

The image features a large, light gray watermark of the USAID seal in the background. The seal is circular and contains the text "UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT" around the perimeter. In the center of the seal is a shield with a map of the United States, and the word "USAID" is written in a large, bold, sans-serif font across the middle of the shield.

**USAID**

**This document has been archived. The “Why and When” list at the AAPD Archive identifies why the document has been archived and where current guidance may be found. Internal users may also access the OAA Policy Division webpage to locate current policy and regulations.**

**TITLE: CIB 95-12 Deviations**

May 1, 1995

MEMORANDUM FOR ALL CONTRACTING OFFICERS AND NEGOTIATORS

FROM: DAA/M, Michael D. Sherwin, Procurement Executive

SUBJECT: Deviations

**CONTRACT INFORMATION BULLETIN 95-12**

This CIB is being issued as a reminder about deviations. It also provides new guidance on changes concerning FAR waivers or deviations which supports reinvention laboratories in their development and testing of innovative procurement methods.

Both the FAR and the AIDAR are quite specific about what constitutes a deviation and the approval procedures. FAR 1.401 basically defines a deviation as any action which is inconsistent with the FAR, including policies, procedures, solicitation provisions, contract clauses, methods or practices of conducting acquisition actions of any kind at any stage of the acquisition process. There are two types of deviations, individual and class. The procedures for individual deviations affecting only one contracting action are found at AIDAR 701.470(a). Class deviations are those which affect more than one contract action or contractor. The procedures for class deviations are found at AIDAR 701.470(b). It is policy that deviations be kept to a minimum and only be approved if it is essential to accomplish necessary procurement and when it clearly is in the best interest of the Government.

Individual deviations from both FAR and AIDAR requirements are approved by the head of the contracting activity (HCA). The request for deviation shall contain a complete description of the deviation, the effective date, the circumstances in which the deviation will be used, the specific reference to the regulation being deviated from, an indication as to whether any identical or similar deviations have been approved in the past, a complete justification for the deviation including any added or decreased cost to the Government, the name of the contractor, and the contract or task order number. Prior to submitting the deviation request to the HCA for approval, written comments must be obtained from the Procurement Policy Division (M/OP/P).

Class deviations from the AIDAR are processed in the same manner as those for individual deviations. Class deviations from the FAR previously required joint consideration by USAID and the chairperson of the Civilian Agency Acquisition Council (C/CAAC) unless the HCA determined otherwise. With USAID's designation as a reinvention laboratory under the purview of the National Performance Review the process is simpler. Subject to certain limited exceptions, USAID does not, during this time, need to coordinate class deviations with the C/CAAC. So therefore, only HCA approval is required for class deviations. The obvious limitations are the following. First, many FAR provisions implement statutory requirements. Unless otherwise authorized by law, USAID must adhere to the underlying statute. A FAR deviation will not operate to waive the underlying law. Second, certain FAR requirements implement the regulations or directives of other agencies such as those of the Department of Labor, the Office of Management and Budget, and the Small Business Administration. Unless otherwise provided by the underlying directive, a waiver by, or the approval of, the issuing organization will be required to deviate from the requirement.

The intent of the Document Generation System (DGS) was to both simplify and standardize USAID solicitations and awards. While the provisions and clauses on the DGS can be modified, under normal circumstances there should be no changes to the standard text of these documents. Any additive text or clauses that are unique to a requirement should be included in Section H of the contract format and in the Special Provisions section of the grants and cooperative agreements. Also, any change to the standard text constitutes a deviation and the applicable deviation procedures shall be followed. If you find specific problems with the system language, please bring it to the attention of M/OP/SPU, Catherine Green.

Clearance: M/OP, G. Kinney (Draft) Dated 4/25/95.

M/OP/P: FMaki:sms:X875-1534:4/25/95 (deviate)