

MKU-DEV-2025-37

**MEMORANDUM FOR MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION (UDALL FOUNDATION)
CONTRACTING ACTIVITIES**

DATE: November 24, 2025

SUBJECT: Class Deviations for FAR Part 19 in support of Executive Order 14275, *Restoring Common Sense to Federal Procurement*

FROM: David P. Brown, Executive Director

1. **Purpose.** This memorandum approves a class deviation to Federal Acquisition Regulation (FAR) Part 19 for purposes of implementing the Federal Acquisition Regulatory Council's ("the Council's" or "RFO") model deviation text to FAR Part 19.
2. **Background.** On April 15, 2025, President Trump signed Executive Order (E.O.) 14275, "Restoring Common Sense to Federal Procurement" to reform the Federal Acquisition Regulation (FAR). This E.O. further advances the intent of E.O. 14192, "Unleashing Prosperity Through Deregulation," signed on January 31, 2025, which established that the policy of the executive branch is to be prudent and financially responsible in the expenditure of funds and to alleviate unnecessary regulatory burdens placed on the American people. E.O. 14275 orders the Administrator of the Office of Federal Public Procurement Policy (OFPP), in coordination with the other members of the Federal Acquisition Regulatory Council (FAR Council), the heads of agencies, and appropriate senior acquisition and procurement officials from agencies, to amend the FAR to ensure that it contains only provisions that are required by statute or that are otherwise necessary to support simplicity and usability, strengthen the efficacy of the procurement system, or protect economic or national security interests. This project is referred to as the Revolutionary FAR Overhaul (RFO) initiative.

On May 2, 2025, the Office of Management and Budget (OMB) released Memorandum M-25-26, "Overhauling the Federal Acquisition Regulation," that directs all agencies to "Generally issue individual or class deviations to implement the FAR Council's deregulated coverage within 30 days after the Council releases its model deviation text [and] Provide copies of class deviations to the FAR Secretariat at gsaregsec@gsa.gov for public posting on Acquisition.gov."

Also on May 2, 2025, the Acting Administrator for Federal Procurement Policy at OMB released a Memorandum, "Deviation Guidance to Support the Overhaul of the Federal Acquisition Regulation." This Memorandum advises that agencies using the RFO model class deviation text do not need to further coordinate with the Council; class deviations that differ from the RFO model text require Council approval unless the difference is necessary to address agency-specific statutory direction.

On September 26, 2025, the FAR Council issued completed revisions for FAR Part 19, Small Business, and FAR Part 52 provisions and clauses. The text has been streamlined and emphasizes the importance of small businesses in Federal procurement by making the regulations clearer, more intuitive, and easier for the acquisition workforce to implement. The deviated text preserves most substantive requirements while reorganizing them to align with the actual workflow of a contracting professional.

The part reinforces that it is the Government’s **policy to provide maximum practicable opportunities in its acquisitions to small business, 8(a) participants, and other small business socioeconomic categories** (i.e. veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns).

For contracts, it keeps the rule of two (meaning COs must set aside requirements when there are two or more small businesses identified who can provide the supplies or service) above the micro-purchase threshold (MPT). The rule of two is required by statute between the MPT and the Simplified Acquisition Threshold (SAT). The FAR Council retained the rule of two above the SAT as essential to sound procurement.

Key highlights:

- **Discretion for Contracting Officers.** The deviated text clarifies that a contracting officer’s decision to set-aside or not-set-aside an order placed under a multiple-award contract is an exercise of discretion and not a basis for a protest.
- **Removing re-representation requirements when ordering off an existing contract.** Agency small business credit is driven by the size determination made by the contracting officer at the contract level, and updated when certain contract level events take place (e.g. option exercise, novations).
- **Competing 8(a) orders.** Where an acquisition is below the competitive threshold (see 19.108-7(a)(2)), contracting officers must first try conducting the acquisition as a competitive 8(a) order using SBA-approved government-wide contracts before proceeding with a sole source 8(a) award.
- **Automatic 8(a) release.** A requirement is automatically released from the 8(a) program if the follow-on will be set aside under the HUBzone, SDVOSB, or WOSB programs. Release does not have to be formally requested in this situation.

