



Federal Communications Commission Enterprise Acquisition Center

FCC Class Deviation RFO-2026-22 – Supplement 1

TO: FCC Enterprise Acquisition Center

FROM: Sunny Diemert, Senior Procurement Executive

DATE: May 8, 2026

SUBJECT: Supplement to Certain FAR Class Deviations for FAR 9, 12, and 22 in Support of Executive Order 14398, Addressing DEI Discrimination by Federal Contractors.

1. Purpose: This supplement approves changes to the Revolutionary Federal Acquisition Regulation Overhaul (RFO) class deviations to Federal Acquisition Regulation (FAR) parts 9, 12, 22, and 52 for purposes of implementing the FAR Council's updates to the model deviations to address the language described in Executive Order (E.O.) 14398.

2. Background:

- On May 12, 2026, FCC issued RFO-2026-09, RFO-2026-12, and RFO-2026-22, approving a class deviation to FAR parts 9, 12, and 22 for purposes of implementing the FAR Council's model deviation text for these FAR parts. These deviations became effective May 12, 2026.
- E.O. 14398 was issued on March 26, 2026, establishing that agencies should not do business with contractors that engage in any racially discriminatory diversity, equity, and inclusion (DEI) activities.
- In accordance with Section 5 of E.O. 14398, the FAR Council is issuing a deviation to update the model deviation text for these parts.

3. Summary of Changes

- Part 9 - References the new clause and makes clear that failure to comply with the clause may result in debarment or suspension.
- Part 12 - Prescribes the new clause for commercial acquisition.
- Part 22 - Establishes the new policy and prescribes the new clause.
- Part 52 - Creates the new clause 52.222-90, Addressing DEI Discrimination by Federal Contractors (APR 2026), and adds this clause to the table of clauses required to be flowed down to subcontracts for commercial products or commercial services in clause 52.244-6 (APR 2026).

4. Instructions.

The FCC acquisition workforce must follow the new model deviation text.

- For new solicitations and resulting contracts
 - Beginning April 27, 2026, amend open solicitations other than GSA government-wide contracts (FSS, GWACs, other GSA managed multi-agency contracts), and insert the clause at FAR 52.222-90, Addressing DEI Discrimination by Federal Contractors (APR 2026) in new solicitations and resulting contracts valued over the micro-purchase threshold, including those for commercial products and commercial services, except those that result in contracts for which the place of delivery or performance is outside the United States. In accordance with FAR 1.107(d), amend any open solicitations to incorporate the clause.
 - The solicitations for GSA government-wide contracts (FSS, GWACs, other GSA managed multi-agency contracts) must be updated in time to modify the contracts before July 24, 2026. New GSA government-wide contracts (FSS, GWACs, other GSA managed multi-agency contracts) awarded between April 27 and the refresh will be modified through a mass modification.
 - It is not necessary to include the clause in new orders under existing GSA governmentwide contracts (FSS, GWACs, other GSA managed multi-agency contracts). The instructions regarding these contracts and orders thereunder are described below.
- For existing contracts
 - In accordance with FAR 1.107(d)(FCC deviation RFO-2026-01, May 12, 2026), contracting officers must make every effort to bilaterally modify existing contracts by July 24, 2026. If a contractor refuses to agree to a bilateral modification, the contracting officer should consider whether, absent the modification, the contract no longer meets the agency's needs and should therefore be terminated for convenience.
 - Insert the clause at FAR 52.222-90, Addressing DEI Discrimination by Federal Contractors (APR 2026), in all existing contracts (i.e., definitive contracts and indefinite-delivery contracts) valued over the micro-purchase threshold, including those for commercial products and commercial services, except those for which the place of delivery or performance is outside the United States.
 - Existing orders under GSA government-wide contracts (FSS, GWACs, other GSA managed multi-agency contracts) do not need to be modified; the master contract's modification covers the orders. Modifications made to GSA master contracts must state explicitly that the modification applies to both existing and future orders.

- Modification of contracts with a final expiration no later than December 31, 2026 is at contracting officer discretion.
- Utilize the RFO model deviation language at RFO FAR part 52.
- Contracting activities must review templates and related standard operating procedures to align with this class deviation and remove unnecessary processes and steps.

