



PROCUREMENT MEMORANDUM 2025-02 (REVISED)

ACTION

MEMORANDUM FOR: Senior Bureau Procurement Officials

FROM: Olivia J. Bradley
Senior Procurement Executive and
Director for Acquisition Management

SUBJECT: Federal Acquisition Regulation (FAR) Class Deviation Regarding
Executive Orders 14173 and 14168 (REVISED)

Background

Executive Order 14168, *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, was issued on January 20, 2025, and requires that “[a]gencies shall remove all statements, policies, regulations, forms, communications, or other internal and external messages that promote or otherwise inculcate gender ideology, and shall cease issuing such statements, policies, regulations, forms, communications or other messages.” The term “gender identity” is currently used in FAR 22.801 and the clauses at FAR part 52.

Executive Order 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity*, was issued on January 21, 2025, and revoked Executive Order 11246, *Equal Employment Opportunity*. Several FAR provisions promulgated to enforce Executive Order 11246 are not consistent with the direction of the President (see FAR subpart 22.8 and associated provisions and clauses as prescribed at FAR 22.810).

Purpose

This class deviation is issued in accordance with FAR 1.404 and pursuant to Civilian Agency Acquisition Council (CAAC) Letter 2025-01 Supplement 1 to provide contracting officers with revised FAR language, clauses, prescriptions, and alternates to accommodate the requirements of Executive Orders 14173 and 14168. This policy is revised to reverse the removal of FAR clause 52.222-9, *Apprentices and Trainees*. Only paragraph (c) of the clause is removed. Attachment A (REVISED) is revised to reflect the changes.

Required Actions

Effective immediately, contracting officers shall comply with the deviated FAR text found in Attachment A (REVISED) and insert the deviated FAR clauses, provisions, and their alternates in lieu of the existing FAR clauses and provisions.

A. When issuing new solicitations or contracts, contracting officers shall not include any of the following provisions and clauses:

- 52.222-21, Prohibition of Segregated Facilities
- 52.222-22, Previous Contracts and Compliance Reports
- 52.222-23, Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity for Construction
- 52.222-24, Preaward On-Site Equal Opportunity Compliance Evaluation
- 52.222-25, Affirmative Action Compliance
- 52.222-26, Equal Opportunity
- 52.222-27, Affirmative Action Compliance Requirements for Construction
- 52.222-29, Notification of visa denial

- i. Any open solicitations that contain any of the provisions or clauses listed above shall be amended to remove the provisions and clauses.
- ii. Contracting officers are strongly encouraged to amend existing contracts to remove any of the provisions or clauses listed above as soon as practicable and are required to remove them when extending, renewing, or exercising an option on an existing contract.

B. When issuing new solicitations or contracts, contracting officers shall include the following provisions and clauses, if applicable:

- 52.204-8, Annual Representations and Certifications (JAN 2025) (DEVIATION FEB 2025)
- 52.212-3, Offeror Representations and Certifications—Commercial Products and Commercial Services (MAY 2024) (DEVIATION FEB 2025)
- 52.212-5, Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services (JAN 2025) (DEVIATION FEB 2025)
- 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services) (JAN 2025) (DEVIATION FEB 2025)
- 52.222-9, Apprentices and Trainees (JUL 2025) (DEVIATION FEB 2025)
- 52.244-6, Subcontracts for Commercial Products and Commercial Services (JAN 2025) (DEVIATION FEB 2025)

- i. Any open solicitations shall be amended to include these required provisions and clauses.

- ii. Contracting officers are strongly encouraged to amend existing contracts to include these required provisions and clauses as soon as practicable and are required to include them in existing contracts when extending, renewing, or exercising an option on an existing contract, as applicable.

C. When issuing new solicitations, contracting officers shall include the following notice:

“System updates may lag policy updates. The System for Award Management (SAM) may continue to require entities to complete representations based on provisions that are not included in agency solicitations. Examples include 52.222-25, Affirmative Action Compliance, and paragraph (d) of 52.212-3, Offeror Representations and Certifications—Commercial Products and Commercial Services. Contracting officers will not consider these representations when making award decisions or enforce requirements. Entities are not required to, nor are they able to, update their entity registration to remove these representations in SAM.”

Effective Date

This deviation is effective immediately, and remains in effect until rescinded or incorporated into the FAR.

Questions

Please direct any questions regarding this Procurement Memorandum to OAM_Mailbox@doc.gov.

Attachment A (REVISED) – FAR Deviation Text