APR 27 2006

CIVILIAN AGENCY ACQUISITION COUNCIL Letter 2006-02

MEMORANDUM FOR CIVILIAN AGENCIES (EXCEPT NASA)

FROM: GERALD ZAFFOS
CHAIR
CIVILIAN AGENCY ACQUISITION COUNCIL (CAAC)

SUBJECT: Consultation - Class Deviation from Federal Acquisition Regulation (FAR) 36.604(a) and 53.236-2(c), when using the National Institutes of Health (NIH) Contractor Performance System (CPS)

This CAAC letter serves as evidence of consultation with the CAAC Chair as required by FAR 1.404 for a class deviation from FAR Subpart 36.604 and FAR Subpart 53.236-2(c). The NIH is requesting approval of a class deviation from FAR 36.604(a) and FAR 53.236-2(c) to permit substitution of the NIH Contractor Performance System (CPS) Architect-Engineer Contractor Performance Report in lieu of Standard Form (SF) 1421. This report has been revised to capture information that reflects the current needs of today's acquisition personnel (e.g., A-E evaluators, source selection officials, etc.).

On October 17, 2001, a class deviation was issued by the CAAC Chair for both SFs 1420, Performance Evaluation (Construction) and 1421, Performance Evaluation (Architect-Engineer) at the request of NIH. The class deviation for SF 1420, Performance Evaluation (Construction) is not affected by this class deviation.

Subpart 36.604(a) requires the preparation of a performance report, Standard Form (SF) 1421, Performance Evaluation (Architect-Engineer), when evaluating a contractor's performance under an architect-engineer contract. NIH offers a contractor performance system and many Federal agencies and departments are subscribers to the NIH CPS. The NIH CPS has an Architect-Engineer Contractor Performance Report with the system that captures the information required by the SF 1421. Therefore, the need to prepare the SF 1421 is not necessary.

The revised CPS Architect-Engineer Contractor Performance Report and the October 17, 2001 CAAC letter are attached for your information. This class deviation will remain in effect until an appropriate FAR change is made.

If you have any questions, please contact Cecelia L. Davis, on (202) 219-0202 or by email at cecelia.davis@gsa.gov.
Architect - Engineer
Contractor Performance Report

Report Type: (Select) 1% Completed
Termination Type: None
Reporting Period: From: To:
Host Agency: Evaluating Organization: Contracting Office:
Contract Number: Order Number:
Contractor Name and Address:
<Enter Contractor Name>
<Enter Address Line 1>
<Enter Address Line 2>
<Enter City, State and Zip>
TIN:
DUNS:
NAICS:
Procurement Method: (Select)
Contract Type: (Select)
Award Amount:
Modifications:
No. Amount
Claims By Contractor:
No. Amount
Net Amount:
Award Date:
Design Services Completion Date:
Construction Phase Services Completion Date:

Description of Requirement:
<Descriptive statement of work>

RATINGS

Pre-Design/Planning Phase

Report Period to
U = Unsatisfactory  P = Poor  F = Fair  G = Good  E = Excellent  O = Outstanding

<table>
<thead>
<tr>
<th>Quality of Product and Service</th>
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<th>U</th>
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Cost Control

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Compliance with Performance Schedules

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Effectiveness of Management and Business Practices

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Security

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**Government Comments for Pre-Design/Planning**

<Enter Government Comments (2000 character maximum)>

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**Pre-Design/Planning Phase Evaluator:**

**Name:**

**Title:**

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**Concept Design Phase**

**Report Period:** to

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**Government Comments for Concept Design**

<Enter Government Comments (2000 character maximum)>

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**Concept Design Phase Evaluator:**

**Name:**

**Title:**

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**Design Development Phase**

**Report Period** to

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A&E Performance Evaluation (Prototype Form)

Page 2 of 7
### Effectiveness of Management and Business Practices

- Key personnel effectiveness
- Coordination of consultants
- Coordination with external review agencies/utilities
- Interaction of team members (i.e., government, customer, tenant, consultants)
- Quality control procedure and execution
- Value engineering
- Security
- Compliance with security classification and handling

### Government Comments for Design Development

<Enter Government Comments (2000 character maximum)>

### Design Development Phase Evaluator:

Name:  
Title:  

### Construction Documents Phase

U = Unsatisfactory  P = Poor  F = Fair  G = Good  E = Excellent  O = Outstanding

<table>
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<th>Construction Documents Phase</th>
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### Government Comments for Construction Documents