5. FAR 52.222-90 Information Collection. The FAR Council is seeking clearance from OMB for information collections related to the FAR clause 52.222-90. The clearance will provide coverage for all agencies using the clause. The clause requires that contractors must—

- Furnish all information and reports, including providing access to books, records, and accounts, as required by the contracting officer, for purposes of ascertaining compliance with the clause (FAR 52.222-90(b)(2));
- Report any subcontractor's known or reasonably knowable conduct that may violate the clause to the contracting officer and take any appropriate remedial actions directed by the contracting officer (FAR 52.222-90(b)(4)); and
- Inform the contracting officer if a subcontractor sues the contractor and the suit puts at issue, in any way, the validity of the clause (FAR 52.222-90(b)(5)).

Until clearance is received, you may still enforce the requirement for contractors to submit existing records regarding compliance with the requirements of the clause in connection with individual investigations, such as records that may be requested by the Equal Employment Opportunity Commission or the Department of Justice as part of an investigation of an alleged violation of the clause.

You should further expect that contractors will alert the appropriate contracting officer of potential violations of the clause or lawsuits relating to the clause.

Once clearance is received, SPE will communicate to the workforce that you can begin to enforce full compliance with FAR clause 52.222-90 requirements.

6. Applicability. This class deviation applies to all FCC FAR based contracts. For all non-FAR based contracts like procurements including leases of real property, and child care agreements, see FCC Acquisition Letter.

7. Authority. This class deviation is issued under the authority of E.O. 14398, E.O. 14275, OMB Memo M-25-26, 48 CFR 1.4, and RFO FAR 1.304.

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

Attachment A - EO 14398 Amended FAR Tex

Executive Order 14398, Addressing DEI Discrimination by Federal Contractors, of March 26, 2026

Baseline is the Revolutionary Federal Acquisition Regulation Overhaul as posted in [Acquisition.gov](https://www.acquisition.gov) on April 1, 2026.

Changes made in the proposed rule are shown by **[additions]** and ~~deletions~~.

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PART 9—CONTRACTOR QUALIFICATIONS

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Subpart 9.4 - Debarment, Suspension, and Ineligibility

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9.406 Debarment.

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9.406-2 Causes for debarment.

The suspending and debarring official may debar-

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(b) (1) * * *

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[(viii) Failure to comply with the requirements of clause 52.222-90, Addressing DEI Discrimination by Federal Contractors.]

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9.407 Suspension.

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9.407-2 Causes for suspension.

(a) The suspending and debarring official may suspend a contractor suspected, upon adequate evidence, of-

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[(11) Failure to comply with the requirements of clause 52.222-90, Addressing DEI Discrimination by Federal Contractors.]

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PART 12-ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

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Subpart 12.2 - Solicitation, Evaluation, and Award

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12.205 Solicitation provisions and contract clauses.

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(b) (2) * * *

Table 12-3 - Clauses to include as prescribed.

Number	Title	Source
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[52.222-90	Addressing DEI Discrimination by Federal Contractors	EO]
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PART 22-APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

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[Subpart 22.22-Addressing DEI Discrimination by Federal Contractors

22.2200 Scope of subpart.

This subpart prescribes policies and procedures to implement Executive Order (E.O.) 14398, Addressing DEI Discrimination by Federal Contractors, (91 FR 16147, March 31, 2026).

22.2201 Definitions.

As used in this subpart-

Program participation means membership or participation in, or access or admission to: training, mentoring, or leadership development programs; educational opportunities; clubs; associations; or similar opportunities that are sponsored or established by the contractor or subcontractor.

Racially discriminatory DEI activities means disparate treatment based on race or ethnicity in the recruitment, employment (e.g., hiring, promotions), contracting (e.g., vendor agreements), program participation, or allocation or deployment of an entity's resources.

22.2202 Policy.

Executive Order 14398 requires measures to prevent contractors from engaging in any racially discriminatory DEI activities.

22.2203 Contract clause.

Insert the clause at 52.222-90, Addressing DEI Discrimination by Federal Contractors, in solicitations and contracts, including those for commercial products and commercial services, except those that result in contracts for which the place of delivery or performance is outside the United States.]

