



**U.S. Department
of Transportation**

Office of the Secretary
of Transportation

1200 New Jersey Ave., S.E.
Washington, DC 20590

SUBJECT: Class Deviation No. 2026-22, Supplement to Certain Federal Acquisition Regulation (FAR) Deviations (Part 5, 8, 9, 12, 13, and 23), in Support of Executive Order 14275 on Restoring Common Sense to Federal Procurement

FROM: Chrishaun Jones
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Date: 2026.01.12 19:19:51 -05'00'

TO: Department of Transportation Chiefs of the Contracting Offices

- I. Purpose:** This class deviation (CD) supplement is issued under Federal Acquisition Regulation (FAR) part 1 and Transportation Acquisition Regulation (TAR) part 1201 and authorizes a class deviation to FAR part 25 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR part 25.
- II. Effective Date:** Immediately.
- III. Background:** On April 15, 2025, [Executive Order \(E.O.\) 14275 on Restoring Common Sense to Federal Procurement](#) was signed. Section 2 of the E.O. establishes the policy that the FAR "should only contain provisions required by statute or essential to sound procurement, and any FAR provisions that do not advance these objectives should be removed."

The FAR is being updated to:

- Remove language that is not required by statute
- Remove duplicative or outdated language
- Clarify or provide more plain language
- Revise language for the new FAR framework
- Retain language necessary for governmentwide acquisition standards.

This project is referred to as the Revolutionary FAR Overhaul (RFO) initiative.

Subsequent review has identified the need to update and amend DOT's implementing deviations for RFO FAR Parts 5, 8, 9, 13, and 23.

Summary of Supplement Updates are as follows-

RFO FAR parts 5, 12, 13, and 23

Background	RFO FAR parts 5, 12, 13, and 23 included corresponding definition updates to part 2, but the implementing DOT deviations did not provide instructions to the workforce on how to use the revised part 2 definitions in concert with existing definitions in part 2.
Supplement Update	<p>In DOT's class deviations implementing RFO FAR parts 5, 12, 13, and 23, section 4, "Required Action," is updated to add the following sentence after, "A line-out version of the changes may also be found here for reference."</p> <p>"The DOT acquisition workforce must use the definitions (Part 2 – Definitions of Words and Terms) found on Acquisition.gov/far-overhaul."</p> <p>The remainder of the deviation is unchanged.</p>

RFO FAR part 8

Background	<p>The FAR Council initially released the RFO FAR part 8 model deviation text on August 14, which required use of Office of Federal Property Policy best-in-class (BIC) contracts. On August 29, OFPP updated the model deviation text to reference "required use" contracts at 8.104 instead of BIC contracts. It is understood that OFPP will be establishing a new class of "required use" contracts (and associated criteria) that will be separate from BIC contracts. "Required use" contracts will be mandatory. BICs may be prioritized, but are not mandatory.</p> <p>DOT's class deviation implementing RFO FAR Part 8 is amended as follows, to reflect the updated RFO FAR part 8 model deviation text:</p>
Supplement Update 1	<p>Section 3, "Background" is updated as follows:</p> <p>FAR part 8, Required Sources of Supplies and Services, is significantly updated. The model deviation language:</p> <ul style="list-style-type: none"> • Enhances usability by restructuring and organizing the part in the logical flow of the acquisition lifecycle. • Simplifies mandatory guidance. • Make the use of Governmentwide Best in Class (BIC) contracts mandatory [Makes the use of OFPP – designated "Required Use" contracts mandatory.] • Retains focus on the importance of the AbilityOne Program

Supplement Update 2	<p>The fourth bullet in the “Retained” section of the table in Section 3, “Background,” is updated as follows:</p> <ul style="list-style-type: none"> • Use of Existing Contracts. 8.104 replaces section 8.004, “Use of Other Sources.” Best in class (BIC)[OFPP – designated “Required Use”] contracts or BPAs are now required[mandatory] to be used when a commercial product or commercial service meets an agency’s need, unless approved by the Head of the Contracting Activity (HCA). If a BIC[“required use” contract] is not suitable, agencies should consider use of an existing governmentwide contract, BPA, or shared service.
Miscellaneous	<ul style="list-style-type: none"> • OFPP is expected to provide more information about “required use” contracts in the future.

RFO FAR part 9

Background	<p>The DOT implementing deviation stated that all existing provisions and clauses are retained (or remain reserved if previously reserved) with no changes to the text. The implementing class deviation is amended as follows to highlight that some provisions and clauses were updated.</p>
Supplement Update 1	<p>The third bullet in the “Retained” section of the table in Section 3, “Background,” is updated as follows:</p> <p>From: All existing provisions and clauses are retained (or remain reserved if previously reserved) with no changes to the text.</p> <p>To: The following provision and clause are retained (or remain reserved if previously reserved) with no changes to the text:</p> <ul style="list-style-type: none"> • 52.209-8 remains reserved • 52.209-12 (Provision), Certification Regarding Tax Matters • 52.209-14 (Clause), Reserve Officer Training Corps and Military Recruiting on Campus
Supplement Update 2	<p>A new section titled “Updated” is added to the table in Section 3, “Background.” The following bullet is added.</p>

	<ul style="list-style-type: none"> • The following provisions and clauses have been updated to reflect plain language, update cross-references, or to correspond with updates made within the part: <ul style="list-style-type: none"> ○ 52.209-1 (Clause), Qualification Requirements ○ 52.209-2 (Provision), Prohibition on Contracting with Inverted Domestic Corporations-Representation ○ 52.209-3 (Clause), First Article Approval-Contractor Testing <ul style="list-style-type: none"> ▪ Note - The Alternates are not updated ○ 52.209-4 (Clause), First Article Approval-Government Testing <ul style="list-style-type: none"> ▪ Note - The Alternates are not updated ○ 52.209-5 (Provision), Certification Regarding Responsibility Matters ○ 52.209-6 (Clause), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, Proposed for Debarment, or Voluntarily Excluded ○ 52.209-7 (Provision) Information Regarding Responsibility Matters ○ 52.209-9 (Clause), Updates of Publicly Available Information Regarding Responsibility Matters ○ 52.209-10 (Clause), Prohibition on Contracting with Inverted Domestic Corporations ○ 52.209-11 (Provision), Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law ○ 52.209-13 (Provision) Violation of Arms Control Treaties or Agreements-Certification
Supplement Update 3	<p>Section 4, “Required Actions,” is updated to add the following bullets after the first paragraph:</p> <ul style="list-style-type: none"> • For new solicitations or contracts, when using any provisions or clauses that have been revised, utilize the RFO model deviation language at RFO FAR Part 52. • For open solicitations or awarded contracts, the contracting officer has discretion regarding the need to enforce or amend the provisions or clauses. Note that without some of the removed provisions or clause, the contracting officer may be required to separately address certain aspects in the contract. <p>The rest of Section 4, “Required Actions,” is unchanged.</p>

Miscellaneous	<ul style="list-style-type: none">For ease of reference, GSA's Office of Acquisition Policy has created a helpful tool to easily find and sort provision and clauses changes: RFO Part 52 P&C Table.
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- IV. Applicability:** This supplement to applicable class deviations applies to all DOT OAs, OST, and OIG, excluding the FAA in accordance with TAR 1201.104(d).
- V. Expiration Date:** This CD will remain in effect until it is incorporated into the FAR or is otherwise rescinded, whichever occurs first.
- VI. Point of Contact:** Questions or comments regarding this deviation may be directed to DOTAcquisitionPolicy@dot.gov.



**U.S. Department
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1200 New Jersey Ave., S.E.
Washington, DC 20590

SUBJECT: Class Deviation No. 2025-22 from the Federal Acquisition Regulation for FAR Part 9 in Support of Executive Order 14275 on Restoring Common Sense to Federal Procurement

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TO: Department of Transportation Chiefs of the Contracting Offices

- I. Purpose:** This class deviation (CD) is issued under Federal Acquisition Regulation (FAR) part 1 and Transportation Acquisition Regulation (TAR) part 1201 and authorizes a class deviation to FAR part 9 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR part 9.
- II. Effective Date:** Immediately.
- III. Background:** On April 15, 2025, [Executive Order \(E.O.\) 14275 on Restoring Common Sense to Federal Procurement](#) was signed. Section 2 of the E.O. establishes the policy that the FAR "should only contain provisions required by statute or essential to sound procurement, and any FAR provisions that do not advance these objectives should be removed."

The FAR is being updated to:

- Remove language that is not required by statute
- Remove duplicative or outdated language
- Clarify or provide more plain language
- Revise language for the new FAR framework
- Retain language necessary for governmentwide acquisition standards.

This project is referred to as the Revolutionary FAR Overhaul (RFO) initiative.

FAR Part 9 - largely based in statute - establishes the standards and procedures for determining contractor responsibility and eligibility for federal contracts, ensuring that only qualified, reliable contractors receive government awards. It protects the government's interests by requiring contractors to demonstrate they have adequate financial resources, technical capability, integrity, and past performance to successfully fulfill contract requirements.

Statutory requirements and presidential directives retained in the RFO FAR part 9 model deviation include, but are not limited to, the following:

- 6 U.S.C. § 395, Prohibition on Contracts with Corporate Expatriates
- 10 U.S.C. § 3206 and 41 U.S.C. § 3306, Planning and Solicitation Requirements
- 10 U.S.C. § 3243 and 41 U.S.C. § 3311, Qualification Requirements
- 22 U.S.C. § 2593e, Measures Against Activities that Violate Arms Control Treaties
- 41 U.S.C. § 113, Responsible Source
- 41 U.S.C. § 2303, Ethics Safeguards Related to Contractor Conflicts of Interest
- 41 U.S.C. § 2304, Conflict of Interest Standards for Consultants
- 41 U.S.C. § 2313, Database for Suspension and Debarment Officials
- Pub. L. 103-355 Sec 2455, Uniform Suspension and Debarment
- Pub. L. 111-84 Sec 815, Clarification of Uniform Suspension and Debarment Requirement
- Pub. L. 117-324, Preventing Organization Conflicts of Interest in Federal Acquisition
- E.O. 12549 and E.O. 12689, Debarment and Suspension

The following table is not an exhaustive list but includes notable updates to FAR part 9.

Change	Description
Retained	<ul style="list-style-type: none"> • Subparts 9.1, 9.2, and 9.3 are significantly streamlined with some shifting and reorganizing of sections and subsections throughout. • Subparts 9.4 “Debarment, Suspension, and Ineligibility”, and 9.5 “Organizational and Consultant Conflicts of Interest”, are retained and updated with plain language edits. • All existing provisions and clauses are retained (or remain reserved if previously reserved) with no changes to the text.
Removed	<ul style="list-style-type: none"> • Section 9.000 “Scope of Part”, has been removed as the language was duplicative. • The definition of “Surveying activity” has been removed from section 9.101, “Definitions”. • Section 9.104-2 “Special Standards”, has been removed and may be moved to non-regulatory content. • Section 9.106 “Preadward Surveys”, has been removed and may be moved to non-regulatory content. This includes the reference to utilizing the Standard Form 1403, Preadward Survey of Prospective Contractor (General). • Section 9.107 “Surveys of Nonprofit Agencies Participating in the AbilityOne Program” has been removed. The AbilityOne Program is covered in part 8 and nuances of pre-award surveys relevant to the AbilityOne Program are now covered in non-regulatory content. • Subpart 9.6 “Contractor Team Arrangements”, has been removed and may be moved to non-regulatory content. • Subpart 9.7 “Defense Production Pools and Research and Development Pools”, has been removed and may be moved to non-regulatory content.

IV. Required Actions: All DOT Operating Administrations (OAs), the Office of the Secretary of Transportation (OST), and the Office of the Inspector General (OIG), excluding the Federal

Aviation Administration (FAA) per RFO TAR 1201.104(d) shall follow the [RFO FAR part 9 model deviation text](#) instead of FAR part 9 as codified at 48 CFR chapter 1. The Council's RFO FAR part 9 model deviation text is available at [Acquisition.gov/far-overhaul](#) and is incorporated by reference into this CD. A line-out version of the changes may also be found [here](#) for reference.

Heads of the Contracting Activities (HCAs) must ensure this deviation is disseminated to the acquisition workforce and ensure compliance with the requirements in the revised FAR part 9 guidance.

- V. Applicability:** This CD applies to all DOT OAs, OST, and OIG, excluding the FAA in accordance with TAR 1201.104(d).
- VI. Expiration Date:** This CD will remain in effect until it is incorporated into the FAR or is otherwise rescinded, whichever occurs first.
- VII. Point of Contact:** Questions or comments regarding this deviation may be directed to DOTAcquisitionPolicy@dot.gov.