

Subpart 1.4 - Deviations from the FAR

Parent topic: [Part 1 - Federal Acquisition Regulations System](#)

1.400 Scope of subpart.

This subpart prescribes the policies and procedures for authorizing *deviations* from the FAR. Exceptions pertaining to the use of forms prescribed by the FAR are covered in [part 53](#) rather than in this subpart.

1.401 Definition.

Deviation means any one or combination of the following:

- (a) The issuance or use of a policy, procedure, *solicitation* provision (see definition in [2.101](#)), *contract clause* (see definition in [2.101](#)), method, or practice of conducting *acquisition* actions of any kind at any stage of the *acquisition* process that is inconsistent with the FAR.
- (b) The omission of any *solicitation* provision or *contract clause* when its prescription requires its use.
- (c) The use of any *solicitation* provision or *contract clause* with modified or *alternate* language that is not authorized by the FAR (see definition of "modification" in [52.101\(a\)](#) and definition of "alternate" in [2.101](#)).
- (d) The use of a *solicitation* provision or *contract clause* prescribed by the FAR on a "*substantially as follows*" or "substantially the same as" basis (see definitions in [2.101](#) and [52.101\(a\)](#)), if such use is inconsistent with the intent, principle, or substance of the prescription or related coverage on the subject matter in the FAR.
- (e) The authorization of lesser or greater limitations on the use of any *solicitation* provision, *contract clause*, policy, or procedure prescribed by the FAR.
- (f) The issuance of policies or procedures that govern the *contracting* process or otherwise control *contracting* relationships that are not incorporated into agency *acquisition* regulations in accordance with [1.301\(a\)](#).

1.402 Policy.

Unless precluded by law, executive order, or regulation, *deviations* from the FAR *may* be granted as specified in this subpart when necessary to meet the specific needs and requirements of each agency. The development and testing of new techniques and methods of *acquisition should* not be stifled simply because such action would require a FAR *deviation*. The fact that *deviation* authority is required *should* not, of itself, deter agencies in their development and testing of new techniques and *acquisition* methods. Refer to [31.101](#) for instructions concerning *deviations* pertaining to the subject matter of [part 31](#), Contract Cost Principles and Procedures. *Deviations* are not authorized with

respect to [30.201-3](#) and [30.201-4](#), or the requirements of the Cost Accounting Standards Board (CASB) rules and regulations ([48 CFR chapter 99](#)). Refer to [30.201-5](#) for instructions concerning waivers pertaining to Cost Accounting Standards.

1.403 Individual deviations.

Individual *deviations* affect only one contract action, and, unless [1.405\(e\)](#) is applicable, *may* be authorized by the *agency head*. The *contracting officer must* document the justification and agency approval in the contract file.

1.404 Class deviations.

Class *deviations* affect more than one contract action. When an agency knows that it will require a class *deviation* on a permanent basis, it *should* propose a FAR revision, if appropriate. Civilian agencies, other than NASA, *must* furnish a copy of each approved class *deviation* to the FAR Secretariat.

(a) For civilian agencies except NASA, class *deviations may* be authorized by *agency heads* or their designees, unless [1.405\(e\)](#) is applicable. Delegation of this authority *shall* not be made below the head of a *contracting activity*. Authorization of class *deviations* by agency officials is subject to the following limitations:

(1) An agency official who *may* authorize a class *deviation*, before doing so, *shall* consult with the chairperson of the Civilian Agency Acquisition Council (CAA Council), unless that agency official determines that urgency precludes such consultation.

(2) Recommended revisions to the FAR *shall* be transmitted to the FAR Secretariat by *agency heads* or their designees for authorizing class *deviations*.

(b) For DoD, class *deviations shall* be controlled, processed, and approved in accordance with the Defense FAR Supplement.

(c) For NASA, class *deviations shall* be controlled and approved by the Assistant Administrator for Procurement. *Deviations shall* be processed in accordance with agency regulations.

1.405 Deviations pertaining to treaties and executive agreements.

(a) "Executive agreements," as used in this section, means Government-to-Government agreements, including agreements with international organizations, to which the *United States* is a party.

(b) Any *deviation* from the FAR required to comply with a treaty to which the *United States* is a party is authorized, unless the *deviation* would be inconsistent with FAR coverage based on a law enacted after the execution of the treaty.

(c) Any *deviation* from the FAR required to comply with an executive agreement is authorized unless

the *deviation* would be inconsistent with FAR coverage based on law.

(d) For civilian agencies other than NASA, a copy of the text *deviation* authorized under paragraph (b) or (c) of this section *shall* be transmitted to the FAR Secretariat through a central agency control point.

(e) For civilian agencies other than NASA, if a *deviation* required to comply with a treaty or an executive agreement is not authorized by paragraph (b) or (c) of this section, then the request for *deviation shall* be processed through the FAR Secretariat to the Civilian Agency *Acquisition* Council.