



## SOCIAL SECURITY

### MEMORANDUM

**Date:** April 24, 2025 **Refer To:** S1QC

**To:** Office of Acquisition and Grants (OAG) Staff

**From:** Junghie Elky //s//  
Technical Advisor, Division of Policy and Purchase Card Administration (DPPCA),  
Office of Acquisition Support

**Subject:** Flash Notice (FN) 22\_25-01 – Class Deviation from the Federal Acquisition Regulation (FAR) to Implement Executive Order (E.O.) 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*, and E.O. 14168, *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*

### **Purpose**

This FN implements the agency's approval of a FAR class deviation pursuant to Civilian Agency Acquisition Counsel (CAAC) Letter 2025-01, issued on February 15, 2025, as amended. The CAAC Letter authorized a class deviation to implement the subject E.O.s 14173 and 14168. The FAR parts affected by the class deviation are 1, 4, 14, 19, 22, and 52, including various FAR provisions and clauses.

### **Background**

- On January 21, 2025, President Trump issued [E.O. 14173, \*Ending Illegal Discrimination and Restoring Merit-Based Opportunity\*](#), which revoked E.O. 11246, *Equal Employment Opportunity*.
- On January 24, 2025, the Department of Labor issued [Order 03-2025](#) announcing that it would cease enforcement activity under the rescinded E.O. 11246. In addition, the Office of Federal Contract Compliance Programs (OFCCP) published a [Bulletin](#) announcing that, for 90 days from the date of E.O. 14173, Federal contractors *may* continue to comply with the regulatory scheme in effect on January 20, 2025, while also announcing OFCCP would immediately cease:
  - Promoting “diversity.”
  - Holding Federal contractors and subcontractors responsible for taking “affirmative action”; and

- Allowing or encouraging Federal contractors and subcontractors to engage in workforce balancing based on race, color, sex, sexual preference, religion, or national origin.

## Policy and Procedure

1. Contracting staff shall take note of and adhere to the FAR text deviations on the attached document which encompass deviations to FAR Parts 1, 4, 14, 19, 22, and 52. See below regarding how to apply the solicitation provision and contract clause deviations.
2. Applicability: This class deviation applies to all SSA solicitations, blanket purchase agreements (BPAs), and contracts, including those issued against other agency contracts as described under #3 below. This FN provides guidance to contracting staff for implementing the class deviation for:
  - a. New or open solicitations
  - b. New contracts, BPAs, or orders, and
  - c. Existing contracts, BPAs, or orders
3. For BPAs and Orders Issued under Other Agency Contracts. The General Services Administration (GSA) and other agencies owning Governmentwide contract vehicles used by the Social Security Administration (SSA) to issue BPAs and orders are in the process of modifying their vehicles to implement a class deviation pursuant to CAAC Letter 2025-01. However, such deviations will only apply to those SSA BPAs and orders issued at the time or after the contract modifications are issued and take effect. Therefore, contracting staff must take the same actions prescribed in #4 and #5 below for new and existing SSA orders and BPAs issued against such vehicles prior to such modification. (NOTE: Since contractor representations and certifications are not requested when soliciting under these vehicles, the deviation to 52.212-3 listed in 4.d.ii. will not apply to such solicitations.)

To determine whether a particular GSA Multiple Award Schedule (MAS) contract has been updated to implement the class deviation, look up the contract in the GSA eLibrary and click on the “View the specifics for this contract” link under the Contract Clauses/Exceptions (right-hand side) and determine what MAS Refresh number it is on; if it shows it is on Refresh number 25, then the contract has been updated to implement the class deviation that is the subject of this FN (implementing E.O.s 14173 and 14168).<sup>1</sup> (NOTE: Refresh number 25 also implements the class deviation that is the subject of concurrent FN 23\_25-01 regarding E.O. 14148 and Section 2 of E.O. 14208.<sup>2</sup>) However, to determine the *specific date* of the contract modification implementing Refresh 25, it may be best to ask the contract holder for a copy of the signed modification. In early

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<sup>1</sup> GSA issued Refresh 25 to update all MAS contract vehicles for the class deviation on March 25, 2025, with a 30-day acceptance period for MAS holders.

