



**U.S. Department
of Transportation**

1200 New Jersey Ave., S.E.
Washington, DC 20590

Office of the Secretary
of Transportation

SUBJECT: Class Deviation No. 2026-13 from the Federal Acquisition Regulation for FAR Part 42 in Support of Executive Order 14275 on Restoring Common Sense to Federal Procurement

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TO: Department of Transportation Chiefs of the Contracting Offices

- I. Purpose:** This class deviation (CD) is issued under Federal Acquisition Regulation (FAR) part 1 and Transportation Acquisition Regulation (TAR) part 1201 and authorizes a class deviation to FAR part 42 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR part 42.
- II. Effective Date:** Immediately.
- III. Background:** On April 15, 2025, [Executive Order \(E.O.\) 14275 on Restoring Common Sense to Federal Procurement](#) was signed. 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 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- Remove duplicative or outdated language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.

FAR part 42, Contract Administration and Audit Services, 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 may not be 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

The following table is not an exhaustive list but includes notable updates to FAR part 42.

Change	Description
Retained	• Subpart 42.1, “Contract Audit Services,” is streamlined with plain language updates. • Subpart 42.2, “Contract Administration Services,” is streamlined with plain language updates.

	• Subpart 42.3, “Contract Administration Office Functions,” is retained. The list of 71 functions has been updated with plain language and revised cross-references to align with the new part structure. • Most provisions and clauses have been retained (or remain reserved) with no changes. The only exception is noted in the “Moved/Updated” section below.
Moved/Updated	• Subpart 42.4, “Corporate Administrative Contracting Officer,” is renumbered from subpart 42.6 and streamlined. • Subpart 42.5, “Indirect Cost Rates,” is renumbered from subpart 42.7 and streamlined. • Subpart 42.6, “Disallowance of Costs,” is renumbered from subpart 42.8 and streamlined. • Subpart 42.7, “Bankruptcy,” is renumbered from subpart 42.9 and streamlined. • Subpart 42.8, “Production Surveillance and Reporting,” is renumbered from subpart 42.11 and streamlined. • Subpart 42.9, “Novation and Change-of-Name Agreements,” is renumbered from subpart 42.12 and streamlined. • Subpart 42.10, “Suspension of Work, Stop-Work Orders, and Government Delay of Work,” is renumbered from subpart 42.13 and streamlined. • Subpart 42.11, “Contractor Performance Information,” is renumbered from subpart 42.15. The structure of the “policy” and “procedures” sections (formerly 42.1502 and 42.1503, now 42.1102 and 42.1103) has been substantially improved. The subpart uses more headings, numbered lists, and subparagraphs to break down complex requirements into more digestible components. ○ Subsection 42.1101 removes language limiting past performance information to future “source selection” purposes ▪ From: “Past performance information (including the ratings and supporting narratives) is relevant information, for future source selection purposes, regarding a contractor’s actions under previously awarded contracts or orders.” ▪ To: “Past performance information (including the ratings and supporting narratives) is relevant information, for future purposes, regarding a contractor’s actions under previously awarded contracts or orders.” ○ Subsection 42.1103(d)(4) provides an end date for marking performance evaluations as source selection. It now states, “Evaluations of contractor performance developed on

	contracts awarded prior to April 1, 2026 should be marked ‘Source Selection Information.’” This update emphasizes that past performance information is no longer limited only to future source selection purposes. ○ Subsection 42.1103(f) replaces the reference to FAPIIS (formally at 42.1503(g)) with the “responsibility/qualification reports in the System for Award Management (SAM), at SAM.gov.” ● Subpart 42.12, “Small Business Contract Administration,” is renumbered from subpart 42.16 and streamlined. ● Subpart 42.13, “Forward Pricing Rate Agreements,” is renumbered from subpart 42.17 and streamlined. ● The following clause has been updated to align cross-references: ○ 52.242-3 (Clause), Penalties for Unallowable Costs ● The FAR Companion is expected to include best practice information not required in the FAR, on the following content: ○ Uses of performance information ○ Interagency agreements ○ Cognizant federal agency ○ Contract administration functions ○ Contract correspondence ○ Visits to contractors’ facilities ○ Evaluation of contract administration functions ○ Postaward orientation ○ Selecting contracts for postaward orientation ○ Postward subcontractor conferences ○ Procedures, related to distribution of documentation of indirect contract rates ○ Production surveillance and reporting requirements ○ Evaluation of Federal Prison Industries (FPI) performance
Removed	● Former subparts 42.4, “Correspondence and Visits,” and 42.5, “Postaward Orientation,” are removed. Best practice content is expected to be moved to the FAR Companion. ● 42.1502 paragraph (h) is removed to allow for past performance evaluations of AbilityOne.

IV. Required Actions: All DOT Operating Administrations (OAs), the Office of the Secretary of Transportation (OST), and the Office of the Inspector General (OIG), excluding the Federal Aviation Administration (FAA) per TAR 1201.104(d) shall follow the [RFO part 42 model deviation text](#) and corresponding [RFO part 52 model deviation text](#) instead of FAR parts 42 and 52 as codified at 48 CFR chapter 1. The Council’s RFO part 42 model deviation text is available at [Acquisition.gov/far-overhaul](#) and is incorporated by reference into this CD. A line-out version of the changes may also be found [here](#) for reference.

Heads of the Contracting Activities (HCAs) must ensure this deviation is disseminated to the acquisition workforce and ensure compliance with the requirements in the revised FAR part 42 guidance.

- V. Applicability:** This CD applies to all DOT OAs, OST, and OIG, excluding the FAA in accordance with TAR 1201.104(d).
- VI. Expiration Date:** This CD will remain in effect until it is incorporated into the FAR or is otherwise rescinded, whichever occurs first.
- VII. Point of Contact:** Questions or comments regarding this deviation may be directed to DOTAcquisitionPolicy@dot.gov.