



## MEMORANDUM

**Date:** January 28, 2025

**Refer To:** TUEC

**To:** Tom Holland  
Chief Financial Officer  
for Finance and Management

**From:** Bruce Starr  
Head of Strategic Sourcing  
for Finance and Management

**Subject:** Request for Class Deviation from the Federal Acquisition Regulation (FAR) Parts 14, 19, 25, 32, 37, 41, 42, 47, and 53; Request for Approval of Amendments to Class Deviations from FAR Parts 8 and 9--DECISION

### **ISSUE**

We request approval of a class deviation from FAR parts 14, 19, 25, 32, 37, 41, 42, 47, and 53, as amended,<sup>1</sup> for purposes of implementing the Federal Acquisition Regulatory Council's model deviation text to these parts. We also request approval to amend the agency's current class deviations to FAR parts 8 and 9.

### **BACKGROUND**

Executive Order (E.O.) 14275, *Restoring Common Sense to Federal Procurement*, was signed on April 15, 2025. (See [Attachment \(a\)](#).) 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 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- Remove duplicative or outdated language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.

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<sup>1</sup> As amended in the model deviation text posted by the Federal Acquisition Regulatory Council (on <https://www.acquisition.gov/far-overhaul>).

This project is referred to as the Revolutionary FAR Overhaul (RFO) initiative. (See [Attachment \(b\)](#).) This initiative will make the FAR more concise, understandable, and focused on core procurement requirements.

## **SUMMARY OF CHANGES**

### ***FAR Part 14, Sealed Bidding —***

FAR part 14 is simplified to make the regulation more accessible, clear, and efficient for acquisition teams. Themes of the update for this part include:

- Structural Reorganization for Logical Flow
- Streamlining through Consolidation and Plain Language
- Modernization for Current Practices

Statutory requirements and presidential directives retained in the [RFO FAR part 14](#) model deviation include, but may not be limited to, the following:

- 10 United States Code (U.S.C.) § 3201 and 41 U.S.C § 3301, Full and Open Competition
- 10 U.S.C. § 3206 and 41 U.S.C. § 3306, Planning and Solicitation Requirements
- 10 U.S.C. § 3301 and 41 U.S.C. § 3701, Basis of Award and Rejection
- 10 U.S.C. § 3302 and 41 U.S.C. § 3702, Sealed Bids
- 10 U.S.C. § 3702 and 41 U.S.C § 3502, Required Cost or Pricing Data and Certification
- 41 U.S.C. § 1708, Procurement Notice
- 41 U.S.C. § 2301, Use of Electronic Commerce in Federal Procurement

See [Attachment \(c\)](#) for a table summarizing various key FAR part 14 retentions and changes because of the RFO part 14 model text deviation.

### ***FAR Part 19, Small Business —***

FAR Part 19 is streamlined and emphasizes the importance of small businesses in Federal procurement by making the regulations clearer, more intuitive, and easier for the acquisition workforce to implement. The deviated text preserves most substantive requirements while reorganizing them to align with the actual workflow of a contracting professional.

The part reinforces that it is the Government's **policy to provide maximum practicable opportunities in its acquisitions to small business, 8(a) participants, and other small business socioeconomic categories** (i.e. veteran-owned small business [VOSB], service-disabled veteran-owned small business [SDVOSB], HUBZone small business, small-disadvantaged business, and women-owned small business concerns [WOSB]).

For contracts, it keeps the rule of two (meaning contracting officers [CO] must set aside requirements when there are two or more small businesses identified who can provide the

supplies or service) above the micro-purchase threshold (MPT). The rule of two is required by statute between the MPT and the simplified acquisition threshold (SAT). The FAR Council retained the rule of two above the SAT as essential to sound procurement.

Key highlights:

- **Discretion for COs.** The deviated text clarifies that a CO's decision to set-aside or not set-aside an order placed under a multiple-award contract is an exercise of discretion and not a basis for a protest.
- **Removing representation requirements when ordering off an existing contract.** Agency small business credit is driven by the size determination made by the CO at the contract level and updated when certain contract level events take place (e.g. option exercise, novation).
- **Competing 8(a) orders.** Where an acquisition is below the competitive threshold (see 19.108-7(a)(2)), COs must first try conducting the acquisition as a competitive 8(a) order using Small Business Administration-approved government-wide contracts before proceeding with a sole source 8(a) award.
- **Automatic 8(a) release.** A requirement is automatically released from the 8(a) program if the follow-on will be set-aside under the HUBZone, SDVOSB, or WOSB programs. Release does not have to be formally requested in this situation.

