



**U.S. Department of Justice**

Justice Management Division

---

Washington, D.C. 20530

**MEMORANDUM FOR BUREAU PROCUREMENT CHIEFS**

**FROM:** William N. Taylor II  
Deputy Assistant Attorney General  
for Policy, Management, and Procurement  
Senior Procurement Executive

**SUBJECT:** Federal Acquisition Regulation Class Deviation Implementing Executive Orders 14173 and 14168

**1. PURPOSE**

This class deviation is issued under the authority of Federal Acquisition Regulation (FAR) 1.404 authorizing agencies to issue a class deviation to implement two Executive Orders (E.O.), 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*, which revoked E.O. 11246, *Equal Employment Opportunity*, and E.O. 14168, *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, which removed certain terms in the FAR.

To comply with these executive orders, the Civilian Agency Acquisition Council (CAAC) Chair authorized a FAR deviation via CAAC Letter 2025-01, issued on February 15, 2025, and supplemented on February 18, 2025. Note: Both the CAAC Letter and this APN are structured to focus on the *main* action called for under E.O. 14173 and thus are not shown in chronological order of issuance.

**2. BACKGROUND**

This FAR class deviation is issued in response to the President's revocation of E.O. 11246 under E.O. 14173 on January 21, 2025. Several FAR provisions promulgated to enforce E.O. 11246 are no longer consistent with the direction of the President and therefore must be rescinded or revised in order to comply with E.O. 14173.

The deviated FAR language also addresses E.O. 14168 by removing the defined term "gender identity" at FAR 22.801 and the clauses at FAR part 52 that include the term.

On January 24, 2025, the Department of Labor issued Order 03-2025 announcing that it would cease enforcement activity under the rescinded E.O. 11246. In addition, the Office of Federal Contract Compliance Programs (OFCCP) published a Bulletin announcing that for 90

days from the date of the E.O., Federal contractors may continue to comply with the regulatory scheme in effect on January 20, 2025, while also announcing it would cease:

- Promoting “diversity”;
- Holding Federal contractors and subcontractors responsible for taking “affirmative action”; and
- Allowing or encouraging Federal contractors and subcontractors to engage in workforce balancing based on race, color, sex, sexual preference, religion, or national origin.

**3. AUTHORITY**

This class deviation is issued under the authority of FAR 1.404.

**4. DEVIATION**

See Attachment 1 for the changes to the FAR text as revised by this class deviation.

**5. EFFECTIVE DATE AND EXPIRATION**

This deviation is effective immediately and remains in effect until the FAR is amended or the deviation is otherwise rescinded.

**6. SCOPE AND APPLICABILITY**

This class deviation applies to all Department of Justice (DOJ) solicitations and contracts, as appropriate. The deviated FAR language in Attachment 1 must be used in lieu of the existing FAR text when applicable to the solicitation or contract.

FAR subparts 22.13, Equal Opportunity for Veterans, and 22.14, Employment of Workers with Disabilities, and their related provisions and clauses, are based in statute, are **not** covered by E.O. 11246, and thus are not affected by this deviation.

An Acquisition Policy Notice will be issued by the Department’s Office of Acquisition Management with this FAR Deviation to provide operational/implementation guidance to the DOJ acquisition workforce.

**7. ADDITIONAL INFORMATION**

If you have questions, please contact [DOJAcquisitionPolicy@usdoj.gov](mailto:DOJAcquisitionPolicy@usdoj.gov).

**8. ATTACHMENTS**

Att 1 – Deviated FAR Text, Executive Orders 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity and 14168, Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government (DEVIATION FEB 2025)

**CLASS DEVIATION  
FINDINGS AND DETERMINATION  
IMPLEMENTATION OF E.O. 14168 AND  
E.O. 14173 REVOCATION OF E.O. 11246**

**Findings**

1. Executive Order (E.O.) 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*,” of January 21, 2025, revoked E.O. 11246, Equal Employment Opportunity that had been incorporated throughout the Federal Acquisition Regulation, primarily in FAR subpart 22.8 and associated provisions and clauses. In order to ensure that awards issued by the Department of Justice (DOJ) are consistent with the direction of the President, use of the deviated FAR language in Attachment 1 is necessary for compliance with E.O. 14173 until such time as the FAR can be updated.
2. This deviation also addresses compliance with E.O. 14168, *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, by removing the defined term "gender identity" at FAR 22.801 and the clauses at FAR part 52 that include the term.
3. As a result of these changes, the Civilian Agency Acquisition Council issued a Letter on February 15, 2025, authorizing agencies to issue class deviations implementing these provisions until the FAR can be amended to address the executive orders.

