

# Memorandum

**TO:** Office of Management Services

**DATE:** July 31, 2026

**FROM:** Cindy Hennigan  
Deputy Managing Director  
Office of Managing Director  
Senior Procurement Executive

**SUBJECT:** Class Deviation for Federal Acquisition Regulation Part 9 in Support of Executive Order on Restoring Common Sense to Federal Procurement

1. **Purpose:** To issue a class deviation to Federal Acquisition Regulation (FAR) Part 9 for purposes of implementing the FAR Council's model deviation text to FAR Part 9.

2. **Effective Date:** Immediately

3. **Expiration Date:** Expires when incorporated into the FAR or is otherwise rescinded.

4. **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."

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- Remove duplicative or outdated language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. This initiative will make the FAR more concise, understandable, and focused on core procurement requirements.

## 5. Summary of Changes.

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 includes, 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

| Change   | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| Retained | <ul style="list-style-type: none"> <li>• Subparts 9.1, 9.2, and 9.3 are significantly streamlined with some shifting and reorganizing of sections and subsections throughout.</li> <li>• Subparts 9.4 “Debarment, Suspension, and Ineligibility”, and 9.5</li> <li>• “Organizational and Consultant Conflicts of Interest”, are retained and updated with plain language edits.</li> <li>• The following provision and clause are retained (or remain reserved if previously reserved) with no changes to the text: <ul style="list-style-type: none"> <li>o 52.209-8 remains reserved</li> <li>o 52.509-12 (Provision), Certification Regarding Tax Matters</li> <li>o 52.209-14 (Clause), Reserve Officer Training Corps and Military Recruiting on Campus</li> </ul> </li> </ul>                                                                                                                                                                                                                                                                                                                 |
| Removed  | <ul style="list-style-type: none"> <li>• Section 9.000 “Scope of Part”, has been removed as the language was duplicative.</li> <li>• The definition of “Surveying activity” has been removed from section 9.101, “Definitions”.</li> <li>• Section 9.104-2 “Special Standards”, has been removed and may be moved to non-regulatory content.</li> <li>• Section 9.106 Preaward surveys is now <b>reserved</b>. This includes removal of the reference to use Standard Form 1403, <i>Preaward Survey of Prospective Contractor (General)</i>. Content has been moved to the FAR Companion Guide.</li> <li>• Section 9.107 Section 9.107 Surveys of Nonprofit Agencies Participating in the AbilityOne Program is now <b>reserved</b>. The AbilityOne Program is covered in part 8 and nuances of pre-award surveys relevant to the AbilityOne Program has been moved to the FAR Companion Guide.</li> <li>• Subparts 9.6 Contractor Team Arrangements and 9.7 Defense Production Pools and Research and Development Pools are removed. Content has been moved to the FAR Companion Guide.</li> </ul> |
| Updated  | <ul style="list-style-type: none"> <li>• 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"> <li>o 52.209-1 (Clause), Qualification Requirements</li> <li>o 52.209-2 (Provision), Prohibition on Contracting with Inverted Domestic Corporations-Representation</li> </ul> </li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

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|  | <ul style="list-style-type: none"> <li>o 52.209-3 (Clause), First Article Approval-Contractor Testing Note - The Alternates are not updated</li> <li>o 52.209-4 (Clause), First Article Approval-Government Testing Note - The Alternates are not updated</li> <li>o 52.209-5 (Provision), Certification Regarding Responsibility Matters</li> <li>o 52.209-6 (Clause), Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, Proposed for Debarment, or Voluntarily Excluded</li> <li>o 52.209-7 (Provision) Information Regarding Responsibility Matters</li> <li>o 52.209-9 (Clause), Updates of Publicly Available Information Regarding Responsibility Matters</li> <li>o 52.209-10 (Clause), Prohibition on Contracting with Inverted Domestic Corporations</li> <li>o 52.209-11 (Provision), Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law</li> <li>o 52.209-13 (Provision) Violation of Arms Control Treaties or Agreements-Certification</li> </ul> <ul style="list-style-type: none"> <li>• Subpart 9.4 Debarment, Suspension, and Ineligibility for a contractor's failure to comply with the requirements of clause 52.222-90, Addressing DEI Discrimination by Federal Contractors: <ul style="list-style-type: none"> <li>o Debarment (9.406-2 (b)(1)(viii))</li> <li>o Suspension (9.407-2 (a)(11))</li> </ul> </li> </ul> |
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This table is not an exhaustive list.

**Required Action:** The FMC acquisition workforce shall follow the RFO Part 9 model deviation text instead of FAR Part 9 as codified at 48 CFR Chapter 1. The Council's RFO Part 9 model deviation text is available at [Acquisition.gov/far-overhaul](https://www.acquisition.gov/far-overhaul), and is incorporated into this class deviation.

**6. Applicability:** This class deviation applies to all FMC procurements.

**7. Authority:** This deviation is issued under the authority of Executive Order 14275, OMB Memo M-25-26, and 48 CFR 1.4 and Executive Order 14398.

**8. Point of Contact:** If you have any questions please contact Michelle Calhoun, Procurement Analyst ([mcalhoun@fmc.gov](mailto:mcalhoun@fmc.gov)) or (202) 523-5901.

Cindy Hennigan  
Senior Procurement Executive