<sup>2</sup> This is FN 23\_25-01 – Class Deviation from the Federal Acquisition Regulation (FAR) to Implement Executive Order (E.O.) 14148, *Initial Recissions of Harmful Executive Orders and Actions*, which revoked E.O. 14057, *Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability*, and Section 2 of Executive Order 14208, *Ending Procurement and Forced Use of Paper Straws*

April 2025, the National Institutes of Health (NIH) indicated they expected class deviation updates to their NITAAC contracts to be completed by the end of the month. The National Aeronautics and Space Administration (NASA) did not provide an anticipated timeline regarding their NASA SEWP contracts but assured “any formal guidance and/or modifications pertaining to the contract will be communicated to all Contract Holders and Customers.” Be sure to document in the contract file before issuing a new order against another agency’s contract *without* including the SSA class deviations that you have verified the applicable contract vehicle has been updated with the class deviation as required by this FN.

OAG contracting offices and divisions may wish to share these verifications among their staff to prevent duplication of effort.

4. For New<sup>3</sup> or Open Solicitations and Existing or New BPAs and Contracts. Contracting staff shall take the following actions:
  - a. Amend solicitations (e.g., Request for Proposals (RFP), Request for Quotations (RFQ)). You may do so either prior to solicitation closing, or prior to award, whichever is more efficient.
  - b. For existing BPAs and contracts with remaining periods of performance of six months or more, modify at the next reasonable opportunity.
  - c. For existing BPAs and contracts with six months or less remaining, those BPA’s and contracts do not need to be modified. See #5 below.
  - d. **Where applicable, include** the following deviated provisions and clauses:
    - i. FAR 52.204-8, Annual Representations and Certifications (JAN 2025) (DEVIATION FEB 2025)
    - ii. FAR 52.212-3, Offeror Representations and Certifications—Commercial Products and Commercial Services (MAY 2024) (DEVIATION FEB 2025)
    - iii. FAR 52.212-5, Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services (JAN 2025) (DEVIATION FEB 2025)
    - iv. FAR 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services) (JAN 2025) (DEVIATION FEB 2025)
    - v. FAR 52.222-9, Apprentices and Trainees (JUL 2005) (DEVIATION FEB 2025)
    - vi. FAR 52.244-6, Subcontracts for Commercial Products and Commercial Services (JAN 2025) (DEVIATION FEB 2025)

NOTE: See Attachments [2\(a\)](#) and [\(b\)](#) below for the deviated text for these deviated provisions and clauses.

- e. Ensure that, when inserting a deviation provision or clause, FAR provision [52.252-5](#), Authorized Deviations in Provisions, and/or FAR clause [52.252-6](#), Authorized Deviations in Clauses, is included, as applicable.

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<sup>3</sup> A rough definition for a solicitation, BPA, or contract considered to be “new” is an award issued within the past 6 months.

- f. **Include** the following notice which is also available in the agency contract writing system (“SSASy”) as OAG Custom Language #48:

Notice of Delay in Updates to Labor-Related Representations in the System for Award Management (APR 2025)

System updates may lag policy updates from recent Presidential executive orders affecting labor-related representations. The System for Award Management (SAM) may continue to require entities to complete such representations based on provisions that are not included in SSA solicitations. Examples include:

-- FAR 52.222-25, Affirmative Action Compliance, and  
 -- FAR 52.212-3(d), Offeror Representations and Certifications—  
 Commercial Products and Commercial Services.

Contracting officers will neither consider these representations when making award decisions or enforce requirements. Entities are not required to, nor are they able to, update their entity registration to remove these representations in SAM.

- g. **Do not include the clauses or provisions noted below:**

- i. FAR 52.222-21, Prohibition of Segregated Facilities
- ii. FAR 52.222-22, Previous Contracts and Compliance Reports
- iii. FAR 52.222-23, Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity for Construction
- iv. FAR 52.222-24, Pre-award On-Site Equal Opportunity Compliance Evaluation
- v. FAR 52.222-25, Affirmative Action Compliance
- vi. FAR 52.222-26, Equal Opportunity
- vii. FAR 52.222-27, Affirmative Action Compliance Requirements for Construction
- viii. FAR 52.222-29, Notification of Visa Denial

- h. In order to ensure contractors understand that the class deviation does not affect certain other FAR subparts and laws, include the following language (available in SSASy as OAG Custom Language #49) in solicitations and contracts when using any of the prescribed deviations:

Important Notice Regarding February 2025 Deviations Revoking Executive Order (E.O.) 11246, Equal Employment Opportunity (APR 2025)

One or more agency deviations to Federal Acquisition Regulation (FAR) provisions or clauses, as indicated by “(DEVIATION FEB 2025)”, may have as its purpose to revoke E.O. 11246, *Equal Employment Opportunity*. The purpose of this notice is to clarify that, and such deviation does not affect the following:

(a) Any FAR subparts that are based on statute or are not covered by E.O. 11246 such as:

(1) FAR subparts 22.13, Equal Opportunity for Veterans and its related clauses and provisions; and

(2) FAR subpart 22.14, Employment of Workers and Disabilities.

