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Editorial Office

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Articles and Submissions

Direct editorial inquiries and send material for publication to:

Steven A. Meyerowitz, Editor-in-Chief, Meyerowitz Communications Inc., 26910 Grand Central Parkway, #18R, Floral Park, NY 11005, smeyerowitz@meyerowitzcommunications.com, 631.291.5541.

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FAR Council Begins Rulemaking to Implement FAR Overhaul, Proposing Revisions to 20 FAR Parts

Kara M. Sacilotto, Tracye Winfrey Howard, and Cara L. Sizemore*

In this article, the authors review four proposed rules issued recently by the Federal Acquisition Regulatory Council to implement Executive Order 14275, Restoring Common Sense to Federal Procurement.

The Federal Acquisition Regulatory (FAR) Council has issued the first four proposed rules to implement Executive Order (EO) 14275, Restoring Common Sense to Federal Procurement, covering 20 parts of the FAR, including the related clauses and forms in Parts 52 and 53.[1] The FAR Council intends to issue a total of 12 proposed rules that collectively will revise the entire FAR. This formal notice-and-comment rulemaking represents Phase Two of the "Revolutionary FAR Overhaul" (RFO)[2] process that began in 2025, when the FAR Council issued a series of model class deviations to the FAR that virtually all federal agencies have adopted.

The proposed rules incorporate and build on general changes from the RFO class deviations, such as reorganizing the FAR Parts to follow the phases of the acquisition process, revising text to use plain language, and relocating examples of best practices and non-statutory requirements from the FAR to non-regulatory guidance documents, including the FAR Companion.[3] As discussed below, however, the proposed rules go well beyond the revisions in the class deviations.

Substantive changes include the expansion of FAR Part 40 to include the 2025 proposed rule on contractor access to and use of Controlled Unclassified Information (CUI), revisions to the 2019 and 2020 interim rules implementing prohibitions on provision and use of certain telecommunications equipment and services under Section 889 of the National Defense Authorization Act (NDAA) for Fiscal Year 2019, and revisions to the RFO class deviation text itself. Each proposed rule also proposes updates to the associated

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FAR Part 52 clauses and identifies in a table those associated clauses that should be included or excluded from commercial products and services contracts, as well as those to be flowed down to commercial products and services subcontracts.

Finally, in addition to updating clauses relevant to changes in the substantive FAR parts, each proposed rule notes that the FAR Council is considering renumbering and relocating all clauses to a new subpart in Part 52. If implemented, all clauses in the overhauled FAR would be located in Subpart 52.4, and clause numbers would begin with 52.4 rather than 52.2 as in the current FAR. The FAR Council believes this change would prevent confusion by clearly distinguishing between clauses under the old and overhauled versions of the FAR, and it encouraged submission of comments on how this change might affect contractors and the government.

Deadlines

The proposed rules were published in the Federal Register on June 23, 2026, and public comments were due 30 days after publication (July 23, 2026). The proposed rules do not state when the FAR Council expects to issue final rules or when those final rules will become effective. The shortened comment period indicates the FAR Council intends to move quickly, and the final rules are widely expected to take effect in 2026.

What It Means for Contractors

If implemented, the proposed rules would significantly change contractors' obligations and agencies' procedures. Contractors should understand the substantive changes that are being proposed and begin preparing for their implementation. An overview of key revisions in each proposed rule is below.

FAR Case 2026-001 addresses the overhaul of FAR Parts 1, 2, 4, 33, 39, 40, and 53, along with the related clauses in Part 52.

- For FAR Part 1, which addresses the administration of the FAR system, the proposed rule includes some noteworthy revisions in addition to those in the class deviation. The proposed rule for the first time explains how the FAR Council intends to implement the EO's direction that non-statutory requirements must sunset after five years. Under FAR 1.109, the FAR Council will periodically seek public input through the rulemaking process on provisions and clauses that are not required by statute or EO and whether they should be allowed to expire. The provisions and clauses will remain in effect unless and until they are removed by rulemaking, and clauses incorporated into contracts will remain in effect until removed by a modification unless the FAR Council publishes a notice in the Federal Register that a clause will no longer be enforced. The proposed rule also eliminates FAR Part 53 in its entirety and relocates all information related to forms from Part 53 to FAR Subpart 1.6. The forms would be maintained on the FAR website (https://acquisition.gov/FARforms) rather than in the FAR itself so that rulemaking is not required to update the forms.

