



NNSA Policy Letter: BOP-003.0505

Date: June 24, 2005

TITLE: Class Deviations to FAR and DEAR

I **OBJECTIVE:**

The objective of this Policy Letter is to provide easy access to all FAR and DEAR class deviations that are currently approved for use with NNSA contracts.

II **BACKGROUND:**

- A. FAR 1.102(d) provides, "The role of each member of the Acquisition Team is to exercise personal initiative and sound business judgment in providing the best value product or service to meet the customer's needs. In exercising initiative, Government members of the Acquisition Team may assume if a specific strategy, practice, policy or procedure is in the best interests of the Government and is not addressed in the FAR, nor prohibited by law (statute or case law), Executive order or other regulation, that the strategy, practice, policy or procedure is a permissible exercise of authority." This gives the Contracting Officer (CO) broad latitude to structure acquisitions in a manner that will obtain the best value products and services for the customer while protecting taxpayer funds. However, as the FAR recognizes, there are in fact legal and regulatory constraints on the exercise of CO authority.
- B. To provide maximum flexibility FAR Subpart 1.4 prescribes policies and procedures for authorizing deviations to the FAR. Of note is this statement from FAR 1.402, "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."
- C. There are two types of deviations:
 - a. Individual deviations, which affect only one contract action, and
 - b. Class deviations, which affect more than one contract action.

This BOP addresses class deviations.

APPLICABILITY:

All NNSA elements.

RESPONSIBILITY:

- A. The Board of Awards is responsible for maintaining attachment 1, List of Approved FAR and DEAR Class Deviations and providing NA-63 Portal links to the signed deviation documents.
- B. Contracting Officers are responsible for adherence to the attached deviations.

CANCELLATIONS:

The class deviations in the following BOPs are now reflected in Attachment 1 to this BOP. These BOPs are superseded and canceled.

- A. BOP-003.0403R1 (Revision 1) Deviation to DEAR 909.4 Debarment, Suspension, and Ineligibility January 14, 2005
- B. BOP-003.0501 Deviation to DEAR 970.1504, Contract pricing, and associated 970.5215 clauses January 10, 2005.
- C. BOP-003.0502 Deviation to DEAR Definitions Coverage January 24, 2005.

POINT OF CONTACT FOR ADMINISTRATION OF POLICY LETTER:

Chairman, Board of Awards Robert Gibson @ 505-845-6920, e-mail rgibson@doeal.gov.

BY ORDER OF THE SENIOR PROCUREMENT EXECUTIVE:



A handwritten signature in black ink, which appears to read "Robert C. Braden", is positioned above the printed name.

Robert C. Braden
Senior Procurement Executive
National Nuclear Security Administration

**attachment 1, List of Approved FAR and DEAR Class Deviations
As of June 10, 2005
New items identified by “☺”**

- DEAR 902, Definitions of Words and Terms
- DEAR 909.4, Debarment, Suspension, and Ineligibility
- DEAR 909.5, Organizational and Consultant Conflicts of Interest
- DEAR 952.204-2, Security Requirements
- DEAR 952.217-70 Acquisition of Real Property
- DEAR 952.247-70, Foreign Travel
- DEAR 970.1504, Contract Pricing, and associated 970.5215 clauses
- DEAR 970.5203-2, Performance Improvement and Collaboration
- DEAR 970.5203-3 Contractor's Organization
- DEAR 970.5204-2, Laws, Regulations, and DOE Directives
- DEAR 970.5215-2, Make-or-Buy Plan
- DEAR 970.5215-3, Conditional Payment of Fee, Profit, and Other Incentives – Facility Management Contracts
- DEAR 970.5237-2, Facilities Management
- DEAR 970.5244-1, Contractor Purchasing System