**Determination**

It is hereby determined that a class deviation is appropriate to implement Executive Orders 14173 and 14168. This class deviation will be effective as stated and will remain in effect until the FAR is amended or the deviation is otherwise rescinded.

---

Jolene Ann Lauria  
Assistant Attorney General  
for Administration

---

Date

**ATTACHMENT 1**

**Executive Orders 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity and 14168, Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government  
(DEVIATION FEB 2025)**

**Executive Order 14173, "Ending Illegal Discrimination and Restoring Merit-Based Opportunity," of January 21, 2025, revoking Executive Order 11246, Equal Employment Opportunity**

Baseline is FAC 2025-03, published in the Federal Register on January 3, 2025, effective January 17, 2025.

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

\* \* \* \* \*

**PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM**

\* \* \* \* \*

**Subpart 1.1—Purpose, Authority, Issuance**

\* \* \* \* \*

**1.106 OMB approval under the Paperwork Reduction Act.**

\* \* \* \* \*

<b>FAR segment</b>	<b>OMB control No.</b>
* * * * *	* * * * *
<del>22.8</del>	<del>1250-0003</del>
* * * * *	* * * * *
<del>52.222-21</del>	<del>1250-0003</del>
<del>52.222-22</del>	<del>1250-0003</del>
<del>52.222-23</del>	<del>1250-0003</del>

<del>52.222-25</del>	<del>1250-0003</del>
<del>52.222-26</del>	<del>1250-0001 and 1250-0003</del>
<del>52.222-27</del>	<del>1250-0003</del>

\* \* \* \* \*

**PART 2-DEFINITIONS OF WORDS AND TERMS**

\* \* \* \* \*

**Subpart 2.1-Definitions**

**2.101 Definitions.**

\* \* \* \* \*

*United States*, when used in a geographic sense, means the 50 States and the District of Columbia, except as follows:

\* \* \* \* \*

(2) **[Reserved]** ~~For use in subpart 22.8, see the definition at 22.801.~~

\* \* \* \* \*

**PART 4-ADMINISTRATIVE AND INFORMATION MATTERS**

\* \* \* \* \*

**Subpart 4.12-Representations and Certifications**

\* \* \* \* \*

**4.1202 Solicitation provision and contract clause.**

(a) \* \* \*

\* \* \* \* \*

(18) **[Reserved]** ~~52.222-22, Previous Contracts and Compliance Reports.~~

(19) ~~[Reserved]—52.222-25, Affirmative Action Compliance.~~

\* \* \* \* \*

**PART 14—SEALED BIDDING**

\* \* \* \* \*

**Subpart 14.4—Opening of Bids and Award of Contract**

\* \* \* \* \*

**14.405 Minor informalities or irregularities in bids.**

\* \* \* \* \*

~~(c) Execute the representations with respect to Equal Opportunity and Affirmative Action Programs, as set forth in the clauses at 52.222-22, Previous Contracts and Compliance Reports, and 52.222-25, Affirmative Action Compliance.~~

\* \* \* \* \*

**PART 19—SMALL BUSINESS PROGRAMS**

\* \* \* \* \*

**Subpart 19.6—Certificates of Competency and Determinations of Responsibility**

\* \* \* \* \*

**19.602 Procedures.**

**19.602-1 Referral.**

**(a)** \* \* \*

\* \* \* \* \*

(2) Refer the matter to the cognizant SBA Government Contracting Area Office (Area Office) serving the area in which

the headquarters of the offeror is located, in accordance with agency procedures, except that referral is not necessary if the small business concern—

\* \* \* \* \*

(ii) Is suspended or debarred under ~~Executive Order 11246~~ or subpart 9.4.

