

**CLASS DEVIATION
FINDINGS AND DETERMINATION
FEDERAL ACQUISITION REGULATION (FAR) PART 49 - TERMINATION OF
CONTRACTS**

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 49 - *Termination of Contracts*, 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 - Remove duplicative or outdated language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 August 21, 2025, the FAR Council issued model deviation text for FAR Part 49. The RFO Part 49 model deviation text has been updated for clarity and usability. Statutory requirements retained in the RFO Part 49 model deviation include, but are not limited to, the following:

- 31 U.S.C. § 3729, *False Claims*
- 41 U.S.C. §§ 7101 et seq. (Pub. L. 95-563), *The Contract Disputes Act* of 1978

In addition, the following table provides a non-exhaustive list of non-statutory requirements that have been revised and retained, or removed from Part 49:

Change	Description
Retained	• Section 49.000, <i>Scope of Part</i>, is simplified and retains the core scope of establishing policies and procedures for terminating contracts early. • Section 49.001, <i>Definitions</i>, is retained and updated for plain language. • Section 49.002, <i>Applicability</i>, is retained and updated for plain language with a simpler structure. • Subparts 49.1, 49.2, 49.3, 49.4, 49.5, 49.6 and the sections therein, remain mostly intact and are streamlined with some shifting and reorganizing of sections and subsections throughout.
Removed	• Plain language edits were made throughout to enhance readability and remove redundant, unclear, or non-essential language, decreasing the word count by more than 2,500 words. • Subsection 49.108-7, <i>Government assistance in settling subcontracts</i>, Section 49.113, <i>Cost principles</i>, and Section 49.405, <i>Completion by another contractor</i>, have been removed and may be moved to non-regulatory content.

RFO Part 49 did not result in any changes to corresponding clauses in Part 52, which are retained (or remain reserved if previously reserved) with no changes to the text.

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 Part 49, 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 49 and

applicable sections of Part 52 (Attachment 3). Specifically, DOE/NNSA will use the RFO model deviation text for Part 49 in lieu of 48 Code of Federal Regulations (CFR) Part 49, and the RFO model deviation text for the applicable sections of Part 52 in lieu of the corresponding applicable sections at 48 CFR 52.249-1 through 52.249-14. 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.

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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 49 and 52 Model Deviation Text