



**FAR CLASS DEVIATION 2025-10
Amendment 1**

MEMORANDUM TO: Heads of the Contracting Activities (HCAs)

FROM: Jennifer D. Johnson [Jennifer Johnson](#)
Jennifer Johnson (Apr 24, 2026 15:06:29 EDT)
Deputy Assistant Secretary for Acquisitions and Senior Procurement Executive
Office of Acquisitions (OA)
Office of Assistant Secretary for Financial Resources (ASFR)
Department of Health and Human Services (HHS)

SUBJECT: **Amendment 1** to Federal Acquisition Regulation (FAR) Class Deviation (CD) No. 2025-10 in Support of Executive Order (EO) 14275, “Restoring Common Sense to Federal Procurement;” Deviation to FAR Parts 9, 33, 46, 49 and Applicable Portions of 52. – ***Updated RFO FAR Guidance & Implementation of EO 14398, Addressing DEI Discrimination by Federal Contractors***

1. EFFECTIVE DATE: Immediately

2. EXPIRATION DATE:

This CD remains in effect until the changes described herein are incorporated in the FAR, superseded, or otherwise rescinded.

3. PURPOSE:

This FAR CD implements requirements to comply with [EO 14275, Restoring Common Sense to Federal Procurement](#), for the purposes of implementing the Federal Acquisition Regulatory Council’s changes to FAR parts 9, 33, 46, 49 and Applicable Portions of 52. It also incorporates and adopts the FAR Council’s model deviation text to the affected FAR parts.

Amendment 1 to FAR CD 2025-10 updates the CD to reflect the following:

- The RFO model deviation text for FAR part 9 was updated on April 20, 2026 to implement requirements of [EO 14398, Addressing DEI Discrimination by Federal Contractors](#), and
- Require HHS contracting staff to follow the updated RFO FAR part 9 model deviation text.

FAR CD 2025-10, signed on September 15, 2025, is hereby rescinded and superseded by this amendment.

4. APPLICABILITY:

The requirements in this CD apply to all HHS Divisions for applicable solicitations, contracts, and orders.

5. ROLES AND RESPONSIBILITIES:

Heads of the Contracting Activities (HCAs) must ensure this CD is disseminated to the acquisition workforce and ensure compliance with the requirements in the CD. Additionally, HCAs must review and update any applicable internal procedures and guidance to reflect the policies and guidance contained herein.

6. BACKGROUND:

On April 15, 2025, [EO 14275, Restoring Common Sense to Federal Procurement](#), was signed. Section 2 of the EO 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.

On August 21, 2025, the FAR Council issued the RFO model deviation text for FAR parts 9, 33, 46, and 49.

On September 15, 2025, HHS issued FAR CD 2025-10 for FAR parts 9, 33, 46, 49, and corresponding affected part 52.

On April 20, 2026, the FAR Council issued updated RFO model deviation text for FAR part 9. This update implements requirements of [EO 14398, Addressing DEI Discrimination by Federal Contractors](#), dated March 26, 2026. EO 14398 establishes that agencies should not do business with contractors that engage in any racially discriminatory diversity, equity, and inclusion (DEI) activities (91 FR 16147, March 31, 2026).

This Amendment 1 provides guidance to adopt the updated RFO FAR part 9 model deviation text.

7. POLICY/GUIDANCE:

Effective immediately, HHS contracting staff must comply with the following:

A. Follow the RFO FAR parts 9 (*updated on April 20, 2026*), 33, 46, and 49 model deviation text, including the corresponding part 52 model deviation text, instead of FAR parts 9, 33, 46, and 49, and corresponding part 52 as codified at 48 CFR Chapter 1. The Council's RFO model deviation texts are available in the [FAR Overhaul](#) section at Acquisition.gov, and are incorporated into this CD.

B. When issuing new solicitations, contracts, or orders:

1. **Do not include** any of the removed provisions or clauses (i.e., any provisions or clauses marked as “[Reserved]” on the [RFO FAR part 52](#) page).
2. **Include** the applicable provisions and clauses listed on the [RFO FAR part 52](#) page.
 - i. **For deviated provisions or clauses, (i.e., any provisions or clauses marked with “(DEVIATION DATE)”**, utilize the RFO FAR model deviation text at [RFO FAR part 52](#).

C. For open solicitations:

1. **Amend the solicitation to remove** any provisions and clauses that have been removed by the RFO FAR model deviation text (i.e., any provisions or clauses marked as “[Reserved]” on the [RFO FAR part 52](#) page).
2. **Amend the solicitation to include or update** any applicable deviated provisions or clauses (i.e., any provision or clauses marked with “(DEVIATION DATE)”) to reflect the RFO FAR model deviation text at [RFO FAR part 52](#).

