



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF FINANCE AND OPERATIONS

September 5, 2025

ACQUISITION ALERT 2025-21

TO: Heads of Contracting Activities

FROM: Calvin J. Mitchell Jr. **CALVIN MITCHELL**
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Senior Procurement Executive

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Date: 2025.09.05 08:25:54 -04'00'

SUBJECT: FAR Class Deviation for FAR Part 26

- 1. Purpose.** This Acquisition Alert (AA) adopts a class deviation to Federal Acquisition Regulation (FAR) Part 26 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR Part 26.
- 2. Background.** On April 15, 2025, the 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." On May 31, 2025, the enclosed class deviation was issued for the use of all Revolutionary FAR Overhaul (RFO) model deviation texts and corresponding EDAR deviations.
- 3. Summary of Changes.** FAR Part 26, Other Socioeconomic Programs, has been reorganized within each subpart to follow the acquisition process (i.e., steps to take before solicitation vs. after award). This new structure makes it easier and faster to find needed information at each stage of a procurement.

Statutory requirements and presidential directives retained in the RFO FAR Part 26 model deviation include, but are not limited to, the following:

- 6 U.S.C. § 796, Registry of Disaster Response Contractors
- 25 U.S.C. § 1544, Additional Compensation to Contractors of Federal Agency
- 41 U.S.C. §§ 8101 et seq, Drug Free Workplace
- 42 U.S.C. § 1792, Promoting Federal Food Donation
- 42 U.S.C. § 5150, Use of Local Firms and Individuals
- Pub. L. 100-707 (42 U.S.C. §§ 5121 et seq), Robert T. Stafford Disaster Relief and Emergency Assistance Act
- Pub. L. 114-328 Section 816, Amendments to Special Emergency Procurement Authority

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

- Pub. L. 114-328 Section 1641, Special Emergency Procurement Authority to Facilitate the Defense Against or Recovery from a Cyber Attack
- E.O. 12928, Promoting Procurement with Historically Black Colleges and Universities, and Minority Institutions

Change	Description
Retained	<ul style="list-style-type: none"> • All subparts remain. The subparts are restructured from numerous scattered sections to sections that now reflect the acquisition lifecycle. • The core tenets of the programs governed by Part 26 are preserved. <ul style="list-style-type: none"> ○ The 5% incentive payment for utilizing Indian organizations and Indian-owned economic enterprises as subcontractors remains allowable and is renumbered as 26.102-1. ○ The statutory preference for awarding contracts to local firms in the aftermath of a major disaster or emergency remains and is renumbered as 26.202-1. ○ The policy to encourage the participation of Historically Black Colleges and Universities and Minority Institutions in federal procurement continues and is renumbered as 26.301-1. ○ The policy encouraging contractors to donate excess wholesome food remains the same and is renumbered as 26.402-1. ○ The fundamental requirements to maintain a drug-free workplace continues and is renumbered as 26.504-1. • All existing provisions and clauses are retained. The following clauses are updated: <ul style="list-style-type: none"> ○ Clause 52.226-1, Utilization of Indian Organizations and Indian-Owned Economic Enterprises. ○ Clause 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. This clause no longer flows down to subcontractors.
Removed	<ul style="list-style-type: none"> • Former sections 26.601, “Purpose”, 26.602, “Applicability”, and 26.603, “Definitions” are removed. The clause at 52.226-8 retains the definitions. • Former section 26.303, Data collection and reporting requirements is removed. Detailed data on contract awards is already captured and tracked through other methods (e.g., the Federal Procurement Data System (FPDS)).

	<ul style="list-style-type: none"> • The procedures for challenges to representations under the Indian Incentive Program were removed from FAR 26.103 and may be incorporated into non-regulatory guidance. • Information pertaining to the Disaster Response Registry was removed from FAR 26.205 and may be covered in non-regulatory guidance. • Procedures related to the Food Donation Program were removed from FAR 26.403 and may be retained in non-regulatory guidance.
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This table is not an exhaustive list.

4. Instructions.

- The Department of Education’s acquisition workforce shall follow the RFO Part 26 model deviation text instead of FAR Part 26 as codified at 48 CFR Chapter 1. The Council’s RFO Part 26 model deviation text is available at <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-26> and is incorporated into this class deviation. There is no EDAR Part 3426 and therefore no corresponding changes to EDAR are necessary.
- When using any provisions or clauses that have been revised, utilize the RFO model deviation language at <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-52>.
- Do not include any of the removed provisions or clauses in future solicitations and contracts.
- 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.
- Review templates and related standard operating procedures to align with this deviation and remove unnecessary processes and steps.

5. **Training.** Acquisition Professionals are highly encouraged to complete “Practitioner Album: FAR Part 26 – Other Socioeconomic Programs” at https://www.acquisition.gov/sites/default/files/practitioner_albums/far-part-26-other-socioeconomic-programs/content/index.html#/ within 30 days. Please complete the Practitioner Album and mark “yes” under the completion attestation within FAI CSOD.
6. **Effective Date.** This class deviation to FAR Part 26 is effective November 3, 2025 and remains in effect until rescinded or incorporated into the FAR.
7. **Points of Contact.** Direct questions regarding this class deviation to your respective policy points of contact.

8. Enclosure. Determination and Findings - Class Deviation for the Revolutionary FAR Overhaul

DETERMINATION AND FINDINGS
Department of Education, All Contracting Activities
Class Deviation for the Revolutionary FAR Overhaul

This approves a class deviation to all Federal Acquisition Regulation (FAR) and Department of Education Acquisition Regulation (EDAR) parts for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text.

Findings

On April 15, 2025, the 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.

In explaining the Federal Acquisition System, the RFO FAR Part deviation text establishes bedrock principles. Most centrally, it sets a "mission first" message at the top of the guiding principles. The RFO model deviation also increases the emphasis on the best use of taxpayer dollars and calls out the value of time as another guiding principle. Additionally, it retains a focus on satisfying the customer, maximizing use of commercial products and services, promoting competition, and encouraging innovation.

The FAR Council Deviation guidance allows for agencies to deviate agency acquisition regulation supplements as it relates to the RFO.

Determination

In accordance with FAR 1.404 and EDAR 3401.404, I hereby issue a class deviation for the use of all RFO model deviation texts and corresponding EDAR deviations. The adoption date for each RFO part model deviation text will be the date of the corresponding Acquisition Alert. EDAR deviation texts may be issued in a separate Acquisition Alert. All Department of Education contracting activities must follow the RFO model deviation texts instead of the FAR Parts codified at 48 CFR. Should the language of the RFO FAR contradict any statutorily granted procurement authorities to the Department of Education including the Office of Federal Student Aid, the statutorily granted authorities prevail.

In the unlikely event that the Department wishes to vary from a RFO model deviation text, a separate deviation will be issued. This class deviation will remain in effect until incorporated into the FAR, EDAR or rescinded.

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Richard Lucas

Date

Acting Chief Acquisition Officer (CAO)