Statutory requirements retained in the RFO FAR Part 19 model deviation include, but are not limited to, the following:

- 10 U.S.C. § 3203 and 41 U.S.C. § 3303, Exclusion of Particular Source or Restriction of Solicitation to Small Business Concerns
- 15 U.S.C. §§ 631 et seq, Small Business Act
- 41 U.S.C. § 3104, Small Business Concerns

Change	Description
Retained	<ul style="list-style-type: none"> • The following provision and clauses are retained (or remain reserved) with no changes: <ul style="list-style-type: none"> ○ 52.219-5, Reserved

	<ul style="list-style-type: none"> ○ 52.219-7 (Clause), Notice of Partial Small Business Set-Aside ○ 52.219-11 (Clause), Special 8(a) Contract Conditions ○ 52.219-12 (Clause), Special 8(a) Subcontract Conditions ○ 52.219-13 (Clause), Notice of Set-Aside of Orders ○ 52.219-15, Reserved ○ 52.219-17 (Clause), Section 8(a) Award ○ 52.219-18 (Clause), Notification of Competition Limited to Eligible 8(a) Participants ○ 52.219-19 thru 52.219-26, Reserved ○ 52.219-31 (Provision) Notice of Small Business Reserve
Moved/Updated	<ul style="list-style-type: none"> ● FAR part 19 was retitled from “Small Business Programs” to “Small Business”. ● Throughout the part, references to the Dynamic Small Business Search (DSBS) site were updated to the Small Business Search (SBS) website at https://search.certifications.sba.gov/. ● 19.000, “Scope of part” is updated to remove unnecessary citations and content. ● 19.001, “Definitions” is retained and has been updated to include numerous definitions that were previously spread throughout the part. Most of the definitions have been retained with no, or only minor edits. The only exception is the definition of “Similarly situated entity” which has been removed from this section and is retained only within clause 52.219-14, Limitations on Subcontracting. ● The revised part structure now reflects the acquisition lifecycle: <ul style="list-style-type: none"> ○ Subpart 19.1 - Presolicitation ○ Subpart 19.2 - Evaluation and Award ○ Subpart 19.3 - Postaward ● Subpart 19.1, “Presolicitation,” consolidates all policies and procedures applicable before issuance of a solicitation, creating a single point of reference for acquisition planning and market research. <ul style="list-style-type: none"> ○ 19.101, “Small business goals,” is new and serves as an introduction to the Government’s small business policy and the tools available to achieve agency small business goals. <ul style="list-style-type: none"> ▪ Within 19.101(a): <ul style="list-style-type: none"> ● The general policy statement on providing maximum practicable opportunities is relocated from 19.201(a). ● The requirement to measure and report small business participation is relocated from 19.202-5(b). ▪ 19.101(b) is a new and valuable addition that functions as a "roadmap" for contracting officers. It lists the various acquisition strategies available and provides direct cross-references to the corresponding sections within the new part 19. ○ 19.102, “Coordination,” consolidates all requirements for coordinating with the Small Business Administration (SBA) and