**Statutory requirements retained** in the [RFO FAR part 19](#) model deviation include, but may not be limited to, the following:

- 10 U.S.C. § 3203 and 41 U.S.C. § 3303, Exclusion of Particular Source or Restriction of Solicitation to Small Business Concerns
- 15 U.S.C. §§ 631 et seq, Small Business Act
- 41 U.S. C. § 3104, Small Business Concerns

See [Attachment \(d\)](#) for a table summarizing various key FAR part 19 retentions and changes because of the RFO part 7 model text deviation.

### ***FAR Part 25, Foreign Acquisition —***

FAR part 25 has been updated and reorganized to improve clarity, remove obsolete material, and logically group related content for enhanced usability by acquisition professionals. Key highlights include:

- Adopting the centralized waiver process for nonavailability determinations including submission to the Made In America Office (MIAO), posting the waiver to the public-facing website, [MadeinAmerica.gov](#), and using a digital waiver portal managed by the MIAO.
- Moving evaluation examples for foreign offers from the FAR. They are expected to be moved to the FAR Companion.

Statutory requirements and presidential directives retained in the [RFO FAR part 25 model deviation](#) include, but may not be limited to, the following:

- U.S.C. §§ 2501 et seq, Trade Agreements Act of 1979
- 22 U.S.C. § 3305, The American Institute in Taiwan
- 41 U.S.C. §§ 8301 et seq, Buy American
- E.O. 10582, Prescribing Uniform Procedures for Certain Determinations Under the Buy-American Act
- E.O. 13881, Maximizing Use of American-Made Goods, Products, and Materials
- E.O. 14005, Ensuring the Future Is Made in All of America by All of America's Workers
- Pub. L. 103-465, World Trade Organization Government Procurement Agreement (WTO GPA), as approved in the Uruguay Round Agreements Act
- Free Trade Agreements (FTA) and Other International Agreements
  - Pub. L. 98-67, Caribbean Basin Economic Recovery Act
  - Pub. L. 99-47, United States-Israel Free Trade Area Implementation Act of 1985
  - Pub. L. 108-77, United States-Chile Free Trade Agreement Implementation Act
  - Pub. L. 108-78, United States-Singapore Free Trade Agreement Implementation Act
  - Pub. L. 108-286, United States-Australia Free Trade Agreement Implementation Act
  - Pub. L. 108-302, Morocco Free Trade Agreement Implementation Act
  - Pub. L. 109-53, Dominican Republic-Central America-United States Free Trade Agreement Implementation Act
  - Pub. L. 109-169, United States-Bahrain Free Trade Agreement Implementation Act
  - Pub. L. 109-283, United States-Oman Free Trade Agreement Implementation Act
  - Pub. L. 110-138, United States-Peru Trade Promotion Agreement Implementation Act
  - Pub. L. 112-41, United States-Korea Free Trade Agreement Implementation Act
  - Pub. L. 112-42, United States-Columbia Trade Promotion Agreement Implementation Act
  - Pub. L. 112-43, United States-Panama Trade Promotion Agreement Implementation Act
  - Pub. L. 116-113, United States-Mexico-Canada Agreement (USMCA) Implementation Act

See [Attachment \(e\)](#) for a table summarizing various key FAR part 25 retentions and changes because of the RFO part 25 model text deviation.

### ***FAR Part 32, Contracting Finance —***

FAR Part 32 has been updated to simplify the part, remove outdated information, and add a new subpart (and corresponding clause) for Fast Payment Procedures (previously at subpart

13.4) for smaller dollar purchases.

Statutory requirements retained in the [RFO FAR part 32 model deviation](#) include, but may not be limited to, the following:

- 10 U.S.C. §§ 3801 et seq and 41 U.S.C. §§ 4501 et seq, Contract Financing
- 31 U.S.C. § 1341, Anti-Deficiency Act
- 31 U.S.C. § 3324, Advances
- 31 U.S.C. § 3711, Debt Collection Improvement Act of 1996
- 31 U.S.C. § 3727 and 41 U.S.C. § 6305, Assignment of Claims Act of 1940
- 31 U.S.C. §§ 3901 et seq, Prompt Payment Act
- 50 U.S.C. §§ 4501 et seq, Defense Production Act of 1950
- Pub. L. 102-190 Sec 806 as amended (10 U.S.C. § 4601 note prec.), Government-wide Application of Payment Protections for Subcontractors and Suppliers

See [Attachment \(f\)](#) for a table summarizing various key FAR part 32 retentions and changes because of the RFO part 32 model text deviation.

### ***FAR Part 37, Service Contracting —***

FAR part 37 has been updated with a new structure that is more logical and easier to follow. The changes focus on two key themes: emphasizing policy priorities and organizing guidance to follow the acquisition lifecycle.

Previously, critical topics like performance-based acquisition (PBA), rules on personal services, and the prohibition on contracting for inherently governmental functions were either embedded within broader sections or placed at the end of the part. Now, these topics have been elevated into their own distinct subparts at the very beginning of the regulation. Placing PBA first, for example, is a deliberate signal of policy emphasis.

