



# UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF FINANCE AND OPERATIONS

September 29, 2025

## ACQUISITION ALERT 2025-37

TO: Heads of Contracting Activities

FROM: Calvin J. Mitchell Jr.  
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Senior Procurement Executive

SUBJECT: FAR Class Deviation for FAR Part 44

- 1. Purpose.** This Acquisition Alert (AA) adopts a class deviation to Federal Acquisition Regulation (FAR) Part 44 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR Part 44.
- 2. Background.** On April 15, 2025, the Executive Order (E.O.) 14275 on Restoring Common Sense to Federal Procurement was signed. Section 2 of the E.O. establishes 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." On May 31, 2025, the enclosed class deviation was issued for the use of all Revolutionary FAR Overhaul (RFO) model deviation texts and corresponding EDAR deviations.
- 3. Summary of Changes.** FAR Part 44, Subcontracting Policies and Procedures, has been updated to create a more agile, risk-based, and efficient system that empowers contracting officers, reduces administrative burdens on contractors, and encourages broader participation from the commercial sector.

Statutory requirements retained in the RFO FAR Part 44 model deviation include, but may not be limited to, the following:

- 10 U.S.C. § 3322(c) and 41 U.S.C. § 3905(c), Advance Notice of Certain Subcontracts
- 41 U.S.C. § 3307, Preference for Commercial Products and Commercial Services

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Change	Description
Retained	<ul style="list-style-type: none"> <li>● The revised part <b>structure consolidates</b> relevant guidance into <b>process-oriented</b> subparts: <ul style="list-style-type: none"> <li>○ Subpart 44.1 - <b>Reserved</b></li> <li>○ Subpart 44.2 - <b>Evaluation and Award</b></li> <li>○ Subpart 44.3 - <b>Postaward</b></li> <li>○ Subpart 44.4 - <b>Subcontracts for Commercial Products and Commercial Services</b></li> </ul> </li> <li>● <b>Most of the “Definitions”</b>, now at section 44.001 are <b>retained</b> with only minor, non-substantive wording changes, with the exception of “approved purchasing system”. This definition can still be found at clause 52.244-2.</li> <li>● Subpart 44.2 has been significantly streamlined to <b>consolidate policies related to subcontract consent, advance notification, and the contracting officer's evaluation process</b>. <ul style="list-style-type: none"> <li>○ The previous section 44.202-2(a) contained a detailed, 13-point checklist of considerations that the contracting officer was required to consider "at a minimum" for every consent request. Now, the new 44.201-3(b) provides a shorter, higher-level list of four situations that necessitate "careful and thorough review and consideration" of the request to subcontract.</li> <li>○ Note that the FAR Companion Guide is expected to provide additional guidance on notice and consent best practices for commercial time and materials contracts.</li> </ul> </li> <li>● Subpart 44.3 is <b>reorganized and streamlined</b> into five subsections (from seven separate sections): <ul style="list-style-type: none"> <li>○ 44.301-1 Objective</li> <li>○ 44.301-2 Requirements</li> <li>○ 44.301-3 Responsibilities for granting, withholding or withdrawing approval</li> <li>○ 44.301-4 Notice</li> <li>○ 44.301-5 Withholding or withdrawing approval</li> </ul> </li> <li>● Section 44.402 now breaks down “<b>Requirements</b>” into three distinct categories that improve readability: <ul style="list-style-type: none"> <li>○ <b>Preference</b> (for commercial products and services)</li> <li>○ <b>Flowdown</b> (rules for flowing down clauses)</li> <li>○ <b>Inapplicable laws</b> (laws that do not apply to commercial products and services)</li> </ul> </li> <li>● The following <b>clauses are retained</b> (or remain reserved if previously reserved) <b>with no changes to the text</b>. <ul style="list-style-type: none"> <li>○ 52.244-1 Reserved</li> <li>○ 52.244-2 Subcontracts</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ 52.244-3 Reserved</li> <li>○ 52.244-4 Subcontractors and Outside Associates and Consultants (Architect-Engineer Services)</li> <li>○ 52.244-5 Competition in Subcontracting</li> <li>● The following <b>clause is retained, with streamlining updates</b> to reflect other RFO changes and references. <ul style="list-style-type: none"> <li>○ 52.244-6 Subcontracts for Commercial Products and Commercial Services</li> </ul> </li> </ul>
<b>Removed</b>	<ul style="list-style-type: none"> <li>● The use of <b>Administrative Contracting Officer (ACO)</b> is no longer used as a designation. The part now reflects “Contracting Officer” where ACO was previously shown.</li> <li>● The <b>requirements for Contractor Purchasing System Reviews (CPSR) are significantly streamlined</b> to remove overly prescriptive conditions. <ul style="list-style-type: none"> <li>○ “Extent of Review”, with its 11 special attention areas, is removed (former section 44.303).</li> <li>○ “Reports”, with its distribution requirements, is removed (former section 44.307).</li> </ul> </li> </ul>

