

**CLASS DEVIATION
FINDINGS AND DETERMINATION
FEDERAL ACQUISITION REGULATION (FAR) PART 32 - CONTRACT FINANCING**

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 32 - *Contract Financing*, 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 - Remove duplicative or outdated language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 30, 2025, the FAR Council issued model deviation text for FAR Part 32 and corresponding provisions and clauses at FAR Part 52. Pursuant to the RFO, FAR Part 32 has been revised to simplify the Part, remove outdated information, and add a new subpart (and corresponding clause) for *Fast Payment Procedures* (previously at Subpart 13.4) for smaller dollar purchases.

Statutory requirements retained in the RFO FAR Part 32 model deviation include, but are not limited to, the following:

- 10 U.S.C. §§ 3801 et seq. and 41 U.S.C. §§ 4501 et seq., *Contract Financing*
- 31 U.S.C. § 1341, *Anti-Deficiency Act*
- 31 U.S.C. § 3324, *Advances*
- 31 U.S.C. § 3711, *Debt Collection Improvement Act of 1996*
- 31 U.S.C. § 3727 and 41 U.S.C. § 6305, *Assignment of Claims Act of 1940*
- 31 U.S.C. §§ 3901 et seq., *Prompt Payment Act*
- 50 U.S.C. §§ 4501 et seq., *Defense Production Act of 1950*
- Pub. L. 102-190 Sec 806 as amended (10 U.S.C. § 4601 note prec.), *Government-wide Application of Payment Protections for Subcontractors and Suppliers*

In addition, the following table provides a non-exhaustive list of non-statutory requirements that have been revised and retained, or removed from Part 32:

Change	Description
Retained	• Section 32.001, <i>Definitions</i> is retained with plain language updates. • Most provisions and clauses are retained (or remain reserved), except as noted in the “Moved / Updated” section below.
Moved / Updated	• Section 32.000, <i>Scope of Part</i>, is updated to include the statutory references for the Part, and adds “(k) Fast payment procedures” to correspond with the newly introduced Subpart 32.12. • Section 32.002, <i>Applicability of subparts</i>, adds reference to Subpart 32.12, <i>Fast Payment Procedure</i>. • Subpart 32.12, <i>Fast Payment Procedure</i>, formerly at Subpart 13.4, is added to the Part. This procedure is a method for expediting payments on certain small-dollar supply contracts where traditional receiving and acceptance processes are impractical. • The following clauses are updated for clarity, to mirror updates made throughout the Part, and/or to update cross-references or remove outdated content: ○ 52.232-3 (Clause), <i>Payments Under Personal Services Contracts</i>

	○ 52.232-12 (Clause), <i>Advance Payments</i>, including <i>Advance Payments Without Special Account</i> ○ 52.232-16 (Clause), <i>Progress Payments</i> ○ 52.232-20 (Clause), <i>Limitation of Cost</i> ○ 52.232-36 (Clause), <i>Payment by Third Party</i> • The following clause is added to the Part: ○ 52.232-90 (Clause), <i>Fast Payment Procedure</i> (previously at 52.213-1)
Removed	• Section 32.102, <i>Description of contract financing methods</i>, paragraph (d) is deleted and marked reserved. The content was largely explanatory, as the requirement to pay for accepted partial deliveries is a standard payment method governed by Prompt Payment rules in Subpart 32.9 and standard payment clauses, not a form of contract financing. See the FAR Companion for best practice. • Subpart 32.3, <i>Loan Guarantees for Defense Production</i>, sections 32.304 through 32.306 are deleted and marked reserved. These sections and associated subsections provided extensive procedural details for the loan guarantee program. While the program's authority remains in sections 32.302 and 32.303, the responsibility for implementation procedures is with the individual guaranteeing agencies and does not need to be outlined in detail in the FAR. • Subpart 32.4, <i>Advance Payments for Other Than Commercial Acquisitions</i>, Section 32.403 <i>Applicability</i> is deleted and marked reserved. The language provided a detailed list in paragraphs (a) through (h), of eight specific categories where advance payments might be appropriate. This served as illustrative guidance and a non-exhaustive checklist that is not based in statute or required in the FAR. See the FAR Companion for best practice.

Determination

In accordance with FAR 1.304 *Class deviations* (as implemented by DOE/NNSA class deviation) 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 32 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 32 and applicable sections of Part 52 (Attachment 3). Specifically, DOE/NNSA will use the RFO model deviation text for Part 32 in lieu of 48 Code of Federal Regulations (CFR) Part 32, and the RFO model deviation text for the applicable sections of Part 52 in lieu of the corresponding applicable sections at 48 CFR 52.232-1 through 52.232-40. 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 upon issuance, and will remain effective until cancelled or incorporated into the FAR.

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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 32 and 52 Model Deviation Text