\* \* \* \* \*

**PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**

\* \* \* \* \*

**Subpart 22.8 [Reserved]**

\* \* \* \* \*

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

\* \* \* \* \*

**Subpart 52.2—Text of Provisions and Clauses**

\* \* \* \* \*

**52.204-8 Annual Representations and Certifications.**

As prescribed in 4.1202(a), insert the following provision:

**Annual Representations and Certifications** (JAN 2025) (DEVIATION FEB 2025)

\* \* \* \* \*

(c) (1) \* \* \*

\* \* \* \* \*

(xiv) ~~[Reserved] 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.~~

(xv) ~~[Reserved] 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.~~

\* \* \* \* \*

**52.212-3 Offeror Representations and Certifications—Commercial Products and Commercial Services.**

As prescribed in 12.301(b)(2), insert the following provision:

**Offeror Representations and Certifications—Commercial Products and Commercial Services (MAY 2024) (DEVIATION FEB 2025)**

\* \* \* \* \*

(d) ~~[Reserved] Representations required to implement provisions of Executive Order 11246—~~

~~(1) Previous contracts and compliance. The offeror represents that—~~

~~(i) It  has,  has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and~~

~~(ii) It  has,  has not filed all required compliance reports.~~

~~(2) Affirmative Action Compliance. The offeror represents that—~~



~~(i) It  has developed and has on file,  has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR parts 60-1 and 60-2), or~~

~~(ii) It  has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.~~

~~\* \* \* \* \*~~

**52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services.**

As prescribed in 12.301(b)(4), insert the following clause:

**Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services**

(JAN 2025) (DEVIATION FEB 2025)

~~\* \* \* \* \*~~

~~(b) \* \* \*~~

~~\* \* \* \* \*~~

~~\_\_\_ (33) **[Reserved]** 52.222-21, Prohibition of Segregated Facilities (APR 2015).~~

~~\_\_\_ (34) **[Reserved]** (i) 52.222-26, Equal Opportunity (SEPT 2016) (E.O. 11246).~~

~~\_\_\_ (ii) Alternate I (FEB 1999) of 52.222-26.~~

~~\* \* \* \* \*~~

(e) (1) \* \* \*

\* \* \* \* \*

(ix) **[Reserved]** ~~52.222-21, Prohibition of Segregated Facilities (APR 2015).~~

(x) **[Reserved]** ~~52.222-26, Equal Opportunity (SEP 2016) (E.O. 11246).~~

\* \* \* \* \*

*Alternate II (JAN 2025) (DEVIATION FEB 2025).* \* \* \*

\* \* \* \* \*

(e) (1) \* \* \*

(ii) \* \* \*

\* \* \* \* \*

(I) **[Reserved]** ~~52.222-21, Prohibition of Segregated Facilities (APR 2015).~~

(J) **[Reserved]** ~~52.222-26, Equal Opportunity (SEP 2016) (E.O. 11246).~~

\* \* \* \* \*

**52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services).**

As prescribed in 13.302-5(d), insert the following clause:

**Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services)**

(JAN 2025) (DEVIATION FEB 2025)

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

\* \* \* \* \*

(vii) **[Reserved]** ~~52.222-21, Prohibition of Segregated Facilities (APR 2015).~~

(viii) **[Reserved]** ~~52.222-26, Equal Opportunity (SEP 2016) (E.O. 11246).~~

\* \* \* \* \*

**52.222-9 Apprentices and Trainees.**

As prescribed in 22.407(a), insert the following clause:

**Apprentices and Trainees** (JUL 2005) (DEVIATION FEB 2025)

\* \* \* \* \*

~~(c) *Equal employment opportunity.* The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, and 29 CFR part 30.~~

\* \* \* \* \*

**52.222-21 [Reserved]**

**52.222-22 [Reserved]**

**52.222-23 [Reserved]**

**52.222-24 [Reserved]**

**52.222-25 [Reserved]**

**52.222-26 [Reserved]**

**52.222-27 [Reserved]**

\* \* \* \* \*

**52.222-29 [Reserved]**

\* \* \* \* \*

**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**

(JAN 2025) (DEVIATION FEB 2025)

\* \* \* \* \*

(c) (1) \* \* \*

\* \* \* \* \*

(xi) **[Reserved]** ~~52.222-21, Prohibition of Segregated Facilities (APR 2015).~~

(xii) **[Reserved]** ~~52.222-26, Equal Opportunity (SEP 2016) (E.O. 11246).~~

\* \* \* \* \*