Additionally, each of these new subparts is organized to mirror parts of the acquisition process. Sections are now titled “Pre-solicitation,” “Evaluation of Award,” and “Post Award” where applicable. This turns the regulation into a procedural roadmap, guiding users through the steps at each phase of the acquisition.

Statutory requirements retained in the RFO FAR part 37 model deviation include, but may not be limited to, the following:

- 5 U.S.C. §§ 3101 et seq, Employment Authorities
- 10 U.S.C. § 3133 and 41 U.S.C. § 3902, Severable Services Contracts for Periods Crossing Fiscal Years
- 10 U.S.C. § 3744 and 41 U.S.C. § 4304, Specific Costs not Allowable
- 10 U.S.C. § 4507, Contracts for Professional and Technical Services
- 34 U.S.C. § 20351, Requirement for Background Checks
- 40 U.S.C. §§ 3141 et seq, Wage Rate Requirements
- 41 U.S.C. § 1709, Contracting Functions Performed by Federal Personnel
- 41 U.S.C. § 4105, Advisory and Assistance Services
- 41 U.S.C. §§ 6701 et seq, Service Contract Labor Standards

- Public Law 106-398, Sec 821, Improvements in Procurements of Services

See [Attachment \(g\)](#) for a table summarizing various key FAR part 37 retentions, moves, updates, and removals because of the RFO part 37 model text deviation.

#### ***FAR Part 41, Acquisition of Utility Services —***

FAR part 41 has been retained, streamlined, and improved for clarity. All subparts have been retained. Plain language edits or other updates have been made throughout the part to remove unnecessary information or otherwise clarify content. All clauses and provisions are retained.

Notably, the definition of “utility service” is updated. Services such as broadband internet and information technology services, which were nascent or nonexistent when the original regulation was drafted, are now explicitly carved out. This prevents agencies from incorrectly applying utility acquisition procedures. This change reduces the risk of improper sole-source justifications and promotes full and open competition in those dynamic markets

Statutory requirements retained in the [RFO FAR Part 41](#) model deviation language include, but may not be limited to, the following:

- 40 U.S.C § 501, Services for Executive Agencies
- 42 U.S.C. § 2204, Electric Utility Contracts
- 42 U.S.C. §§ 7251 et. seq., Department of Energy Organization Act
- 42 U.S.C. § 8287, Authority to Enter into Contracts

Note: Because of the minimal deletions and updates for this FAR part, there is no attached table summarizing its retentions and changes.

#### ***FAR Part 42, Contract Administration and Audit Services —***

FAR part 42 has been streamlined from 17 subparts to 13 and places more emphasis on contractor performance evaluations and using performance information throughout the acquisition lifecycle, not just for source selection information.

The update removes language limiting past performance information to future “source selection” purposes and places an end date (April 1, 2026) on when evaluations should be marked as source selection.

This revision signals to acquisition teams that past performance information may be used throughout the acquisition lifecycle.

In addition, the deviated text makes certain permissive considerations during performance evaluations mandatory. For example, section 42.1503(b) previously suggested considerations to document on an evaluation report, but the deviated text (42.1103(b)) now states that these areas must be documented. This emphasizes the importance of documenting key information consistently.

Finally, the deviated text removes the limitation on evaluating performance on AbilityOne contracts (previously at 42.1502(h)). With removal of this limitation, contracting activities can

now document performance evaluations for AbilityOne contractors, providing a useful tool to motivate good contract performance by AbilityOne contractors, and enabling high-performing AbilityOne contractors to use positive performance evaluations to compete for new opportunities.

Statutory requirements retained in the [RFO FAR part 42 model deviation](#) include, but are not limited to, the following:

- 10 U.S.C. §§ 3741 et seq and 41 U.S.C. §§ 4301 et seq, Allowable Costs
- 10 U.S.C. § 3841 and 41 U.S.C. § 4706, Contractor Audits and Accounting
- 11 U.S.C. §§ 501 et seq, Creditors and Claims
- 31 U.S.C. § 1535, The Economy Act
- 41 U.S.C. § 1126, Policy Regarding Consideration of Contractor Past Performance
- 41 U.S.C. § 1326, Requirements for Executive Agencies
- 41 U.S.C. § 2313, Database for Federal Agency Contract and Grant Officers and Suspension and Debarment Officials
- 41 U.S.C. § 3102, Delegation and Assignment of Powers, Functions, and Responsibilities
- 41 U.S.C. § 4504, Conditions for Progress Payments
- 41 U.S.C. § 6305, Assignment of Contracts Act

See [Attachment \(e\)](#) for a table summarizing various key FAR part 42 retentions and changes because of the RFO part 42 model text deviation.

#### ***FAR Part 47, Transportation —***

This part addresses the transportation policies and procedures applicable to the procurement of supplies. This part addresses the policies applied to transportation, including terms of art that when applied to a contract directly impact the roles and responsibilities of the contract.