(b) Existing U.S. laws on civil rights, nondiscrimination, or any laws that generally apply to a company regardless of whether it is a government contractor.

5. For Existing BPAs or Contracts in the Final Period of Performance. For contracts or orders nearing the end of their period of performance (e.g., less than 6 months), and where all options to extend have been exhausted or an option to extend is not planned, contracting officers are not required to revise or remove the FAR clauses or provisions associated with the rescinded E.O. This decision reflects the determination that modifying contracts with limited time remaining is inefficient and the costs do not outweigh the benefits. However, to ensure proper notification to these contractors, OAG's Information Technology Staff, submitted the below notification to all current SSA contractors found in the SSASy database on 04/16/2025. Also, OAG has posted the same notice on its Internet page.

NOTICE OF REVOCATION OF EXECUTIVE ORDER 11246  
ENFORCEMENT AND ITS EFFECTS ON CONTRACTORS AND  
SUBCONTRACTORS

As of February 15, 2025, Federal Acquisition Regulation (FAR) clauses and provisions covered under Executive Order (E.O.) 11246, *Equal Employment Opportunity*, will no longer be enforced. Therefore, contractors and their subcontractors will not be held accountable for applying the FAR clauses or provisions outlined in [FAR subpart 22.8 – Equal Employment Opportunity](#) or the associated provisions and clauses prescribed at [FAR 22.810](#). In addition, contractors will no longer be required to comply with the System for Award Management (SAM) representation requirements based on these provisions and clauses. Examples include:

- FAR 52.222-25, Affirmative Action Compliance, and
- FAR 52.212-3(d), Offeror Representations and Certifications—Commercial Products and Commercial Services.

This notification does not affect:

- Any FAR subparts that are based on statute or are not covered by E.O. 11246 such as:
  - FAR subparts 22.13, *Equal Opportunity for Veterans*, and its related clauses and provisions; and
  - FAR subpart 22.14, *Employment of Workers and Disabilities*.
- Existing U.S. laws on civil rights, nondiscrimination, or any laws that generally apply to a company regardless of whether it is a government contractor.

## SSASy Updates and Other Implementation Tools

The deviated provisions and clauses above will be added to SSASy, including the OAG clause templates (including Template #3 for GSA FSS and GWAC orders). The [Agency-Specific FAR Deviations Spreadsheet](#) and Decisional Guide for FAR Clause 52.212-5 will be updated to assist contract staff in ensuring the deviation provisions and clauses are applied as appropriate.

### Authority

This class deviation is issued under the authority of FAR 1.404(a) which provides for approval of a class deviation by an agency head or their designee following consultation with the CAAC chairperson. Based on CAAC Letter 2025-01 which serves as the consultation, the Deputy Commissioner for Mission Support has exercised his delegated authority to approve the class deviation. See Attachment 3 below.

### Effective Date

This class deviation is effective immediately and remains in effect until rescinded or incorporated into the FAR.

### Further Information

Direct questions regarding this FN to Mr. Hilton Thompson, Director, Office of Acquisition Support, OAG at (410) 965-3786 or [Hilton.Thompson@ssa.gov](mailto:Hilton.Thompson@ssa.gov).

### Attachments

#### Attachment 1 – CAAC Letter 2025-01

- (a) Initial CAAC Letter Issued February 15, 2025



CAAC Letter  
2025-01.pdf

- (b) CAAC Letter 2025-01, Supplement 1, Issued February 18, 2025



CAAC Letter  
2025-01 Supplement

- (c) Update to CAAC Letter 2025-01, Issued February 26, 2025



2-26-25 Update to  
CAAC Letter 2025-01



CAAC Letter  
2025-01 - DEV FAR t

## Attachment 2 – FAR Deviation Text (Including Deviation Provisions and Clauses)

### (a) FAR Deviated Text, Marked-up Version



CAAC Letter  
2025-01 - DEV FAR t

### (b) FAR Deviated Text, Clean Version



Att 2(b) - FAR  
Deviated Text, Clean

## Attachment 3 – Agency Class Deviation Approval

[RESERVED]