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PART 52-SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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Subpart 52.2-Text of Provisions and Clauses

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[52.222-90 Addressing DEI Discrimination by Federal Contractors

As prescribed in 22.2203, insert the following clause:

ADDRESSING DEI DISCRIMINATION BY FEDERAL CONTRACTORS (APR 2026)

(a) *Definitions.* As used in this clause-

Program participation means membership or participation in, or access or admission to: training, mentoring, or leadership

development programs; educational opportunities; clubs; associations; or similar opportunities that are sponsored or established by the contractor or subcontractor.

Racially discriminatory diversity, equity, and inclusion (DEI) activities means disparate treatment based on race or ethnicity in the recruitment, employment (e.g., hiring, promotions), contracting (e.g., vendor agreements), program participation, or allocation or deployment of an entity's resources.

(b) In connection with the performance of work under this contract, the Contractor agrees as follows:

(1) The Contractor will not engage in any racially discriminatory DEI activities;

(2) The Contractor will furnish all information and reports, including providing access to books, records, and accounts, as required by the Contracting Officer, for purposes of ascertaining compliance with this clause;

(3) In the event of the Contractor's or a subcontractor's noncompliance with this clause, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor or subcontractor may be declared ineligible for further Government contracts;

(4) The Contractor will report any subcontractor's known or reasonably knowable conduct that may violate this clause to the Contracting Officer and take any appropriate remedial actions directed by the Contracting Officer; and

(5) The Contractor will inform the Contracting Officer if a subcontractor sues the Contractor and the suit puts at issue, in any way, the validity of this clause.

(6) The Contractor recognizes that compliance with the requirements of this clause are material to the Government's payment decisions for purposes of 31 U.S.C. 3729(b) (4).

(c) The Contractor must include the substance of this clause, including this paragraph (c), in subcontracts at any tier, including those for commercial products and commercial services, except those where the place of delivery or performance is outside the United States.

(End of clause)]

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52.244-6 Subcontracts for Commercial Products and Commercial Services.

As prescribed in 44.403, insert the following clause:

**Subcontracts for Commercial Products and Commercial Services
([DEVIATION APR 2026])**

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(b) (2) * * *

Number	Title	Date
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[52.222-90	Addressing DEI Discrimination by Federal Contractors	APR 2026]
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9. Points of Contact. Questions regarding this class deviation may be directed to FCC's Senior Procurement Executive, Sunny Diemert, at sunny.diemert@fcc.gov.

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Sunny Diemert
Senior Procurement Executive (SPE)



Federal Communications Commission Enterprise Acquisition Center

FCC Class Deviation RFO-2026-22

TO: FCC Enterprise Acquisition Center

FROM: Sunny Diemert, Senior Procurement Executive

DATE: May 11, 2026

SUBJECT: FAR Class Deviation for FAR Part 22 in Support of Executive Order 14275, Restoring Common Sense to Federal Procurement

1. Purpose: This memorandum approves a class deviation to Federal Acquisition Regulation (FAR) part 22 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR part 22.

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 Federal Acquisition Regulation (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 22, Application of Labor Laws to Government Acquisitions, is restructured to align with the stages of the acquisition lifecycle. This reorganization will help acquisition teams apply the labor requirements during the correct stage of the procurement. The part is now shorter, with many sections combined to remove redundancy and duplicative language.

Importantly, the fundamental protections for workers remain the same. For example, contractors are still required to:

- Pay the correct prevailing wages for construction and service work
- Provide safe and sanitary working conditions

- Ensure equal opportunity for veterans
- Pay overtime correctly

Subpart 22.11. “Professional Employee Compensation” was based on statute. This part, and the provision in 52.222-46, “Evaluation of Compensations for Professional Employees” has been removed.

The model deviation text for this part does not cover the rescission of Executive Order (E.O.) 14026, addressing minimum wage for federal contractors, made by E.O. 14236. For information on the rescission of E.O. 14026, see the Department of Labor's website at <https://www.dol.gov/agencies/whd/government-contracts/eo14026>.

