

MKU-DEV-2025-32

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

DATE: September 15, 2025

SUBJECT: Class Deviations for FAR Part 44 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 44 for purposes of implementing the Federal Acquisition Regulatory Council's ("the Council's" or "RFO") model deviation text to FAR Part 44.
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 4, 2025, the FAR Council issued completed revisions for FAR Part 44, Subcontracting Policies and Procedures, and FAR Part 52 provisions and clauses. The text 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 are not 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	<ul style="list-style-type: none"> • The revised part structure consolidates relevant guidance into process-oriented subparts: <ul style="list-style-type: none"> ○ 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. <ul style="list-style-type: none"> ○ 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): <ul style="list-style-type: none"> ○ 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: <ul style="list-style-type: none"> ○ Preference (for commercial products and services)

	<ul style="list-style-type: none"> ○ 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. <ul style="list-style-type: none"> ○ 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. <ul style="list-style-type: none"> ○ 52.244-6 Subcontracts for Commercial Products and Commercial Services
Removed	<ul style="list-style-type: none"> • 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. <ul style="list-style-type: none"> ○ “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.

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 44, the Udall Foundation shall follow the RFO Part 44 model deviation text instead of FAR Part 44 as codified at 48 CFR Chapter 44. The FAR Council’s RFO Part 44 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 44 model deviation text instead of FAR Part 44 as codified at 48 CFR Chapter 44 and the RFO Part 52 model deviation text of FAR Part 52 as codified at 48 CFR Chapter 52. The Council’s RFO Parts 44 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.