

**CLASS DEVIATION
FINDINGS AND DETERMINATION
FEDERAL ACQUISITION REGULATION (FAR) PART 5 – PUBLICIZING CONTRACT
ACTIONS**

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 5 – Publicizing Contract Actions.
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”), 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:
 - Eliminate non-statutory language
 - Remove redundant or obsolete language
 - Enhance clarity through plain language
 - Align with the new FAR framework
 - Preserve essential 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 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 August 8, 2025, the FAR Council issued model deviation text for FAR Part 5 – Publicizing Contract Actions. FAR Part 5 is revised from a complex, topic-based structure to a streamlined, chronological process that mirrors the three main phases of an acquisition. The

revision uses tables to present information regarding content requirements and timing, a significant departure from the dense paragraphs of the original text. The new tables 5-1, 5-2, 5-3, and 5-4 explain posting requirements and timeframes.

Statutory requirements retained in the RFO FAR Part 5 model deviation include, but are not limited to, the following:

- 5 U.S.C. § 552, Public Information; Agency Rules, Opinions, Orders, Records, and Proceedings
- 15 U.S.C. § 637(e) and 41 U.S.C. § 1708, Procurement Notice
- 15 U.S.C. § 637(k), Notices of Subcontracting Opportunities
- 15 U.S.C. § 637b, Availability of Information
- 15 U.S.C. § 644, Awards or Contracts
- 44 U.S.C. §§ 3701-3703, Advertisements for Contracts
- Pub. L. 97-219, Small Business Innovation Development Act of 1982

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

Retained:

- Section 5.000 “Scope of Part” has been updated to specify that notices are posted in the Governmentwide Point of Entry (GPE). Section 5.001 “Definitions” retains and streamlines the definition of “Contract Actions” and adds definitions for “Notice” and “Presolicitation Notice”.
- Section 5.002 “Policy” retains the general purpose to increase competition and broaden industry participation. Language in this section has been revised from “assist small business concerns” to “inform small business concerns” of contract and subcontract opportunities.
- New subparts 5.1 “Presolicitation,” 5.2 “Solicitation,” and 5.3 “Award” create logical organization in alignment with the acquisition lifecycle, creating clear points of reference.
 - Content from the former Subparts 5.1 “Dissemination of Information,” 5.2 “Synopsis of Proposed Contract Actions,” and 5.3 “Synopsis of Contract Awards” is streamlined within the new subpart structure.
- New tables are added to section 5.101 “Presolicitation Notice” that provide greater readability. Specifically, Table 5-1 identifies presolicitation language regarding trade agreements and Table 5-2 clarifies minimum posting timeframes for presolicitation notices.
- Guidance for “Paid Advertisements” is moved from subpart 5.5 to the new section 5.102, and is significantly streamlined.
- Guidance on “Special Situations,” previously at 5.205, has been moved to the new section 5.103 “Special Notices” and is significantly streamlined, reflecting notices for Federal Funded Research and Development Centers (FFRDC), and consolidation, bundling, and substantial bundling.
- New tables are added to section 5.201 “Solicitation Notice” that provide greater readability. Specifically, Table 5-3 identifies minimum timeframes for receipt of quotations or offers, and Table 5-4 identifies minimum posting timeframes for award notices.

- Use of the word “synopsis” has been retained in the context of a combined synopsis/solicitation but has been removed elsewhere.

Removed:

- Subpart 5.4 “Release of Information” has been removed as largely duplicative of the general posting guidance throughout the part.
- Subpart 5.6 “Publicizing Multi-Agency Use Contracts,” which required agencies to enter information into a specific governmentwide database of contracts, has been removed as duplicative and outdated.
- Subpart 5.7 “Publicizing Requirements Under the American Recovery and Reinvestment Act of 2009 (ARRA)” has been removed because ARRA is no longer active.

There are no corresponding provisions or clauses associated with Part 5. Therefore, this class deviation does not affect any corresponding provisions or clauses at Part 52.

Determination

In accordance with FAR 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 Part 5, 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 5 (Attachment 3). Specifically, DOE/NNSA will follow the RFO model deviation text for Part 5 in lieu of 48 Code of Federal Regulations (CFR) Part 5. 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 Part 5 Model Deviation Text