

**CLASS DEVIATION
FINDINGS AND DETERMINATION
FEDERAL ACQUISITION REGULATION (FAR) PART 3 – IMPROPER BUSINESS
PRACTICES AND PERSONAL CONFLICTS OF INTEREST**

Findings

1. The objective of this class deviation is to implement the Federal Acquisition Regulatory Council's model deviation text to the Federal Acquisition Regulation (FAR) Part 3 – Improper Business Practices and Personal Conflicts of Interest, and applicable sections of FAR Part 52, Solicitation Provisions and Contract Clauses.
2. On April 15, 2025, President Donald J. Trump issued Executive Order (E.O.) 14275, *Restoring Common Sense to Federal Procurement*. Section 2 of the E.O. established 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.”
3. On May 2, 2025, the Office of Management and Budget (OMB) issued memorandum M- 25-26, *Overhauling the Federal Acquisition Regulation*, initiating a major overhaul of the FAR (Revolutionary FAR Overhaul, or “RFO”). The memorandum tasked the Office of Federal Procurement Policy (OFPP) with leading the RFO, in coordination with the other members of the Federal Acquisition Regulatory Council – i.e., the General Services Administration (GSA), the Department of Defense (DOD), and the National Aeronautics and Space Administration (NASA) and federal buying agencies. The goal is refocusing the FAR on its statutory roots. To that end, 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 - Remove duplicative or outdated language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

The OMB memorandum M-25-26 established a two phased approach to implementing enterprise deregulation as follows: Phase one, FAR Council deviation guidance, and phase two, formal rulemaking. Phase one involves the FAR Council issuing guidance on a rolling basis with clear, plain language model deviation text organized by FAR part. The goal is streamlining the regulation by aligning it more closely to its statutory base. According to the memorandum, agencies should adopt this model deviation text within 30 days by issuing either individual or class deviations.

4. On May 2, 2025, the FAR Council issued further implementing guidance in a memorandum titled *Deviation Guidance to Support the Overhaul of the Federal Acquisition Regulation*. Pursuant to the FAR Council's memorandum, “agencies that adopt the Council's RFO class deviation text without change or require different text only to address statutory direction unique to the agency, do not need to coordinate with the Council.”
5. On September 11, 2025, the FAR Council issued model deviation text for FAR Part 3 and corresponding clauses at FAR Part 52. FAR Part 3, Improper Business Practices and Personal Conflicts of Interest, has been retained with minimal deletions and minor updates made for plain language and streamlining. The model deviation does not implement FAR Case 2023-006,

Preventing Organizational Conflicts of Interest in Federal Acquisition. This content will be addressed in subsequent policy. The fundamental rules of ethical conduct remain the same. All in federal service should continue to:

- **Act with Integrity:** Always conduct business honestly and transparently.
- **Avoid Conflicts of Interest:** Continue to identify and report any personal, financial, or family relationships that give rise to actual or apparent biases when working on a government contract.
- **Refuse Improper Gifts:** The strict rules against accepting gifts, favors, or anything of value from contractors or potential contractors have not changed.
- **Report Wrongdoing:** Every employee has a duty to report any suspected fraud, waste, abuse, or other violations of law or regulation.
- **Protect Sensitive Information:** Do not use non-public information you get from your government work for personal gain.

Statutory requirements and presidential directives retained in the RFO FAR Part 3 model deviation include, but may not be limited to, the following:

- 10 U.S.C. § 4651, Expenditure of Appropriations: Limitation
- 10 U.S.C. § 4655 and 41 U.S.C. § 4704, Prohibition of Contractors Limiting Subcontractor Sales Directly to Federal Government
- 18 U.S.C. § 208, Acts Affecting a Personal Financial Interest
- 18 U.S.C. § 218, Voiding Transactions in Violation of Chapter
- 41 U.S.C. § 2101-2017, Procurement Integrity Act
- 41 U.S.C. § 3509, Notification of Violations of Federal Criminal Law or Overpayments
- 41 U.S.C. § 4712, Enhancement of Contractor Protection from Reprisal for Disclosure of Certain Information
- 41 U.S.C. § 8701-8707, Anti-Kickback Act of 1986
- E.O. 12731, Principles of Ethical Conduct for Government Officers and Employees Other

key changes include, but are not limited to the following:

Retained:

- The **majority of the part is retained and updated for plain language and streamlining**. These updates are designed to enhance clarity and reduce ambiguity and include employing active voice, breaking down complex sentences, and using formatting such as numbered lists to improve readability.
- All **subparts remain** and keep the same structure.
- Most **existing provisions and clauses are retained** (or remain reserved if previously reserved) with no changes to the text. The only exception is clause 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009, which is deleted as it is no longer needed.

Removed:

- Subsection 3.103-3 "**The need for further certifications**", was removed as the content is not required in the FAR.
- Section 3.301 "**General**", was removed because it provided general background on anticompetitive practices but contained no enforceable rule or procedure.

- Section 3.406 “Records” was removed because it is redundant of existing record retention requirements.
- Section 3.907 "**Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (the Recovery Act)**", including all subsections, was removed as obsolete because it was specific to contracts funded by the ARRA Recovery Act, a 2009 economic stimulus package. Removing this section includes deleting clause 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009.

Determination

In accordance with RFO 1.304 *Class deviations* and Department of Energy Acquisition Regulation (DEAR) 901.404 *Class deviations*, to fully comply with the requirement of E.O. 14275 and the revised FAR Parts 3 and 52, it is hereby determined that a class deviation is appropriate pursuant to OMB memorandum M-25-26 (Attachment 1) and the FAR Council memorandum (Attachment 2) issued on May 2, 2025, using the RFO model deviation text for Part 3 and applicable sections of Part 52 (Attachment 3). Specifically, DOE/NNSA will use the RFO model deviation text for Part 3 in lieu of 48 Code of Federal Regulations (CFR) Part 3, and the RFO model deviation text for the applicable sections of Part 52 in lieu of the applicable sections of 48 CFR Part 52.203-1 through 52.203-19. Once approved, the Department will share the deviation widely among its workforce to ensure full awareness of and compliance with the revisions to the affected regulations. This class deviation is effective on November 3, 2025, and will remain effective until cancelled or incorporated into the FAR.

Janella Davis

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Attachments:

OMB Memorandum M-25-26, *Overhauling the Federal Acquisition Regulation*
FAR Council Memorandum, *Deviation Guidance to Support the Overhaul of the Federal Acquisition Regulation*
RFO Parts 3 and 52 Model Deviation Text