	<p>the agency's Office of Small and Disadvantaged Business Utilization (OSDBU) (or for the Department of Defense, the Director of the Office of Small Business Programs (OSBP)).</p> <ul style="list-style-type: none"> ▪ General principles of cooperation with the SBA are relocated from 19.401. ▪ Rules regarding SBA Procurement Center Representatives (PCRs) are relocated from 19.402. ▪ The mandatory 30-day notification to the SBA PCR for certain acquisitions is relocated from 19.202- 1(e). ▪ The procedures for a contracting officer to reject an SBA recommendation and the subsequent SBA appeal process are relocated from 19.502-8. <ul style="list-style-type: none"> ○ 19.103, “Small business size standards,” consolidates content from the former subpart 19.1, specifically former sections 19.102 and 19.103. The content concerning NAICS codes, size standards, and the appeal process for NAICS code designations remains substantively the same but is now logically situated within the presolicitation subpart. ○ 19.104, “Small business set-asides,” consolidates the rules for total and partial small business set-asides, the nonmanufacturer rule, and related clause prescriptions. <ul style="list-style-type: none"> ▪ Relocated from former 19.502-2, this section retains that for contracts above the micro-purchase threshold, the contracting officer must set the contract aside for small business if there is a reasonable expectation of obtaining competitive offers from two or more responsible small business concerns (the rule of two). ▪ An important change – by changing the word “acquisition” to “contract” at 19.104-1(a), set-aside requirements (the rule of two) are clarified. Set-aside at the master contract level is mandatory, set-aside is encouraged but discretionary at the order level (see 19.111). ▪ The procedures for partial set-asides are consolidated from former 19.502-3 (for contracts other than multiple-award) and former 19.502-4 (for multiple-award contracts) into a single, unified subsection at 19.104-2. The new subsection does not distinguish between multiple-award or other than multiple-award contracts, as the underlying principles are identical. ▪ The nonmanufacturer rule is relocated from former 19.505(c). ▪ Clause prescriptions are relocated from former 19.507. ○ Socioeconomic Programs at sections 19.105 (HUBZone), 19.106 (SDVOSB), 19.107 (WOSB), and 19.108 (8(a)). These
--	--

	<p>sections represent a major structural overhaul. Previously, each socioeconomic program was addressed in its own subpart containing rules for all acquisition phases. In the deviated text, the presolicitation aspects of each program are relocated to subpart 19.1.</p> <ul style="list-style-type: none"> ○ 19.108-7, “Competitive 8(a) and sole source 8(a) policy” is updated: <ul style="list-style-type: none"> ▪ In paragraph (b) to state that SBA may accept sole-source awards above the competitive threshold (see 19.108-7(a)(2)) if the contracting officer complies with the requirement for other than full and open competition in accordance with FAR 6.103. ▪ An important change in paragraph (d) – where an acquisition is below the competitive threshold, contracting officers must first try conducting the acquisition as a competitive 8(a) order using SBA-approved government-wide contracts that permit it before proceeding with a sole source 8(a). ○ 19.108-11, “Release requirements for non-8(a) procurement,” a requirement is automatically released from the 8(a) program if the follow-on will be set aside under the HUBzone, SDVOSB, or WOSB programs. Release does not have to be formally requested from the SBA in this situation. ○ 19.109, “Small business subcontracting plans,” centralizes all presolicitation requirements related to subcontracting plans, which were previously located throughout subpart 19.7. ○ 19.110, “Price evaluation preference for HUBZone small business concerns,” relocates the rules for applying the HUBZone price evaluation preference from former 19.1307(a) and the associated clause prescription from former 19.1309(b). ○ 19.111, “Orders under multiple-award contracts,” consolidates rules for orders under multiple-award contracts that were previously in different locations throughout the part. It combines guidance on assigning NAICS codes to orders (from former 19.102(b)(3)) with the rules for setting aside orders (from former 19.504). The section retains that set-asides for orders are discretionary. ○ 19.112, “Reserves,” relocates the content governing the use of reserves on multiple-award contracts from former 19.503 and the associated prescription from former 19.507(g). ● Subpart 19.2, “Evaluation and Award,” centralizes all policies and procedures applicable after offers are received but before a contract is awarded. <ul style="list-style-type: none"> ○ 19.201, “Small business size and socioeconomic status determination,” consolidates protest and representation procedures into a single location. This change simplifies the process for contracting officers, who previously had to consult
--	--

