

MKU-DEV-2025-35

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

DATE: September 16, 2025

SUBJECT: Class Deviations for FAR Part 27 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 27 for purposes of implementing the Federal Acquisition Regulatory Council's ("the Council's" or "RFO") model deviation text to FAR Part 27.
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 11, 2025, the FAR Council issued completed revisions for FAR Part 27, Patents, Data, and Copyrights, and FAR Part 52 provisions and clauses. The text 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 are not 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	<ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> ○ 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. <ul style="list-style-type: none"> ○ 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. <ul style="list-style-type: none"> ○ 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

	<p>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.</p> <ul style="list-style-type: none"> ○ 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: <ul style="list-style-type: none"> ○ 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	<ul style="list-style-type: none"> ● The FAR Companion is expected to include best practice information on the following moved content that is not statutorily required: <ul style="list-style-type: none"> ○ 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: <ul style="list-style-type: none"> ▪ 27.305-3, “Securing invention rights acquired by the Government” ▪ 27.305-4, “Protection of invention disclosures” ○ Section 27.406, “Acquisition of Data”

	<ul style="list-style-type: none"> ○ 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: <ul style="list-style-type: none"> ○ Subpart 27.4, treatment of “Rights in Data and Copyrights”
Removed	<ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> ○ 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)

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 27, the Udall Foundation shall follow the RFO Part 27 model deviation text instead of FAR Part 27 as codified at 48 CFR Chapter 27. The FAR Council’s RFO Part 27 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 27 model deviation text instead of FAR Part 27 as codified at 48 CFR Chapter 27 and the RFO Part 52 model deviation text of FAR Part 52 as codified at 48 CFR Chapter 52. The Council’s RFO Parts 27 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.