



## U.S. Department of Justice

### Justice Management Division

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*Washington, D.C. 20530*

#### **MEMORANDUM FOR BUREAU PROCUREMENT CHIEFS**

**FROM:** William N. Taylor II  
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for Management and Compliance  
Senior Procurement Executive

**SUBJECT:** Class Deviation from the Federal Acquisition Regulation (FAR) Part 42 in support of Executive Order 14275 on Restoring Common Sense to Federal Procurement

#### **1. PURPOSE**

This memorandum approves a class deviation to Federal Acquisition Regulation (FAR) Part 42 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR Part 42 available at [acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-42](https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-42).

#### **2. BACKGROUND**

Executive Order (E.O.) 14275, Restoring Common Sense to Federal Procurement, signed April 15, 2025, mandates a comprehensive review and simplification of the FAR. The FAR is being updated to:

- Eliminate non-statutory language
- Remove redundant or obsolete language
- Enhance clarity through plain language
- Align with the new FAR framework
- Preserve essential governmentwide acquisition standards

This project is referred to as the Revolutionary FAR Overhaul (RFO) initiative. This initiative will make the FAR more concise, understandable, and focused on core procurement requirements.

### 3. **SUMMARY OF CHANGES**

FAR Part 42, Contract Administration and Audit Services, has been streamlined from 17 subparts to 13, and places more emphasis on contractor performance evaluations and using performance information throughout the acquisition lifecycle, not just for source selection information.

Key new improvements and flexibilities to part 42 include:

- Removed language limiting past performance information to future “source selection” purposes and places an end date (April 1, 2026) on when evaluations should be marked as source selection. This revision signals to acquisition teams that past performance information may be used throughout the acquisition lifecycle.
- Deviated text makes certain permissive considerations during performance evaluations mandatory. For example, section 42.1503(b) previously suggested considerations to document on an evaluation report, but the deviated text (42.1103(b)) now states that these areas must be documented. This emphasizes the importance of documenting key information consistently.
- Deviated text removed the limitation on evaluating performance on AbilityOne contracts (previously at 42.1502(h)). With removal of this limitation, contracting activities can now document performance evaluations for AbilityOne contractors, providing a useful tool to motivate good contract performance by AbilityOne contractors, and enabling high-performing AbilityOne contractors to use positive performance evaluations to compete for new opportunities.

Statutory requirements retained in the RFO FAR part 42 model deviation include, but may not be limited to, the following:

- 10 U.S.C. §§ 3741 et seq and 41 U.S.C. §§ 4301 et seq, Allowable Costs
- 10 U.S.C. § 3841 and 41 U.S.C. § 4706, Contractor Audits and Accounting
- 11 U.S.C. §§ 501 et seq, Creditors and Claims
- 31 U.S.C. § 1535, The Economy Act
- 41 U.S.C. § 1126, Policy Regarding Consideration of Contractor Past Performance
- 41 U.S.C. § 1326, Requirements for Executive Agencies
- 41 U.S.C. § 2313, Database for Federal Agency Contract and Grant Officers and Suspension and Debarment Officials
- 41 U.S.C. § 3102, Delegation and Assignment of Powers, Functions, and Responsibilities
- 41 U.S.C. § 4504, Conditions for Progress Payments
- 41 U.S.C. § 6305, Assignment of Contracts Act

The following items are retained (or remain reserved) with no changes:

- Subpart 42.1, “Contract Audit Services,” is streamlined with plain language updates.
- Subpart 42.2, “Contract Administration Services,” is streamlined with plain language updates.

- Subpart 42.3, “Contract Administration Office Functions,” is retained. The list of 71 functions has been updated with plain language and revised cross-references to align with the new part structure.
- Most provisions and clauses have been retained (or remain reserved) with no changes. The only exception is noted in the “Moved/Updated” section below.