<Enter Government Comments (2000 character maximum)>

### Construction Documents Phase Evaluator:

Name:  
Title:  

### Construction Administration Phase

U = Unsatisfactory  P = Poor  F = Fair  G = Good  E = Excellent  O = Outstanding

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A&E Performance Evaluation (Prototype Form)  
Page 3 of 7
Quality review of contract documents (i.e. shop drawings, reports, minutes, etc.)
Quality of inspections
Constructability of contract documents
Quality of supplemental documents (i.e. design modes, RFPs)

**Cost Control**
- Accuracy of final estimate with actual bid
- Review of change orders
- **Compliance with Performance Schedules**
- Timeliness of performance
- Responsiveness to review comments

**Effectiveness of Management and Business Practices**
- Key personnel effectiveness
- Coordination, responsiveness and cooperation
- Documentation procedures

**Security**
- Compliance with security classification and handling

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**Government Comments for Construction Administration**

<Enter Government Comments (2000 character maximum)>

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**Construction Administration Phase Evaluator:**

Name:  
Title:  

**Overall Ratings (on Final evaluation report ONLY)**

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**Government Comments for Overall Ratings**

<Enter Government Comments (2000 character maximum)>

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**Subcontracts**

Are subcontracts involved?  
☐ Yes  ☐ No  ☐ N/A

**Government Comments for Comment on Subcontracts**

<Enter Government Comments (2000 character maximum)>

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**Small Business Subcontracting Plan**

Did the contractor make a good faith effort to comply with the Subcontracting Plan in a manner consistent with the goals, reporting and other commitments negotiated in the Subcontracting Plan?  
☐ Yes  ☐ No  ☐ N/A  *(final report only)*
Did the contractor achieve negotiated goals and objectives? □ Yes □ No □ N/A (final report only)

Government Comments Addressing Both Questions for Small Business Subcontracting Plan (final report only)
<Enter Government Comments (2000 characters maximum)>

Small Business Participation in Bundled Contracts

Did the contractor meet the objectives set forth in this bundled contract for small business participation? (final report only)
□ Yes □ No □ N/A

Government Comments for Small Business Participation in Bundled Contracts
<Enter Government Comments (2000 characters maximum)>

Small Disadvantaged Business Participation Plan (SDB Plan)

Did the contractor make a good faith effort to comply with the SDB Plan in a manner consistent with the goals, reporting and other commitments negotiated in the SDB Plan? □ Yes □ No □ N/A (final report only)

Did the contractor achieve negotiated goals and objectives? □ Yes □ No □ N/A (final report only)

Government Comments Addressing Both Questions for Small Disadvantaged Business Participation Plan
<Enter Government Comments (2000 character maximum)>

Customer Satisfaction

Is/was the contractor committed to customer satisfaction? □ Yes □ No □ N/A (final report only)

Would you recommend the selection of this firm again? □ Yes □ No □ N/A (final report only)

Government Comments for Customer Satisfaction
<Enter Government Comments (2000 character maximum)>

Contractor Key Personnel

Contractor Manager/Principal Investigator
Name:

Government Comments for Contractor Manager/Principal Investigator
<Enter Government Comments (2000 character maximum)>

Contractor Key Person
Name:

A&E Performance Evaluation (Prototype Form)
Page 5 of 7
**Government Comments for Contractor Key Person**

<Enter Government Comments (2000 character maximum)>

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**Project Officer/COTR**

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**Contractor Representative**

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**Contracting Officer**

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**CONTRACTOR COMMENTS**

**Contractor Comments for Pre-Design/Planning**

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**Contractor Comments for Concept**

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**Contractor Comments for Design Development**

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**Contractor Comments for Construction Documents**

<Enter Contractor Comments (2000 character maximum)>

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**Contractor Comments for Construction Administration**

<Enter Contractor Comments (2000 character maximum)>

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A&E Performance Evaluation (Prototype Form)
Page 6 of 7
Contractor Comments for Overall Ratings
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Contractor Comments for Comment on Subcontracts
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Contractor Comments for Small Business Subcontracting Plan  (final report only)
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Contractor Comments for Small Business Participation in Bundled Contracts  (final report only)
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Contractor Comments for Small Disadvantaged Business Participation Plan  (final report only)
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Contractor Comments for Customer Satisfaction  (final report only)
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Contractor Comments for Contractor Manager/Principal Investigator
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Contractor Comments for Contractor Key Person
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OMB CLEARANCE NO. XXXX-XXXX
SOURCE SELECTION INFORMATION/CONFIDENTIAL
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.