of the Inspector General's (OIG) federal and contract employees on official government international travel, and those serving in temporary assignments in a foreign country. It also applies to federal and contract employees requesting access to DOT data or information systems while on personal travel to foreign countries.

VI. Expiration Date: This CD remains in effect until the requirements are incorporated into the TAR, or is otherwise rescinded.

VII. Point of Contact: Questions or comments regarding this CD may be directed to DOTAcquisitionPolicy@dot.gov.

Attachments:

A. TAR Deviation Text

Attachment A: TAR Deviation Text

Transportation Acquisition Regulation (TAR) Class Deviation (CD) No. 2024-02 – TAR 1202.101, 1239.7103(f), 1245.102-70, 1245.107-70, and 1252.245-70 (MARCH 2024) (DEVIATION)

TAR Text Baseline is 48 CFR chapter 12 dated July 17, 2023.

Changes to baseline shown as **[bolded, bracketed additions]** and strikethrough deletions.

TAR text unchanged shown as asterisks.

PART 1202—DEFINITIONS OF WORDS AND TERMS

Subpart 1202.1—Definitions

1202.101 Definitions.

Subpart 1202.1—Definitions

1202.101 Definitions.

[*Government Furnished Equipment (GFE)* means any electronic IT resource, wired or wireless, intended for individual use, including laptops, smart phones, tablets, and other devices. This term applies to both standard issued equipment and loaner equipment.]

[*International Travel* means any travel that occurs outside the United States (U.S.) and its territories, possessions, and protectorates, including travel to or from U.S. military installations and diplomatic facilities that encompass travel to or connection through other sovereign nations. Overflight of a foreign sovereign nation that originates and terminates in the U.S., a U.S. territory, or possession, does not constitute international travel.]

[*Official international travel* means any international travel under a DOT travel authorization and funded by DOT.]

[*Unofficial international travel* means any international travel not at the direction of DOT or under a DOT travel authorization (i.e., not funded by DOT). Unofficial international travel does not include the intent to work full-time or regularly from a foreign country.]

PART 1239 – ACQUISITION OF INFORMATION TECHNOLOGY

Subpart 1239.71—Protection of Data About Individuals

1239.7103 Responsibilities.

(a) ***

(b) ***

(c) ***

(d) ***

(e) ***

[(f) Contracting officers and program/project management offices shall ensure contractors are aware of and will implement the clause as prescribed at 1245.107-70, 1252.245-70, Use of Government Furnished Equipment or Information—Unofficial and Personal Travel Abroad. This shall be addressed at the time of post-award contract orientation for contractors providing services under any DOT issued contract where GFE or GFI is provided and accessed by contractor or subcontractor personnel.]

Subpart 1245.1 – General

Authority: 5 U.S.C. 301; 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

1245.102-70 Policy

1245.107-70 Contract clause.

1245.102-70 Policy

Use of Government Furnished Equipment (GFE) or personal equipment while on personal or official international travel.

- (a) Contractors shall not use personal equipment to access DOT data or systems while outside the United States or its territories.**
- (b) Without prior authorization, contractors shall not use GFE to conduct DOT business or access DOT systems while outside the United States or its territories.**
- (c) Use of GFE outside the United States or its territories is only permitted if the contractor has received prior authorization for official DOT international travel and approval for the use of DOT standard GFE from the Office of the Chief Information Officer, regardless of the destination country.**

1245.107-70 Contract clause.

The contracting officer shall insert the clause at 1252.245-70, Use of Government Furnished Equipment or Information—Official, Unofficial, and Personal International Travel, in solicitations and contracts where government furnished property is provided or access to Government data and information systems is required in the performance of services.]

PART 1252 -- SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 1252.2—Text of Provisions and Clauses

[1252.245-70 Use of Government Furnished Equipment or Information —Official, Unofficial, and Personal International Travel.

As prescribed in 1245.107-70, insert the following clause:

Use of Government Furnished Equipment or Information —Official, Unofficial, and Personal International Travel (MAR 2024) (DEVIATION)

Unless the contracting officer provides authorization for DOT official international travel and DOT standard issued Government Furnished Equipment (GFE) is provided, the contractor is prohibited from using GFE or personal equipment to conduct Department of Transportation (DOT) business or access DOT data and information systems outside of the United States or its territories. This prohibition applies, but is not limited to, while on personal, unofficial, or official travel.

(End of clause)]