The following items are moved/updated:

- Subpart 42.4, “Corporate Administrative Contracting Officer,” is renumbered from subpart 42.6 and streamlined.
- Subpart 42.5, “Indirect Cost Rates,” is renumbered from subpart 42.7 and streamlined.
- Subpart 42.6, “Disallowance of Costs,” is renumbered from subpart 42.8 and streamlined.
- Subpart 42.7, “Bankruptcy,” is renumbered from subpart 42.9 and streamlined.
- Subpart 42.8, “Production Surveillance and Reporting,” is renumbered from subpart 42.11 and streamlined.
- Subpart 42.9, “Novation and Change-of-Name Agreements,” is renumbered from subpart 42.12 and streamlined.
- Subpart 42.10, “Suspension of Work, Stop-Work Orders, and Government Delay of Work,” is renumbered from subpart 42.13 and streamlined.
- Subpart 42.11, “Contractor Performance Information,” is renumbered from subpart 42.15. The structure of the “policy” and “procedures” sections (formerly 42.1502 and 42.1503, now 42.1102 and 42.1103) has been substantially improved. The subpart uses more headings, numbered lists, and subparagraphs to break down complex requirements into more digestible components.
  - Subsection 42.1101 removes language limiting past performance information to future “source selection” purposes
    - From: “Past performance information (including the ratings and supporting narratives) is relevant information, for future source selection purposes, regarding a contractor’s actions under previously awarded contracts or orders.”
    - To: “Past performance information (including the ratings and supporting narratives) is relevant information, for future purposes, regarding a contractor’s actions under previously awarded contracts or orders.”
  - Subsection 42.1103(d)(4) provides an end date for marking performance evaluations as source selection. It now states, “Evaluations of contractor performance developed on contracts awarded prior to April 1, 2026, should be marked ‘Source Selection Information.’” This update emphasizes that past performance information is no longer limited only to future source selection purposes.
  - Subsection 42.1103(f) replaces the reference to FAPIIS (formally at 42.1503(g)) with the “responsibility/qualification reports in the System for Award Management (SAM), at SAM.gov.”
- Subpart 42.12, “Small Business Contract Administration,” is renumbered from subpart 42.16 and streamlined.
- Subpart 42.13, “Forward Pricing Rate Agreements,” is renumbered from subpart 42.17 and streamlined.

- The following clause has been updated to align cross-references:
  - 52.242-3 (Clause), Penalties for Unallowable Costs
- The FAR Companion is expected to include best practice information not required in the FAR, on the following content:
  - Uses of performance information
  - Interagency agreements
  - Cognizant federal agency
  - Contract administration functions
  - Contract correspondence

The following items have been removed:

- Former subparts 42.4, “Correspondence and Visits,” and 42.5, “Postaward Orientation,” are removed. Best practice content is expected to be moved to the FAR Companion.
- 42.1502 paragraph (h) is removed to allow for past performance evaluations of AbilityOne.

Note: The above is not an exhaustive list.

#### **4. AUTHORITY**

This class deviation is issued under the authority of [E.O. 14275](#), [OMB M-42-26](#), and RFO FAR 1.304.

#### **5. DEVIATION**

The DOJ acquisition workforce must follow the RFO Part 42 model deviation text instead of FAR Parts 42 and 52 as codified at 48 CFR Chapter 1. The Council’s RFO Part 42 model deviation text is available at [acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-42](https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-42).

Where applicable, include the revised Part 42 provision and clause deviations, at <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-52> in lieu of the standard versions. For open solicitations or awarded contracts, the Contracting Officer has discretion regarding the need to enforce or amend the provisions and clauses. Note that without some of the removed provisions or clauses, the contracting officer may be required to separately address certain aspects in the contract.

Bureaus must review templates and related standard operating procedures to align with this class deviation and remove unnecessary processes and steps.

#### **6. EFFECTIVE DATE AND EXPIRATION**

This class deviation is effective immediately and remains in effect until rescinded or incorporated into the FAR.

7. **SCOPE AND APPLICABILITY**

This class deviation applies to all DOJ procurements.

8. **ADDITIONAL INFORMATION**

If you have questions, please contact [DOJAcquisitionPolicy@usdoj.gov](mailto:DOJAcquisitionPolicy@usdoj.gov).

9. **ATTACHMENTS**

None.