

MKU-DEV-2025-49

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

DATE: December 2, 2025

SUBJECT: Class Deviations for FAR Part 42 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 42 for purposes of implementing the Federal Acquisition Regulatory Council's ("the Council's" or "RFO") model deviation text to FAR Part 42.
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 30, 2025, the FAR Council issued completed revisions for FAR Part 42, Contract Administration and Audit Services, and FAR Part 52 provisions and clauses. The updated text has been streamlined from 17 subparts to 13, and places more emphasis on contractor performance evaluations and using performance information throughout the acquisition lifecycle, not just for source selection information.

The update removes language limiting past performance information to future “source selection” purposes, and places an end date (April 1, 2026) on when evaluations should be marked as source selection.

This revision signals to acquisition teams that past performance information may be used throughout the acquisition lifecycle.

In addition, the deviated text makes certain permissive considerations during performance evaluations mandatory. For example, section 42.1503(b) previously suggested considerations to document on an evaluation report, but the deviated text (42.1103(b)) now states that these areas **must** be documented. This emphasizes the importance of documenting key information consistently.

Finally, the deviated text removes the limitation on evaluating performance on AbilityOne contracts (previously at 42.1502(h)). With removal of this limitation, contracting activities can now document performance evaluations for AbilityOne contractors, providing a useful tool to motivate good contract performance by AbilityOne contractors, and enabling high-performing AbilityOne contractors to use positive performance evaluations to compete for new opportunities.

Statutory requirements retained in the RFO FAR part 42 model deviation include, but are not limited to, the following:

- 10 U.S.C. §§ 3741 et seq and 41 U.S.C. §§ 4301 et seq, Allowable Costs
- 10 U.S.C. § 3841 and 41 U.S.C. § 4706, Contractor Audits and Accounting
- 11 U.S.C. §§ 501 et seq, Creditors and Claims
- 31 U.S.C. § 1535, The Economy Act
- 41 U.S.C. § 1126, Policy Regarding Consideration of Contractor Past Performance
- 41 U.S.C. § 1326, Requirements for Executive Agencies
- 41 U.S.C. § 2313, Database for Federal Agency Contract and Grant Officers and Suspension and Debarment Officials
- 41 U.S.C. § 3102, Delegation and Assignment of Powers, Functions, and Responsibilities
- 41 U.S.C. § 4504, Conditions for Progress Payments
- 41 U.S.C. § 6305, Assignment of Contracts Act

Change	Description
Retained	<ul style="list-style-type: none"> • Subpart 42.1, “Contract Audit Services,” is streamlined with plain language updates. • Subpart 42.2, “Contract Administration Services,” is streamlined with plain language updates. • Subpart 42.3, “Contract Administration Office Functions,” is retained. The list of 71 functions has been updated with plain language and revised cross-references to align with the new part structure.

	<ul style="list-style-type: none"> • Most provisions and clauses have been retained (or remain reserved) with no changes. The only exception is noted in the “Moved/Updated” section below.
Moved/Updated	<ul style="list-style-type: none"> • Subpart 42.4, “Corporate Administrative Contracting Officer,” is renumbered from subpart 42.6 and streamlined. • Subpart 42.5, “Indirect Cost Rates,” is renumbered from subpart 42.7 and streamlined. • Subpart 42.6, “Disallowance of Costs,” is renumbered from subpart 42.8 and streamlined. • Subpart 42.7, “Bankruptcy,” is renumbered from subpart 42.9 and streamlined. • Subpart 42.8, “Production Surveillance and Reporting,” is renumbered from subpart 42.11 and streamlined. • Subpart 42.9, “Novation and Change-of-Name Agreements,” is renumbered from subpart 42.12 and streamlined. • Subpart 42.10, “Suspension of Work, Stop-Work Orders, and Government Delay of Work,” is renumbered from subpart 42.13 and streamlined. • Subpart 42.11, “Contractor Performance Information,” is renumbered from subpart 42.15. The structure of the “policy” and “procedures” sections (formerly 42.1502 and 42.1503, now 42.1102 and 42.1103) has been substantially improved. The subpart uses more headings, numbered lists, and subparagraphs to break down complex requirements into more digestible components. <ul style="list-style-type: none"> ○ Subsection 42.1101 removes language limiting past performance information to future “source selection” purposes <ul style="list-style-type: none"> ▪ From: “Past performance information (including the ratings and supporting narratives) is relevant information, for future source selection purposes, regarding a contractor’s actions under previously awarded contracts or orders.” ▪ To: “Past performance information (including the ratings and supporting narratives) is relevant information, for future purposes, regarding a contractor’s actions under previously awarded contracts or orders.” ○ Subsection 42.1103(d)(4) provides an end date for marking performance evaluations as source selection. It now states, “Evaluations of contractor performance developed on contracts awarded prior to April 1, 2026 should be marked ‘Source Selection Information.’” This update emphasizes that past performance information is no longer limited only to future source selection purposes. ○ Subsection 42.1103(f) replaces the reference to FAPIIS (formally at 42.1503(g)) with the “responsibility/qualification

	<p>reports in the System for Award Management (SAM), at SAM.gov.”</p> <ul style="list-style-type: none"> • Subpart 42.12, “Small Business Contract Administration,” is renumbered from subpart 42.16 and streamlined. • Subpart 42.13, “Forward Pricing Rate Agreements,” is renumbered from subpart 42.17 and streamlined. • The following clause has been updated to align cross-references: <ul style="list-style-type: none"> ○ 52.242-3 (Clause), Penalties for Unallowable Costs • The FAR Companion is expected to include best practice information not required in the FAR, on the following content: <ul style="list-style-type: none"> ○ Uses of performance information ○ Interagency agreements ○ Cognizant federal agency ○ Contract administration functions ○ Contract correspondence ○ Visits to contractors’ facilities ○ Evaluation of contract administration functions ○ Postaward orientation ○ Selecting contracts for postaward orientation ○ Postward subcontractor conferences ○ Procedures, related to distribution of documentation of indirect contract rates ○ Production surveillance and reporting requirements ○ Evaluation of Federal Prison Industries (FPI) performance
Removed	<ul style="list-style-type: none"> • Former subparts 42.4, “Correspondence and Visits,” and 42.5, “Postaward Orientation,” are removed. Best practice content is expected to be moved to the FAR Companion. • 42.1502 paragraph (h) is removed to allow for past performance evaluations of AbilityOne.

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 42, the Udall Foundation shall follow the RFO Part 42 model deviation text instead of FAR Part 42 as codified at 48 CFR Chapter 42. The FAR Council’s RFO Part 42 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 42 model deviation text instead of FAR Part 42 as codified at 48 CFR Chapter 42 and the RFO Part 52 model deviation text of FAR Part 52 as codified at 48 CFR Chapter 42. The Council’s RFO Parts 42 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.