

**CLASS DEVIATION
FINDINGS AND DETERMINATION
FEDERAL ACQUISITION REGULATION (FAR) PART 19 - SMALL BUSINESS
(formerly SMALL BUSINESS PROGRAMS)**

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 19 - *Small Business* (formerly *Small Business Programs*), 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 - Remove duplicative or outdated language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 26, 2025, the FAR Council issued model deviation text for FAR Part 19 and corresponding provisions and clauses at FAR Part 52. FAR Part 19 is streamlined and emphasizes the importance of small businesses in Federal procurement by making the regulations clearer, more intuitive, and easier for the acquisition workforce to implement. The deviated text preserves the most substantive requirements while reorganizing them to align with the acquisition lifecycle.

The Part reinforces that it is the Government’s policy to provide maximum practicable opportunities in its acquisitions to small business, 8(a) participants, and other small business socioeconomic categories (i.e., veteran-owned small business (VOSB), service-disabled veteran-owned small business (SDVOSB), HUBZone small business, small disadvantaged business, and women-owned small business concerns (WOSB)).

For contracts, it keeps the rule of two (meaning contracting officers must set aside requirements when there are two or more small businesses identified who can provide the supplies or service) above the micro-purchase threshold. The rule of two is required by statute between the micro-purchase threshold and the simplified acquisition threshold. The FAR Council retained the rule of two above the simplified acquisition threshold as essential to sound procurement.

Other revisions include:

- Discretion for Contracting Officers. The deviated text clarifies that a contracting officer’s decision to set aside or not set aside an order placed under a multiple-award contract is an exercise of discretion and not a basis for a protest.
- Removing rerepresentation requirements when ordering off an existing contract. Agency small business credit is driven by the size determination made by the contracting officer at the contract level, and updated when certain contract level events take place (e.g., option exercise, novation).
- Competing 8(a) orders. Where an acquisition is below the competitive threshold (see 19.108-7(a)(2)), contracting officers must first try conducting the acquisition as a competitive 8(a) order using Small Business Administration (SBA)-approved government-wide contracts before proceeding with a sole source 8(a) award.
- Automatic 8(a) release. A requirement is automatically released from the 8(a) program if the follow-on will be set aside under the HUBzone, SDVOSB, or WOSB programs.

Statutory requirements retained in the RFO FAR Part 19 model deviation include, but are not limited to, the following:

- 10 U.S.C. § 3203 and 41 U.S.C. § 3303, *Exclusion of Particular Source or Restriction of Solicitation to Small Business Concerns*
- 15 U.S.C. §§ 631-657u, *Small Business Act*

- 41 U.S.C. § 3104, *Small Business Concerns*

In addition, the following table provides a non-exhaustive list of non-statutory requirements that have been revised and retained, or removed from Part 19:

Change	Description
Retained	• The following provision and clauses are retained (or remain reserved) with no changes: ○ 52.219-5, Reserved ○ 52.219-7 (Clause), <i>Notice of Partial Small Business Set-Aside</i> ○ 52.219-11 (Clause), <i>Special 8(a) Contract Conditions</i> ○ 52.219-12 (Clause), <i>Special 8(a) Subcontract Conditions</i> ○ 52.219-13 (Clause), <i>Notice of Set-Aside of Orders</i> ○ 52.219-15, Reserved ○ 52.219-17 (Clause), <i>Section 8(a) Award</i> ○ 52.219-18 (Clause), <i>Notification of Competition Limited to Eligible 8(a) Participants</i> ○ 52.219-19 through 52.219-26, Reserved ○ 52.219-31 (Provision) <i>Notice of Small Business Reserve</i>
Moved / Updated	• FAR Part 19 was retitled from <i>Small Business Programs</i> to <i>Small Business</i>. • Throughout the Part, references to the Dynamic Small Business Search (DSBS) site were updated to the Small Business Search (SBS) website at https://search.certifications.sba.gov/. • 19.000, <i>Scope of part</i>, is updated to remove unnecessary citations and content. • 19.001, <i>Definitions</i>, is retained and has been updated to include numerous definitions that were previously spread throughout the part. Most of the definitions have been retained with no, or only minor edits. The only exception is the definition of “Similarly situated entity” which has been removed from this section and is retained only within clause 52.219-14, <i>Limitations on Subcontracting</i>. • The revised Part structure now reflects the acquisition lifecycle: ○ Subpart 19.1 - <i>Presolicitation</i> ○ Subpart 19.2 - <i>Evaluation and Award</i> ○ Subpart 19.3 - <i>Postaward</i> • Subpart 19.1, <i>Presolicitation</i>, consolidates all policies and procedures applicable before issuance of a solicitation, creating a single point of reference for acquisition planning and market research. ○ 19.101, <i>Small business goals</i>, is new and serves as an introduction to the Government’s small business policy and the tools available to achieve agency small business goals.