Statutory requirements and presidential directives retained in the RFO FAR part 22 model deviation include, but may not be limited to, the following:

- 8 U.S.C. § 1324a, Unlawful Employment of Aliens
- 18 U.S.C. § 874, Kickbacks from Public Works Employees
- 22 U.S.C. §§ 7101 et seq, Trafficking Victims Protection
- 29 U.S.C. §§ 201 et seq, Fair Labor Standards
- 29 U.S.C. § 793, Employment Under Federal Contracts
- 38 U.S.C. § 4212, Veterans’ Employment Emphasis Under Federal Contracts
- 40 U.S.C. §§ 3141 et seq, Wage Rate Requirements
- 40 U.S.C. §§ 3701 et seq, Contract Work Hours and Safety Standards
- 41 U.S.C. § 6502, Required Contract Terms
- 41 U.S.C. §§ 6701 et seq, Service Contract Labor Standards
- E.O. 11755, Relating to Prison Labor, as amended by E.O.s 12608 and 12943
- E.O. 13126, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor
- E.O. 13496, Notification of Employee Rights Under Federal Labor Laws
- E.O. 13706, Establishing Paid Sick Leave for Federal Contractors
- E.O. 14063, Use of Project Labor Agreements for Federal Construction Projects

Change	Description
Retained	<ul style="list-style-type: none"> • Subpart 22.7 remains reserved. • Subpart 22.12 remains reserved. • Subpart 22.20 remains reserved. • Numerous provisions and clauses are retained (or remain reserved) with no changes. For readability of this document, all retained provisions and clauses are not listed. Updated and deleted provisions and clauses are listed below.
Moved / Updated	<ul style="list-style-type: none"> • Section 22.001, “Definitions”, is updated to centralize definitions that were previously scattered throughout the part, make conforming edits to existing definitions to reflect the new part structure, and make other updates to modernize or streamline the definitions as appropriate.

	<ul style="list-style-type: none"> ○ The definition of “Administrator” is revised to remove the full mailing address. ○ The definition of “Normal workweek” is relocated from the former subsection 22.103-1. ○ The definition of “Secretary” is relocated from the section 22.1601 in order to standardize the term’s usage throughout the part. ○ The definition of “Service contract” is updated to align the citations with the changes made to the part. ● All subparts, unless otherwise noted, are updated and restructured. Content from former sections has been consolidated and relocated into new sections that reflect the acquisition lifecycle (e.g., Presolicitation, Evaluation and Award, Postaward). ● Subsection 22.201-1, “General”, streamlines the detailed explanatory text from Executive Order 11755, which was quoted at length in the former 22.201. The section now simply states that the Executive Order ‘does not prohibit the contractor...from employing certain persons as stated in paragraph (b) of the clause at 52.222-3 Convict Labor’. This change streamlines the regulation by relying on the text of the contract clause itself to provide the specific requirements, rather than repeating them in the FAR text. ● Section 22.401, “Definitions”, revises and harmonizes the definition of “Laborers or mechanics” with the definition used in Subpart 22.3. The updated definition in this section explicitly includes “firefighters, fireguards, and workmen who perform services in connection with dredging or rock excavation in rivers or harbors” and excludes “any employee employed asa seaman”. This creates greater consistency across related subparts. ● Paragraph (d) under subsection 22.402-3 “Construction Wage Rate Requirements Statute” retains the direction (previously at 22.404-2(c)(5)) for contracting officers to seek assistance from the Administrator of the Wage and Hour Division in cases of doubt as to the proper application of wage rate schedules. The detailed guidance for selecting the proper schedule of wage rates (e.g., Building, Residential, Highway, Heavy) has been removed. ● Section 22.1303, “Evaluation and Award”, under subpart 22.13, “Equal Opportunity for Veterans”, removes the option to contact VETS-4212 customer support (previously at 22.1304(b)) to verify if a proposed contractor is current with its VETS-4212 Report. Now, contracting officers must query the VETS-4212 database. ● The following provisions and clauses are updated for clarity, to mirror updates made throughout the part, and/or to update cross references or remove outdated content: <ul style="list-style-type: none"> ○ 52.222-4 (Clause), Contract Work Hours and Safety Standards Overtime Compensation ○ 52.222-6 (Clause), Construction Wage Rate Requirements ○ 52.222-11 (Clause), Subcontracts (Labor Standards)
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	<ul style="list-style-type: none"> ○ 52.222-19 (Clause), Child Labor Cooperation with Authorities and Remedies ○ 52.222-20 (Clause), Contracts for Materials, Supplies, Articles, and Equipment ○ 52.222-35 (Clause), Equal Opportunity for Veterans ○ 52.222-36 (Clause), Equal Opportunity for Workers with Disabilities ○ 52.222-37 (Clause), Employment Reports on Veterans ○ 52.222-48 (Provision), Exemption From Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification ○ Alternate I to 52.222-50 (Clause), Combating Trafficking in Persons ○ 52.222-52 (Provision), Exemption From Application of the Service Contract Labor Standards to Contracts for Certain Services Certification ○ 52.222-53 (Clause), Exemption From Application of the Service Contract Labor Standards to Contracts for Certain Services Requirements ○ 52.222-54 (Clause), Employment Eligibility Verification ● The FAR Companion is expected to include best practices and guidance on the following: <ul style="list-style-type: none"> ○ Definitions not included in the deviated text ○ Department of Labor regulations involving construction ○ Construction Wage Rate Requirements statute wage determinations ○ Types of wage determinations ○ Wage determinations, general requirements ○ Notification of improper wage determination before award ○ Examinations of payrolls and payroll statements ○ Disposition of disputes concerning construction contract labor standards enforcement ○ Requirement to obtain wage determinations ○ Administrative limitations, variations, tolerances, and exemptions ○ Examples of contracts covered by the Service Contract Labor Standards statute ○ Repair distinguished from remanufacturing of equipment ○ Department of Labor responsibilities and regulations ○ Obtaining wage determinations ○ Successorship with incumbent contractor collective bargaining agreement ○ All possible places of performance not identified
Removed	<ul style="list-style-type: none"> ● The definitions of “Wage and Hour Division” and “Wage Determination” formally at section 22.1001, are removed and expected to be included in the FAR Companion. ● Subpart 22.8, “Equal Employment Opportunity”, is removed and marked reserved to comply with E.O. 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity. ● Subpart 22.11, “Professional Employee Compensation”, is removed and marked reserved. This subpart was not based on statute.

	<ul style="list-style-type: none"> • The following provisions and clauses are removed and marked reserved to comply with E.O. 14173 or because they are not required by statute or essential to sound procurement: <ul style="list-style-type: none"> ○ 52.222-21 (Clause), Prohibition of segregated facilities ○ 52.222-22 (Provision), Previous Contracts and Compliance Reports ○ 52.222-23 (Provision), Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity for Construction ○ 52.222-24 (Provision), Preaward On-Site Equal Opportunity Compliance Evaluation ○ 52.222-25 (Provision), Affirmative Action Compliance ○ 52.222-26 (Clause), Equal Opportunity ○ 52.222-27 (Clause), Affirmative Action Compliance Requirements for Construction ○ 52.222-29 (Clause), Notification of Visa Denial ○ 52.222-38 (Provision), Compliance with Veterans' Employment Reporting Requirements ○ 52.222-46 (Provision), Evaluation of Compensation for Professional Employees
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4. Instructions:

- The FCC acquisition workforce must follow the RFO part 22 and corresponding part 52 model deviation text instead of FAR parts 22 and 52 as codified at 48 CFR Chapter 1. The council's RFO part 22 model deviation text is available [Acquisition.gov/far-overhaul](https://www.acquisition.gov/far-overhaul), and is incorporated into this class deviation.
- 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 clauses, the contracting officer may be required to separately address certain aspects in the contract.
- Contracting activities must review templates and related standard operating procedures to align with this class deviation and remove unnecessary processes and steps.

5. Applicability. This class deviation applies to all FCC procurements.

6. Authority. This class deviation is issued under the authority of EO 14275, OMB Memo M-25-26, 48 CFR 1.4, and RFO FAR 1.304.

7. Effective Date: This class deviation is effective as dated and shall remain in effect until it is incorporated into the FAR or until this class deviation is otherwise rescinded.

8. Point of Contact: Questions regarding this class deviation may be directed to FCC's Senior Procurement Executive, Sunny Diemert, at sunny.diemert@fcc.gov.

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