This table is not an exhaustive list.

#### 4. Instructions.

- The Department of Education’s acquisition workforce shall follow the RFO Part 44 and corresponding 52 model deviation text instead of FAR Part 44 and 52 as codified at 48 CFR Chapter 1. The Council’s RFO Part 44 model deviation text is available at <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-44> and is incorporated into this class deviation. There is no EDAR Part 3444 and therefore no corresponding changes to EDAR are necessary.
- For new solicitations or contracts, when using any provisions or clauses that have been revised, utilize the RFO model deviation language at <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-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.
- Review templates and related standard operating procedures to align with this deviation and remove unnecessary processes and steps.

5. **Training.** Acquisition Professionals are highly encouraged to complete “Practitioner Album: FAR Part 44 - Subcontracting Policies and Procedures” at [https://www.acquisition.gov/sites/default/files/practitioner\\_albums/far-part-44-](https://www.acquisition.gov/sites/default/files/practitioner_albums/far-part-44-)

[subcontracting-policies-and-procedures/content/index.html#/](#) within 30 days. Please complete the Practitioner Album and mark “yes” under the completion attestation within FAI CSOD.

6. **Effective Date.** This class deviation to FAR Part 44 is effective November 3, 2025 and remains in effect until rescinded or incorporated into the FAR.
7. **Points of Contact.** Direct questions regarding this class deviation to your respective policy points of contact.
8. **Enclosure.** Determination and Findings - Class Deviation for the Revolutionary FAR Overhaul

**DETERMINATION AND FINDINGS**  
Department of Education, All Contracting Activities  
Class Deviation for the Revolutionary FAR Overhaul

This approves a class deviation to all Federal Acquisition Regulation (FAR) and Department of Education Acquisition Regulation (EDAR) parts for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text.

**Findings**

On April 15, 2025, the Executive Order (E.O.) 14275 on Restoring Common Sense to Federal Procurement was signed. Section 2 of the E.O. establishes 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."

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

This project is referred to as the Revolutionary FAR Overhaul (RFO) initiative.

In explaining the Federal Acquisition System, the RFO FAR Part deviation text establishes bedrock principles. Most centrally, it sets a "mission first" message at the top of the guiding principles. The RFO model deviation also increases the emphasis on the best use of taxpayer dollars and calls out the value of time as another guiding principle. Additionally, it retains a focus on satisfying the customer, maximizing use of commercial products and services, promoting competition, and encouraging innovation.

The FAR Council Deviation guidance allows for agencies to deviate agency acquisition regulation supplements as it relates to the RFO.

**Determination**

In accordance with FAR 1.404 and EDAR 3401.404, I hereby issue a class deviation for the use of all RFO model deviation texts and corresponding EDAR deviations. The adoption date for each RFO part model deviation text will be the date of the corresponding Acquisition Alert. EDAR deviation texts may be issued in a separate Acquisition Alert. All Department of Education contracting activities must follow the RFO model deviation texts instead of the FAR Parts codified at 48 CFR. Should the language of the RFO FAR contradict any statutorily granted procurement authorities to the Department of Education including the Office of Federal Student Aid, the statutorily granted authorities prevail.

In the unlikely event that the Department wishes to vary from a RFO model deviation text, a separate deviation will be issued. This class deviation will remain in effect until incorporated into the FAR, EDAR or rescinded.

**RICHARD LUCAS** Digitally signed by RICHARD LUCAS  
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Richard Lucas

Date

Acting Chief Acquisition Officer (CAO)