	<p>separate sections for each type of protest. The following sections are consolidated here:</p> <ul style="list-style-type: none"> ▪ Representation by the offeror at initial award (from former 19.301-1) ▪ Protesting a small business representation (from former 19.302) ▪ Small disadvantaged business status and reviews (from former 19.304 and 19.305) ▪ Protesting HUBZone status (from former 19.306) ▪ Protesting SDVOSB status (from former 19.307) ▪ Protesting WOSB/EDWOSB status (from former 19.308) ▪ Protesting 8(a) eligibility and requesting size determinations (from former 19.813 and 19.814) <ul style="list-style-type: none"> ○ 19.202, “Encouraging small business responses,” relocates the content from former 19.202-4(c) which requires contracting officers to provide copies of solicitations and other information to small businesses upon request. ○ 19.203, “Equal low bids”, relocates the content on handling equal low bids from former 19.202-3 and the related clause prescription from former 19.309(b). ○ 19.204, “Certificate of competency,” relocates and consolidates the entirety of former Subpart 19.6, “Certificates of Competency and Determinations of Responsibility”. Placing this topic in the "Evaluation and Award" subpart aligns it with the point in the acquisition process where a responsibility determination is made. ○ 19.205, “Evaluating and awarding set-asides,” consolidates various award-related provisions for set-asides, including: <ul style="list-style-type: none"> ▪ The determination of fair market price (from former 19.202-6). ▪ Procedures for when only one offer is received (from former 19.502-2(a) and 19.1305(c)). ▪ Rules for withdrawing a set-aside prior to award (from former 19.502-9). ○ 19.206, “Evaluating small business subcontracting plans,” consolidates all procedures related to the review, negotiation, and acceptance of subcontracting plans prior to award. It incorporates content from former sections 19.704 (“Subcontracting plan requirements”), 19.705-4 (“Reviewing the subcontracting plan”), and 19.705-5 (“Awards involving subcontracting plans”). ○ 19.207, “Evaluating offers using the HUBZone price evaluation preference,” relocates the specific methodology for applying the 10 percent price evaluation preference for HUBZone small business concerns, previously located in 19.1307(b), (c), and (d).
--	---

	<ul style="list-style-type: none"> ○ 19.208, “Evaluating and awarding under the 8(a) Program,” consolidates all evaluation and award procedures for the 8(a) program from former subpart 19.8, “Contracting with the Small Business Administration (The 8(a) Program)” including competitive procedures (former 19.805-2), contract negotiation (former 19.808), pricing (former 19.806), fair market price estimation (former 19.807), preaward survey (former 19.809-1), effect of exiting the 8(a) program on eligibility for award (formerly 19.816), contract preparation (former 19.811), and SBA appeals (former 19.810). ● Subpart 19.3, “Postaward,” consolidates all policies and procedures applicable after a contract has been awarded. <ul style="list-style-type: none"> ○ 19.301, “Small business size rerepresentations,” relocates the requirements for a contractor to rerepresent its size status after award. It combines the content from former 19.301-2 and 19.301-3 into a single, logically placed post-award section. The content is further updated: <ul style="list-style-type: none"> ▪ For IDIQ contracts, removes rerepresentation at the order level. ▪ Clarifies that agency small business credit is driven by status at the master contract level which is updated when certain contract level events take place (e.g. option exercise, novations). ○ 19.302, “Small business subcontracting plans,” consolidates all post-award responsibilities related to subcontracting plans. It incorporates procedures for requiring a plan after award due to a modification (from former 19.705-2(e)), monitoring compliance with the plan (from former 19.705-7), and other postaward responsibilities of the contracting officer (from former 19.705-6). ○ 19.303, “8(a) Program contracts,” consolidates all post-award aspects of the 8(a) program. It includes guidance on contract administration (from former 19.812), contractual obligations for contractors exiting the program (from former 19.816(a)), and post-award rules for indefinite-delivery contracts (from former 19.804-6). ● The following provisions and clauses are updated to reflect plain language or content moved from part 19 into the applicable clause or provision to avoid unnecessary duplication. <ul style="list-style-type: none"> ○ 52.219-1 (Provision) Small Business Program Representations ○ 52.219-2 (Provision), Equal Low Bids ○ 52.219-3 (Clause), Notice of HUBZone Set-Aside or Sole-Source Award ○ 52.219-4 (Provision), Notice of Price Evaluation Preference for HUBZone Small Business Concerns ○ 52.219-6 (Clause), Notice of Total Small Business Set-Aside ○ 52.219-8 (Clause), Utilization of Small Business Concerns ○ 52.219-9 (Clause), Small Business Subcontracting Plan
--	---

