



Homeland
Security

MEMORANDUM FOR: Heads of Contracting Activities

FROM: Paul Courtney
Chief Procurement Officer

SUBJECT: FAR Class Deviation (Number 25-34) for FAR Part 44 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 44 for purposes of implementing the FAR Council's model deviation text to FAR Part 44.
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 44, Subcontracting Policies and Procedures, has been updated to create a more agile, risk-based, and efficient system that empowers contracting officers, reduces administrative burdens on contractors, and encourages broader participation from the commercial sector.

Statutory requirements retained in the RFO FAR Part 44 model deviation include, but may not be limited to, the following:

- 10 U.S.C. § 3322(c) and 41 U.S.C. § 3905(c), Advance Notice of Certain Subcontracts
- 41 U.S.C. § 3307, Preference for Commercial Products and Commercial Services

Change	Description
Retained	• The revised part structure consolidates relevant guidance into process-oriented subparts: ○ Subpart 44.1 - Reserved ○ Subpart 44.2 - Evaluation and Award ○ Subpart 44.3 - Postaward ○ Subpart 44.4 - Subcontracts for Commercial Products and Commercial Services • Most of the “Definitions”, now at section 44.001 are retained with only minor, non-substantive wording changes, with the exception of “approved purchasing system”. This definition can still be found at clause 52.244-2. • Subpart 44.2 has been significantly streamlined to consolidate policies related to subcontract consent, advance notification, and the contracting officer's evaluation process. ○ The previous section 44.202-2(a) contained a detailed, 13-point checklist of considerations that the contracting officer was required to consider "at a minimum" for every consent request. Now, the new 44.201-3(b) provides a shorter, higher- level list of four situations that necessitate "careful and thorough review and consideration" of the request to subcontract. ○ Note that the FAR Companion Guide is expected to provide additional guidance on notice and consent best practices for commercial time and materials contracts. • Subpart 44.3 is reorganized and streamlined into five subsections (from seven separate sections): ○ 44.301-1 Objective ○ 44.301-2 Requirements ○ 44.301-3 Responsibilities for granting, withholding or withdrawing approval ○ 44.301-4 Notice ○ 44.301-5 Withholding or withdrawing approval • Section 44.402 now breaks down “Requirements” into three distinct categories that improve readability: ○ Preference (for commercial products and services) ○ Flowdown (rules for flowing down clauses) ○ Inapplicable laws (laws that do not apply to commercial products and services) • The following clauses are retained (or remain reserved if previously

	reserved) with no changes to the text. ○ 52.244-1 Reserved ○ 52.244-2 Subcontracts ○ 52.244-3 Reserved ○ 52.244-4 Subcontractors and Outside Associates and Consultants (Architect-Engineer Services) ○ 52.244-5 Competition in Subcontracting ● The following clause is retained, with streamlining updates to reflect other RFO changes and references. ○ 52.244-6 Subcontracts for Commercial Products and Commercial Services
Removed	● The use of Administrative Contracting Officer (ACO) is no longer used as a designation. The part now reflects “Contracting Officer” where ACO was previously shown. ● The requirements for Contractor Purchasing System Reviews (CPSR) are significantly streamlined to remove overly prescriptive conditions. ○ “Extent of Review”, with its 11 special attention areas, is removed (former section 44.303). ○ “Reports”, with its distribution requirements, is removed (former section 44.307).

This table is not an exhaustive list.

4. Instructions.

- The DHS acquisition workforce must follow the RFO part 44 and corresponding 52 model deviation text instead of FAR Part 44 and 52 as codified at 48 CFR Chapter 1. The Council’s RFO part 44 model deviation text is available <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-44> 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 applies to all DHS procurements.
6. **Authority.** This class deviation is issued under the authority of E.O. 14275, [OMB M-25-26](#), 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.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 52.2—Text of Provisions and Clauses

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 (SEP 2025) (DEVIATION 25-34)

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 (September 2025)

(a) *Definitions.* As used in this clause—

Commercial product, commercial service and nondevelopmental item have the meanings contained in Federal Acquisition Regulation (FAR) 2.101.

Subcontract has the meaning at FAR 44.401

(b) *Requirements.*

(1) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial products, commercial services, or non-developmental items as components of items to be supplied under this contract.

(2) If a clause in the following table is included in the contract, the Contractor shall insert the clause in subcontracts for commercial products or commercial services and must flow down the requirements of the clause to subcontracts as indicated in the specific clause:

Number	Title	Date
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FAR Class Deviation 25-34 for FAR Part 44 in Support of Executive Order on Restoring Common Sense to Federal Procurement, Attachment 1: FAR Part 44 Solicitation Provisions and Contract Clauses Revisions

52.203-13	Contractor Code of Business Ethics and Conduct	NOV 2021
52.203-17	Contractor Employee Whistleblower Rights	NOV 2023
52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements	JAN 2017
52.204-9	Personal Identity Verification of Contractor Personnel	JAN 2011
52.219-8 *	Utilization of Small Business Concerns	JAN 2025
52.222-35	Equal Opportunity for Veterans	JUN 2020
52.222-36	Equal Opportunity for Workers with Disabilities	JUN 2020
52.222-37	Employment Reports on Veterans	JUN 2020
52.222-40	Notification of Employee Rights Under the National Labor Relations Act	DEC 2010
52.222-41	Service Contract Labor Standards	AUG 2018
52.222-50	Combating Trafficking in Persons	NOV 2021

FAR Class Deviation 25-34 for FAR Part 44 in Support of Executive Order on Restoring Common Sense to Federal Procurement, Attachment 1: FAR Part 44 Solicitation Provisions and Contract Clauses Revisions

52.222-50 with Alt I	Combating Trafficking in Persons, with its Alternate I	MAR 2015
52.222-51	Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements	MAY 2014
52.222-53	Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services— Requirements	MAY 2014
52.222-54	Employment Eligibility Verification	JAN 2025
52.222-62	Paid Sick Leave Under Executive Order 13706	JAN 2022
52.224-3	Privacy Training	JAN 2017
52.224-3 with Alt I	Privacy Training, with Alternate I	JAN 2017
52.225-26	Contractors Performing Private Security Functions Outside the United States	OCT 2016
52.232-40	Providing Accelerated Payments to Small Business Subcontractors	MAR 2023
52.240-3	Security Prohibitions and Exclusions	DATE

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52.240-3 with Alt I	Security Prohibitions and Exclusions, with its Alternate I	DATE
52.240-4	Security Requirements	DATE
52.240-4 with Alt II	Security Requirements, with its Alternate II	DATE
52.247-64	Preference for Privately Owned U.S.- Flag Commercial Vessels	NOV 2021

* Include only if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(c) *Subcontracts*. The Contractor shall include the terms of this clause, including this paragraph (c), in subcontracts awarded under this contract.

(End of clause)