



Homeland
Security

MEMORANDUM FOR: Heads of Contracting Activities

FROM: Paul Courtney
Chief Procurement Officer

SUBJECT: FAR Class Deviation (Number 25-38) for FAR Part 27 in Support
of Executive Order on Restoring Common Sense to Federal
Procurement

1. **Purpose.** This memorandum approves a class deviation to Federal Acquisition Regulation (FAR) Part 27 for purposes of implementing the FAR Council's model deviation to FAR Part 27.
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 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 27, Patents, Data, and Copyrights, governs intellectual property rights in government contracts, explaining how parties acquire rights, how rights are licensed or shared, and how to protect both government and contractor interests. It has been updated with important plain language updates, enhanced clarity, and improved readability.

Statutory requirements retained in the RFO FAR Part 27 model deviation include, but may not be limited to, the following:

- 10 U.S.C. § 3793, Copyrights, Patents, Designs

- 15 U.S.C. § 638, Research and Development
- 17 U.S.C. §§ 101 *et. seq.*, Copyrights
- 18 U.S.C. § 798, Disclosure of Classified Information
- 28 U.S.C. § 1498, Patent and Copyright Cases
- 35 U.S.C. §§ 200 *et. seq.*, Patent Rights in Inventions Made with Federal Assistance
- 41 U.S.C. § 2302, Rights in Technical Data

Change	Description
Retained	• Section 27.000, “Scope of Part” is retained with a minor plain language update. • Section 27.001, “Definition” is unchanged. • Subpart 27.1, “General” is retained and streamlined. • Subpart 27.2, “Patents and Copyrights” is streamlined and continues to provide guidance regarding: ○ Patent and copyright infringement liability ○ Royalties ○ Security requirements for patent applications containing classified subject matter • Section 27.202, “Royalties” has been significantly streamlined by reserving all procedural subsections (27.202-1 thru 27.202-4) and retaining only subsection 27.202-5, “Solicitation Provisions and contract clause”. Note, this section no longer references provision 52.227-7, Patents—Notice of Government Licensee, as the provision has been deleted. • Subpart 27.3, “Patent Rights under Government Contracts” is retained and streamlined. ○ Section 27.304, “Procedures” is retained with minimal edits. This section provides critical guidance on application of the patent clauses. • Subpart 27.4, “Rights in Data and Copyrights” is streamlined and retained. This subpart includes intellectual property rights anchored in law and provides important guidance to contracting officers on addressing these issues within a federal contract. ○ Section 27.405, “Other Data Rights Provisions” has been revised and the approach for special works (27.405-1) and existing works (27.405-2) has been fundamentally altered. The previous version prescribed the use of specific contract clauses (52.227-17 and 52.227-18). The revised section instead provides descriptive guidance, instructing that contracts "must specifically address the Government's rights" and that agencies are "authorized to specially negotiate" terms. ○ Section 27.407, “Rights to Technical Data in Successful Proposals” has been retained and completely updated. The former text prescribed the use of the clause at 52.227-23, “Rights to Proposal Data (Technical)”. This clause is removed and the updated section consists of a single, broader sentence that highlights the Government’s discretion.

	• The following provisions and clauses were retained with no changes in text: ○ 52.227-1 (Clause), Authorization and Consent ○ 52.227-2 (Clause), Notice and Assistance Regarding Patent and Copyright Infringement ○ 52.227-3 (Clause), Patent Indemnity ○ 52.227-4 (Clause), Patent Indemnity—Construction Contracts ○ 52.227-5 (Clause), Waiver of Indemnity ○ 52.227-6 (Provision), Royalty Information ○ 52.227-8, remains “Reserved” ○ 52.227-9 (Clause), Refund of Royalties ○ 52.227-10 (Clause), Filing of Patent Applications—Classified Subject Matter ○ 52.227-11 (Clause), Patent Rights—Ownership by the Contractor ○ 52.227-12, remains “Reserved” ○ 52.227-13 (Clause), Patent Rights—Ownership by the Government ○ 52.227-14 (Clause), Rights in Data—General ○ 52.227-15 (Provision), Representation of Limited Rights Data and Restricted Computer Software ○ 52.227-16 (Clause), Additional Data Requirements ○ 52.227-17 (Clause), Rights in Data—Special Works ○ 52.227-20 (Clause), Rights in Data—SBIR Program ○ 52.227-21 (Clause), Technical Data Declaration, Revision, and Withholding of Payment—Major Systems ○ 52.227-22 (Clause), Major System—Minimum Rights
Moved	• The FAR Companion is expected to include best practice information on the following moved content that is not statutorily required: ○ Section 27.102, “General Guidance” ○ Subsection 27.202-1, “Reporting of Royalties” ○ Section 27.204, “Patented Technology Under Trade Agreements” ○ Section 27.305, “Administration of Patent Rights Clauses”, including: ■ 27.305-3, “Securing invention rights acquired by the Government” ■ 27.305-4, “Protection of invention disclosures” ○ Section 27.406, “Acquisition of Data” ○ Section 27.408, “Cosponsored Research and Development Activities” ○ Subpart 27.5, “Foreign License and Technical Assistance Agreements” • The FAR Companion is expected to include best practice information on the following retained content: ○ Subpart 27.4, treatment of “Rights in Data and Copyrights”

Removed	● Section 27.302, “Policy”, which included unnecessary lengthy detail of the Government's comprehensive policy and objectives for patent rights and title under contracts, has been removed as it is not statutorily required. ● Subsection 27.304-1(a), “Status as small business concern or nonprofit organization”, has been removed. This content is duplicative of FAR Part 19. ● Section 27.402, “Policy”, which explained the Government's need for data and the importance of balancing its needs with contractors' proprietary interests, has been removed as it is not statutorily required. ● Paragraphs (a) and (c) of Section 27.406-1, “General”, are removed, as it is not statutorily required. ● The following provision and clauses were removed: ○ 52.227-7 (Provision), Patents—Notice of Government Licensee ○ 52.227-18 (Clause), Rights in Data—Existing Works ○ 52.227-19 (Clause), Commercial Computer Software License ○ 52.227-23 (Clause), Rights to Proposal Data (Technical)
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This table is not an exhaustive list.

4. Instructions.

- DHS contracting officers shall follow the RFO Part 27 and corresponding Part 52 model deviation text instead of FAR Parts 27 and 52 as codified at 48 CFR Chapter 1. The Council’s RFO Part 27 model deviation text is available at [Acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-27](https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-27), 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 in Attachment 1.
- 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 is applicable to all DHS procurements.

6. **Authority.** This class deviation is issued under the authority of E.O. 14275, [OMB M-25-26](#), and 48 CFR 1.4, and RFO FAR 1.304.

7. **Effective Date.** This class deviation is effective November 3, 2025, and remains in effect until rescinded or incorporated into the FAR.

- 8. Points of Contact.** Questions regarding this class deviation may be directed to Acquisition Policy and Legislation Branch at Acquisition.Policy@hq.dhs.gov.

Attachments:

1. FAR Part 27 Solicitation Provisions and Contract Clauses Revisions

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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Subpart 52.2—Text of Provisions and Clauses

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52.227-7 [Reserved (SEPT 2025) (DEVIATION 25-28)]

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52.227-18 [Reserved (SEPT 2025) (DEVIATION 25-38)]

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52.227-19 [Reserved (SEPT 2025) (DEVIATION 25-38)]

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52.227-23 [Reserved (SEPT 2025) (DEVIATION 25-38)]

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