

## CIVILIAN AGENCY ACQUISITION COUNCIL LETTER 2001-03

## MEMORANDUM FOR CIVILIAN AGENCIES OTHER THAN NASA

FROM:   
AL MATERA  
CHAIRMAN  
CIVILIAN AGENCY ACQUISITION COUNCIL (CAAC)

SUBJECT: Advance Consultation: Class Deviation from the Federal Acquisition Regulation (FAR) 36.201, 36.604, 53.236-1(b) and 53.236-2(d), when using the National Institutes of Health (NIH) Contractor Performance System (CPS).

This letter serves as evidence of consultation with the Chairman of the Civilian Agency Acquisition Council, as provided in 1.404, should agencies chose to deviate from FAR Subpart 36.201 and FAR Subpart 36.604.

Subpart 36.201 requires the use of Standard Form 1420, Performance Evaluation (Construction) when evaluating a contractor's performance under a construction contract. Subpart 36.604 requires the use of Standard Form 1421, Performance Evaluation (Architect-Engineer), when evaluating a contractor's performance under an architect-engineer contract.

NIH offers a CPS and several agencies subscribe to this system. This system provides a Contractor Performance Insert Form (evaluation form) for both construction and architect-engineer contracts; therefore, the agencies that use this system it is not necessary to complete SF's 1420 and 1421. These Contractor Performance Insert Forms include all of the data elements required by SFs 1420 and 1421 and offers several additional advantages.

On September 22, 1999, the CAAC met to discuss a request from NIH asking for a deviation from using the SF 1420, Performance Evaluation (Construction). The CAAC stated they saw no significant issues and concurred in the deviation. However, I have since received requests for deviations for Architect-Engineer contracts, which is why we are including Subpart 36.604 as part of this advance consultation.

A new FAR case will be started to change the FAR language to allow agencies to use the NIH CPS Contractor Performance Insert Forms instead of the SFs 1420 and 1421. Not all agencies are using the NIH CPS; therefore, the revised

language will allow the use of either without having to request a deviation to the FAR when the standard forms are not used.

Accordingly, if desired, civilian agencies may authorize a class deviation in accordance with FAR 1.404 from the requirements FAR 36.201, 36.604, 53.236-1(b) and 53.236-2(d). Class deviations may remain in effect until issuance of an appropriate FAR change.