D. For existing contracts and orders:

1. **At the next available opportunity, modify the contract or order to remove** any clauses that have been removed by the RFO FAR model deviation text (i.e., any clauses marked as “[Reserved]” on the [RFO FAR part 52](#) page).
2. **At the next available opportunity, modify the contract or order to include or update** any applicable deviated clauses (i.e., any clauses marked with “(DEVIATION DATE)”) to reflect the RFO FAR model deviation text at [RFO FAR part 52](#).

E. When using RFO provisions or clauses, include the following System for Award Management (SAM) language in the solicitation or contract:

“System updates may lag policy updates. The System for Award Management (SAM) may continue to require entities to complete representations based on provisions that are not included in this solicitation. Contracting officers will rely on representations from offers based on provisions in the solicitation. Entities are not required to, nor are they able to, update their entity registration to remove these representations in SAM.”

8. AUTHORITY:

This CD is issued under the authority of EO 14275, 48 CFR 1.4, RFO FAR 1.304, and OMB [M-25-26](#).

9. DEVIATION:

The RFO FAR parts 9 (*as updated on April 20, 2026*), 33, 46, and 49 model deviation text, and corresponding FAR part 52 model deviation text, are available at <https://www.acquisition.gov/far-overhaul>, and are incorporated into this CD.

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.

FAR part 33, Protests, Disputes, and Appeals, has been updated to reflect administration priorities to reduce protests and resolve protests at the lowest level possible. The update represents a significant and deliberate modernization of a critical component of the federal procurement system and is aimed at increasing efficiency, clarity, and fairness in federal acquisitions.

FAR part 46, Quality Assurance, has been updated for clarity and usability.

FAR part 49, Termination of Contracts, has been updated for clarity and usability.

Statutory requirements and government directives retained in the affected RFO FAR model deviation text include, but are not limited to, the following:

RFO FAR part 9:

- 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

RFO FAR part 33:

- 5 U.S.C. §§ 571 et seq, Administrative Dispute Resolution Act (ADRA)
- 31 U.S.C. § 1558, Availability of Funds Following Resolution
- 31 U.S.C. §§ 3551 et seq, Procurement Protest System
- 41 U.S.C. §§ 7101 et seq, Contract Disputes
- E.O. 12979, Agency Procurement Protests

RFO FAR part 46:

- 41 U.S.C. § 1711, Value Engineering
- 41 U.S.C. § 3307, Preference for Commercial Products and Commercial Services
- Pub. L. 103-355, Federal Acquisition Streamlining Act of 1994 (FASA)
- Pub. L. 112-81 Sec 818, Detection and Avoidance of Counterfeit Electronic Parts

RFO FAR part 49:

- 31 U.S.C. § 3729, False Claims
- 41 U.S.C. §§ 7101 et seq (Pub. L. 95-563), The Contract Disputes Act of 1978

FAR Part	Change	Description
9	4/20/2026 Updates	<ul style="list-style-type: none"> • Subpart 9.4. Added language in subsections 9.406-2 and 9.407-2 that failure to comply with the requirements of the clause at 52.222-90, Addressing DEI Discrimination by Federal Contractors, may be a cause for debarment or suspension.
9	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.
9	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 “Preaward Surveys”, has been removed and may be moved to non-regulatory content. This includes the reference to utilizing

FAR Part	Change	Description
		<p>the Standard Form 1403, Preaward Survey of Prospective Contractor (General).</p> <ul style="list-style-type: none"> • 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.
33	Added	<ul style="list-style-type: none"> • New purpose statement at 33.100, “Purpose of the Bid Protest System”. The new purpose statement sets forth the objectives of the bid protest process (e.g., promote integrity in the process, deter abuse of the bid protest process), and emphasizes that it is not intended to serve as a way for offerors to get additional insight or be used by incumbents to delay contract transition. • Processes within the types of protests are broken down into pre-award and post-award actions for ease of the reader. • New requirements applicable to “Protests to the Agency”. <ul style="list-style-type: none"> ○ 33.104-4(a)(4)(ii) - Contracting officers are required to report protests to the head of contracting activity (HCAs) as soon as practicable after filing. ○ 33.104-4(a)(5)(ii) - Protesters electing independent review at a level above the CO must be provided a redacted copy of the source selection decision and be provided an opportunity to submit a supplemental statement to the independent review official. ○ These new requirements are expected to increase confidence in the agency protest process, capture more data at the agency level on protests filed with contracting officers, allow for agency management to respond to procurement issues raised in protests, and resolve more protests at the agency level since protesters will have more information available to them.
33	Retained	<ul style="list-style-type: none"> • Most of the “Definitions” now at section 33.102 are retained with only minor, non-substantive wording changes. Only the definition of “Protest venue” was removed, as it is unnecessary considering other changes within the part. • “Protests to the Agency”, now at section 33.104 is retained, with key changes:

FAR Part	Change	Description
		<ul style="list-style-type: none"> ○ The section is completely reorganized into four distinct subsections for improved clarity and usability. ○ The distinct subsections logically separate the rules for pre-award and post-award protests, which were previously intermingled in paragraphs (e) and (f) of section 33.103. ○ The section retains the requirement for parties to attempt resolution through "open and frank discussions" before filing a formal protest. ● “Protests to GAO”, now at 33.105, is retained and significantly streamlined. The previous content on protests to GAO was a lengthy, detailed section that essentially summarized many of the procedural rules found in GAO's own regulations. This section now removes this duplication and points contracting officers to the GAO procedures at 4 CFR Part 21, “Bid Protest Regulations”, instead of repeating them in the FAR. ● Numerous procedural sections have been consolidated into a single, overarching section titled “Postaward” at 33.205. Separate sections on initiation of a claim (former 33.206), contractor certification (former 33.207), interest on claims (former 33.208), the contracting officer's decision (former 33.211), and Alternative Dispute Resolution (former 33.214), among others, are now reorganized as subsections under 33.205, creating a more intuitive, step-by-step guide to the post-award claims process. ● All clauses and provisions for this part are retained, with plain language and streamlining updates: <ul style="list-style-type: none"> ○ 52.233-1 Disputes, revised to now describe what a defective certification means. ○ 52.233-2 Service of Protest, revised to require protests to be shared with the contracting office within one day of filing with the GAO. ○ 52.233-3 Protest After Award, revised to describe steps for protests post award, such as stop work orders. ○ 52.233-4 Applicable Law for Breach of Contract Claim, remains the same that U.S. law will be applied to address breach.
33	Removed	<ul style="list-style-type: none"> ● Section 33.212, “Contracting Officer's Duties Upon Appeal”, is removed. The section created a general obligation for the contracting officer to provide data, documentation, information, and support to the agency Boards of Contract Appeals (BCA) upon appeal. The contracting officer’s requirements are dictated by the procedural rules of the adjudicative body and do not need to be stated in the FAR.

FAR Part	Change	Description
46	Retained	<ul style="list-style-type: none"> Subparts 46.1, 46.2, 46.3, 46.4, 46.5, 46.6, 46.7, 46.8 and the sections therein, remain mostly intact and are streamlined, with some shifting and reorganizing of sections and subsections throughout. All “Definitions” at 46.101 are retained. All existing clauses are retained (or remain reserved if previously reserved) with no changes to the text.
46	Removed	<ul style="list-style-type: none"> Section 46.105, “Contractor Responsibilities” is deleted and marked reserved, as the content was redundant to contract clauses. Section 46.704, “Authority for use of warranties” is deleted and marked reserved. This section stated that warranty use must be approved by agency procedures. This language does not need to be included in the FAR.
49	Retained	<ul style="list-style-type: none"> Section 49.000, “Scope of Part”, is simplified and retains the core scope of establishing policies and procedures for terminating contracts early. Section 49.001, “Definitions”, is retained and updated for plain language. Section 49.002, “Applicability”, is retained and updated for plain language with a simpler structure. Subparts 49.1, 49.2, 49.3, 49.4, 49.5, 49.6 and the sections therein, remain mostly intact and are streamlined with some shifting and reorganizing of sections and subsections throughout. All existing clauses are retained (or remain reserved if previously reserved) with no changes to the text.
49	Removed	<ul style="list-style-type: none"> Plain language edits were made throughout to enhance readability and remove redundant, unclear, or non-essential language, decreasing the word count by more than 2,500 words. Subsection 49.108-7 “Government assistance in settling subcontracts”, Section 49.113 “Cost principles”, and Section 49.405 “Completion by another contractor” have been removed and may be moved to non-regulatory content.

** This table is not an exhaustive list.*

RFO FAR part 52 model deviation text reflects updates to provision(s) and/or clause(s) associated with affected RFO FAR parts.

10. CONTACT:

Acquisition workforce members with questions regarding this CD should contact their cognizant Division Acquisition Office or Acquisition Policy Council (APC) Representative(s), as appropriate.

The current list of APC Representatives may be found on the [Acquisition Councils and Workgroups Page](#) of the [HHS Acquisition Portal](#) (HHSAP).

All other questions should be directed to Acquisition_Policy@hhs.gov.