The part has been comprehensively revised to improve clarity, consolidate policies, and eliminate outdated requirements. These changes, including the removal of 33 clauses, will streamline the procurement process.

Commercial transportation remains the preferred shipping method.

Statutory requirements retained in the [RFO FAR part 47](#) model deviation include, but may not be limited to, the following:

- 10 U.S.C. § 2631, Preference for United States Vessels in Transporting Supplies by Sea
- 22 U.S.C. § 2353, Shipping on United States Vessels
- 46 U.S.C. § 55305, Cargoes Procured, Furnished, or Financed by the United States Government
- 49 U.S.C. § 10721 and § 13712, Interstate Commerce Act
- 49 U.S.C. § 40118, Government-Financed Air Transportation

See [Attachment \(f\)](#) for a table summarizing various key FAR part 47 retentions and changes because of the RFO part 47 model text deviation.

### ***FAR Part 53, Forms —***

FAR part 53 has been streamlined and modernized. Most significantly, [under RFO FAR part 53 model deviation](#), rather than maintaining a list of forms within the part text, it directs users to a centralized site (<https://acquisition.gov/FARforms>) as the authoritative repository for all acquisition-related forms. As a result, this part no longer needs to be amended through the formal rulemaking process every time a form is updated, added, or removed. This drastically reduces the administrative burden on the FAR Council and increases the government's agility in managing its library of forms. The "Forms List" referenced in the new 53.101(b) now performs the prescriptive function previously handled throughout this entire subpart, shifting the FAR's role from a static, self-contained text to a dynamic system that points to live, authoritative resources.

Readers should reference the table at <https://acquisition.gov/FARforms> to review retained forms and their citations for prescribed use throughout the FAR.

The clause 52.253-1, Computer Generated Forms, is retained and updated. The update deletes a reference to the FAR prescriptions, in paragraph (a).

This part does not directly implement any statutory requirements.

Note: There is no attached table summarizing the retentions and changes for this FAR part.

### ***Amendments to Agency Class Deviations to FAR Parts 8 and 9 —***

The Social Security Administration approved a class deviation to FAR part 8 on September 5, 2025 (see [Attachment \(i\)](#)) and FAR part 9 on September 22, 2025 (see [Attachment \(j\)](#)). Recently, the Federal Acquisition Regulatory Council subsequently issued supplemental updates to the model text deviation for these FAR parts. Therefore, we request approval to amend the agency deviations to parts 8 and 9 to adopt these and any future updates on the model deviation text for these parts as issued by the Council (posted on <https://www.acquisition.gov/far-overhaul>).

See [Attachment \(k\)](#) for specific changes and rationale.

### **RECOMMENDATION**

FAR 1.404(a) authorizes the approval of class deviations by the agency head or his or her designee. The Commissioner delegated this authority to grant deviation requests to the Chief Financial Officer for the Office of Finance and Management.

I recommend approval of the subject class deviations and class deviation amendments under the authority of FAR 1.404(a), E.O. 14275, and OMB Memorandum M-25-26.

### **DECISION**

Concurrence with the class deviation and amended class deviations is:

Concurred [X] Opposed [ ]

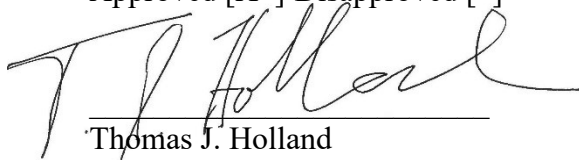
Bruce Starr  
Bruce Starr  
Head of Strategic Sourcing  
for Finance and Management

Date 1/28/2026

forgot

Approval of the class deviation and amended class deviations is:

Approved ☒ Disapproved ☐



Thomas J. Holland  
Chief Financial Officer  
for Finance and Management

2/19/2026  
Date

## **Attachments**

(a) E.O 14275



E.O. 14275.pdf

(b) OMB Memorandum M-25-26



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(c) Table – Summary of RFO Part 14 Deviation Changes



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(d) Table – Summary of RFO Part 19 Deviation Changes



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(e) Table – Summary of RFO Part 25 Deviation Changes



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(f) Table – Summary of RFO Part 32 Deviation Changes



Table of Changes -  
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(g) Table – Summary of RFO Part 37 Deviation Changes



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Deviation Model Te

(h) Table – Summary of RFO Part 42 Deviation Changes



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(i) Agency Class Deviation for FAR Part 8 (Signed on September 5, 2025)



Class Deviation  
from FAR Parts 4 5 8

(j) Agency Class Deviation for FAR Part 9 (Signed on September 22, 2025)



Class Deviation  
from FAR Parts 9 28

(k) Table – Summary of Supplemental Updates



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of Supplement Upd: