



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF FINANCE AND OPERATIONS

November 25, 2025

ACQUISITION ALERT 2026-3

TO: Heads of Contracting Activities

FROM: Calvin J. Mitchell Jr. **CALVIN MITCHELL**
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Date: 2025.11.25 09:39:50 -05'00'

SUBJECT: FAR Class Deviation for FAR Part 27 in Support of Executive Order 14275,
Restoring Common Sense to Federal Procurement.

- 1. Purpose.** This Acquisition Alert (AA) adopts a class deviation to Federal Acquisition Regulation (FAR) Part 27 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR Part 27.
- 2. Background.** On April 15, 2025, the 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." On May 31, 2025, the enclosed class deviation was issued for the use of all Revolutionary FAR Overhaul (RFO) model deviation texts and corresponding EDAR deviations.
- 3. Summary of Changes.** FAR Part 27, Patents, Data, and Copyrights, governs intellectual property rights in government contracts, explaining how parties acquire rights, how rights are licensed or shared, and how to protect both government and contractor interests. It has been updated with important plain language updates, enhanced clarity, and improved readability.

Statutory requirements retained in the RFO FAR Part 27 model deviation include, but may not be limited to, the following:

- 10 U.S.C. § 3793, Copyrights, Patents, Designs
- 15 U.S.C. § 638, Research and Development
- 17 U.S.C. §§ 101 *et. seq.*, Copyrights
- 18 U.S.C. § 798, Disclosure of Classified Information
- 28 U.S.C. § 1498, Patent and Copyright Cases
- 35 U.S.C. §§ 200 *et. seq.*, Patent Rights in Inventions Made with Federal Assistance
- 41 U.S.C. § 2302, Rights in Technical Data

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Change	Description
Retained	<ul style="list-style-type: none"> • Section 27.000, “Scope of Part” is retained with a minor plain language update. • Section 27.001, “Definition” is unchanged. • Subpart 27.1, “General” is retained and streamlined. • Subpart 27.2, “Patents and Copyrights” is streamlined and continues to provide guidance regarding: <ul style="list-style-type: none"> ○ Patent and copyright infringement liability ○ Royalties ○ Security requirements for patent applications containing classified subject matter • Section 27.202, “Royalties” has been significantly streamlined by reserving all procedural subsections (27.202-1 thru 27.202-4) and retaining only subsection 27.202-5, “Solicitation Provisions and contract clause”. Note, this section no longer references provision 52.227-7, Patents—Notice of Government Licensee, as the provision has been deleted. • Subpart 27.3, “Patent Rights under Government Contracts” is retained and streamlined. <ul style="list-style-type: none"> ○ Section 27.304, “Procedures” is retained with minimal edits. This section provides critical guidance on application of the patent clauses. • Subpart 27.4, “Rights in Data and Copyrights” is streamlined and retained. This subpart includes intellectual property rights anchored in law and provides important guidance to contracting officers on addressing these issues within a federal contract. <ul style="list-style-type: none"> ○ Section 27.405, “Other Data Rights Provisions” has been revised and the approach for special works (27.405-1) and existing works (27.405-2) has been fundamentally altered. The previous version prescribed the use of specific contract clauses (52.227-17 and 52.227-18). The revised section instead provides descriptive guidance, instructing that contracts "must specifically address the Government's rights" and that agencies are "authorized to specially negotiate" terms. ○ Section 27.407, “Rights to Technical Data in Successful Proposals” has been retained and completely updated. The former text prescribed the use of the clause at 52.227-23, “Rights to Proposal Data (Technical)”. This clause is removed and the updated section consists of a single, broader sentence that highlights the Government’s

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	<p>discretion.</p> <ul style="list-style-type: none"> • The following provisions and clauses were retained with no changes in text: <ul style="list-style-type: none"> ○ 52.227-1 (Clause), Authorization and Consent. ○ 52.227-2 (Clause), Notice and Assistance Regarding Patent and Copyright Infringement ○ 52.227-3 (Clause), Patent Indemnity ○ 52.227-4 (Clause), Patent Indemnity—Construction Contracts ○ 52.227-5 (Clause), Waiver of Indemnity ○ 52.227-6 (Provision), Royalty Information ○ 52.227-8, remains “Reserved” ○ 52.227-9 (Clause), Refund of Royalties ○ 52.227-10 (Clause), Filing of Patent Applications—Classified Subject Matter ○ 52.227-11 (Clause), Patent Rights—Ownership by the Contractor ○ 52.227-12, remains “Reserved” ○ 52.227-13 (Clause), Patent Rights—Ownership by the Government ○ 52.227-14 (Clause), Rights in Data—General ○ 52.227-15 (Provision), Representation of Limited Rights Data and Restricted Computer Software ○ 52.227-16 (Clause), Additional Data Requirements ○ 52.227-17 (Clause), Rights in Data—Special Works ○ 52.227-20 (Clause), Rights in Data—SBIR Program ○ 52.227-21 (Clause), Technical Data Declaration, Revision, and Withholding of Payment—Major Systems ○ 52.227-22 (Clause), Major System—Minimum Rights
Moved	<ul style="list-style-type: none"> • The FAR Companion is expected to include best practice information on the following moved content that is not statutorily required: <ul style="list-style-type: none"> ○ Section 27.102, “General Guidance” ○ Subsection 27.202-1, “Reporting of Royalties” ○ Section 27.204, “Patented Technology Under Trade Agreements” ○ Section 27.305, “Administration of Patent Rights Clauses”, including: <ul style="list-style-type: none"> ■ 27.305-3, “Securing invention rights acquired by the Government” ■ 27.305-4, “Protection of invention disclosures” ○ Section 27.406, “Acquisition of Data” ○ Section 27.408, “Cosponsored Research and Development Activities”

	<ul style="list-style-type: none"> ○ Subpart 27.5, “Foreign License and Technical Assistance Agreements” ● The FAR Companion is expected to include best practice information on the following retained content: <ul style="list-style-type: none"> ○ Subpart 27.4, treatment of “Rights in Data and Copyrights”
Removed	<ul style="list-style-type: none"> ● Section 27.302, “Policy”, which included unnecessary lengthy detail of the Government's comprehensive policy and objectives for patent rights and title under contracts, has been removed as it is not statutorily required. ● Subsection 27.304-1(a), “Status as small business concern or nonprofit organization”, has been removed. This content is duplicative of FAR Part 19. ● Section 27.402, “Policy”, which explained the Government's need for data and the importance of balancing its needs with contractors' proprietary interests, has been removed as it is not statutorily required. ● Paragraphs (a) and (c) of Section 27.406-1, “General”, are removed, as it is not statutorily required. ● The following provision and clauses were removed: <ul style="list-style-type: none"> ○ 52.227-7 (Provision), Patents—Notice of Government Licensee ○ 52.227-18 (Clause), Rights in Data—Existing Works ○ 52.227-19 (Clause), Commercial Computer Software License ○ 52.227-23 (Clause), Rights to Proposal Data (Technical)

This table is not an exhaustive list.

4. Instructions.

- The Department of Education’s acquisition workforce shall follow the RFO Part 27 and corresponding 52 model deviation text instead of FAR Part 27 and 52 as codified at 48 CFR Chapter 1. The Council’s RFO Part 27 model deviation text is available at <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-27> and is incorporated into this class deviation. A separate Acquisition Alert will be issued for any corresponding changes to the EDAR Part 3427.
- For new solicitations or contracts, when using any provisions or clauses that have been revised, utilize the RFO model deviation language at <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-52>.
- For open solicitations or awarded contracts, the contracting officer has discretion regarding the need to enforce or amend the provisions or

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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.

- Review templates and related standard operating procedures to align with this deviation and remove unnecessary processes and steps.
5. **Training.** Acquisition Professionals are highly encouraged to complete “Practitioner Album: FAR Part 27 - Patents, Data, and Copyrights” at https://www.acquisition.gov/sites/default/files/practitioner_albums/far-part-27-patents-data-and-copyrights/content/index.html#/ within 30 days. Please complete the Practitioner Album and mark “yes” under the completion attestation within FAI CSOD.
 6. **Effective Date.** This class deviation to FAR Part 27 is effective January 30, 2026, and remains in effect until rescinded or incorporated into the FAR.
 7. **Points of Contact.** Direct questions regarding this class deviation to your respective policy points of contact.
 8. **Enclosure.** Determination and Findings - Class Deviation for the Revolutionary FAR Overhaul

DETERMINATION AND FINDINGS
Department of Education, All Contracting Activities
Class Deviation for the Revolutionary FAR Overhaul

This approves a class deviation to all Federal Acquisition Regulation (FAR) and Department of Education Acquisition Regulation (EDAR) parts for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text.

Findings

On April 15, 2025, the 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.

In explaining the Federal Acquisition System, the RFO FAR Part deviation text establishes bedrock principles. Most centrally, it sets a "mission first" message at the top of the guiding principles. The RFO model deviation also increases the emphasis on the best use of taxpayer dollars and calls out the value of time as another guiding principle. Additionally, it retains a focus on satisfying the customer, maximizing use of commercial products and services, promoting competition, and encouraging innovation.

The FAR Council Deviation guidance allows for agencies to deviate agency acquisition regulation supplements as it relates to the RFO.

Determination

In accordance with FAR 1.404 and EDAR 3401.404, I hereby issue a class deviation for the use of all RFO model deviation texts and corresponding EDAR deviations. The adoption date for each RFO part model deviation text will be the date of the corresponding Acquisition Alert. EDAR deviation texts may be issued in a separate Acquisition Alert. All Department of Education contracting activities must follow the RFO model deviation texts instead of the FAR Parts codified at 48 CFR. Should the language of the RFO FAR contradict any statutorily granted procurement authorities to the Department of Education including the Office of Federal Student Aid, the statutorily granted authorities prevail.

In the unlikely event that the Department wishes to vary from a RFO model deviation text, a separate deviation will be issued. This class deviation will remain in effect until incorporated into the FAR, EDAR or rescinded.

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Date

Acting Chief Acquisition Officer (CAO)