	<ul style="list-style-type: none"> ○ 52-219-10 (Clause), Incentive Subcontracting Program ○ 52.219-14 (Clause), Limitations on Subcontracting ○ 52.219-16 (Clause), Liquidated Damages-Subcontracting Plan ○ 52.219-27 (Clause), Notice of Set-Aside for, or Sole-Source Award to, Service-Disabled Veteran-Owned Small Business (SDVOSB) Concerns Eligible Under the SDVOSB Program ○ 52.219-28 (Clause), Postaward Small Business Program Rerepresentation ○ 52.219-29 (Clause), Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns ○ 52.219-30 (Clause), Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program ○ 52.219-33 (Clause), Nonmanufacturer Rule ● The FAR Companion is expected to include best practice information not required in the FAR, on the following content: <ul style="list-style-type: none"> ○ Set-asides for orders under multiple-award contracts ○ Determining the appropriate NAICS code for the solicitation ○ Framework of the Office of Small Business Disadvantaged Business (OSDBU) ○ Encouraging small business participation in acquisitions ○ Identification of manufacturers ○ Price evaluation preference for HUBZone small business concerns
Removed	<ul style="list-style-type: none"> ● 19.203, “Relationship among small business programs,” is removed because it is not statutorily required or essential for sound procurement. ● 19.502-5, “Insufficient reasons for not setting aside an acquisition,” has been deleted. The principles it contained are implicit within the mandatory nature of the set-aside requirements (new section 19.104). ● 19.602-3, “Resolving differences between the agency and the SBA,” is removed because it is not statutorily required or essential to sound procurement, and it has potential to cause confusion. ● 19.706, “Responsibilities of the cognizant administrative contracting officer,” is removed because it is not statutorily required or essential to sound procurement. ● 19.707, “The Small Business Administration's role in carrying out the program,” is removed because it is not statutorily required or essential to sound procurement. ● Separate sections on “General,” “Applicability,” and “Exclusions” are removed from the HUBZone, SDVOSB, and WOSB subparts as they are unnecessary and duplicative of content elsewhere in the part. ● The following clause is removed as it is not required by statute or essential to sound procurement:

	<ul style="list-style-type: none"> ○ 52.219-32 (Clause), Orders Issued Directly Under Small Business Reserves
--	--

This table is not an exhaustive list.

3. **Determination.** To fully comply with E.O. 14275, OMB implementation guidance, and direction related to use of model deviations, and the model deviations for revised FAR Part 19, the Udall Foundation shall follow the RFO Part 19 model deviation text instead of FAR Part 19 as codified at 48 CFR Chapter 19. The FAR Council's RFO Part 19 model deviation text is available at Acquisition.gov, under the "FAR Overhaul" link. This deviation applies to all solicitations and new contracts as of the date of the Memorandum. This deviation does not apply to contracts signed and executed on or before the date of this Memorandum.
4. **Instructions.** The Udall Foundation acquisition workforce shall follow the RFO Part 19 model deviation text instead of FAR Part 19 as codified at 48 CFR Chapter 19 and the RFO Part 52 model deviation text of FAR Part 52 as codified at 48 CFR Chapter 52. The Council's RFO Parts 19 and 52 model deviation text are available at Acquisition.gov, under the "FAR Overhaul" link, and are incorporated into this class deviation.

For new solicitations or contracts, when using any provisions or clauses that have been revised, the Udall Foundation acquisition workforce shall use the RFO model deviation language at RFO FAR part 52.

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.

The Udall Foundation acquisition workforce shall review templates and related standard operating procedures to align with this deviation and remove unnecessary processes or steps.

A copy of this Class Deviation will be provided to the FAR Secretariat at gsaregsec@gsa.gov.

5. **Applicability.** This class deviation applies to all Udall Foundation procurements.
6. **Authority.** This class deviation is issued under the authority of E.O. 14275, OMB Memo M-25-26, and 48 CFR 1.4, and RFO FAR 1.304.
7. **Effective Date.** This class deviation is effective immediately and remains in effect until rescinded or incorporated into the FAR.

Points of Contact. Questions regarding this class deviation may be directed to the Udall Foundation General Counsel, Gwendolyn Franks, at franks@udall.gov.