- As in the class deviations, the proposed rule relocates requirements related to security and supply chain restrictions from Part 4 to the expanded Part 40. The remaining provisions in Part 4 reduce the certifications and representations that contractors must make in the System for Award Management.
- Proposed FAR Part 33 continues the efforts from the class deviation to enhance the agency-level protest process. Contracting officers must report agency protests to the head of the contracting activity so that agency leadership can track protests and capture relevant data. When a protester requests review of a protest at a level above the contracting officer, the agency is authorized to provide the protester a redacted copy of its evaluation and the source selection decision. Protesters will also have the ability to raise additional protest arguments.
- The proposed rule continues the expansion of FAR Part 40 and consolidation of supply chain restrictions and prohibitions that began in the class deviations, including the reorganization of Part 40 into three subparts on Processing Supply Chain Risk Information, Security Prohibitions and Exclusions, and Safeguarding Information. It also incorporates seven open FAR cases related to proposed or interim rules for which the FAR Council previously received public comments: Controlled Unclassified Information (CUI),

Section 889 Part A, Section 889 Part B, Federal Acquisition Supply Chain Security Act (FASCSA), Implementation of FASCSA Orders, Prohibition on a ByteDance Covered Application (TikTok), and Prohibition on Unmanned Aircraft Systems from Covered Foreign Entities (American Security Drone Act). The proposed rule incorporates revisions to the previous proposed and interim rules to reflect public comments, including revisions to definitions related to Section 889, standardization of definitions and reporting timelines (72 hours) across the restrictions and requirements, and deletion of proposed clause FAR 52.240-YY, Identifying and Reporting Information That Is Potentially Controlled Unclassified Information, from the CUI proposed rule.

FAR Case 2026-002 includes the overhaul of Parts 6, 7, 10, 18, 26, 37, 41, and the relevant clauses in FAR Part 52.

- Proposed FAR Part 6 retains the streamlining and reorganizing from the deviation text, with further proposed organizational changes. Most notably, in discussing the bases for awarding without full and open competition, the proposed rule includes a "limitation" section for each, as well as a "justification" section that describes the relevant justification and approval requirements. Further, the proposed rule significantly increases approval authorities for sole source awards from the U.S. Department of Defense (DOD), National Aeronautics and Space Administration (NASA), and the Coast Guard to align with the Fiscal Year 2026 NDAA. Under the proposed rule, a DOD, NASA, or Coast Guard contracting officer can approve sole source awards up to $10 million. By contrast, contracting officers for other agencies can approve sole source awards only up to $900,000.
- Proposed FAR Part 7 is also rearranged from the deviation text, primarily to incorporate into Subpart 7.2 the market research requirements previously found in FAR Part 10 (Part 10 will then be reserved). The FAR Council noted that combining these two parts "creates a more logical and cohesive structure … and cements market research as essential to the acquisition planning process." FAR Part 7 also includes a new section about engagement

with industry and encourages the use of draft requests for proposals and requests for information. Additionally, FAR Part 7 includes new language that requires agencies to consider the capabilities of domestic sources as part of acquisition planning.

- FAR Part 26 retains much of the deviation text and organization. The proposed rule revises FAR Part 26 to include requirements for emergency acquisition previously found in FAR Part 18, now in Subpart 26.2 and a website link in lieu of static text (Part 18 will then be marked reserved).
- There are few changes to proposed FAR Part 37 from the deviated text. Organizationally, FAR Part 37 has been updated to include a discussion of inherently governmental functions that was previously found in FAR Part 7. The FAR Council explained that this change "creates a logical home for this service-specific requirement." Additionally, the definition of "service contract" was updated from the deviation text to make it clear that a "service contract" is a contract in which the primary purpose is "obtaining services."
- In proposed FAR Part 41, the FAR Council has further refined the definition of "utility services" from the deviated text to make clear what is not a utility service. The proposed rule also clarifies that GSA does not have to execute a bilateral written contract with specific clauses when acquiring utility services from a regulated utility service provider.

FAR Case 2026-005 includes the overhaul of Parts 5, 24, 29, and the associated FAR Part 52 clauses.

- FAR Part 5 is mainly reorganized to align with the life cycle of an acquisition, consistent with the deviation text previously proposed. As with the deviation text, the proposed rule eliminates original FAR Subparts 5.4, 5.6, and 5.7. The proposed rule takes the streamlining a step further by removing all requirements related to commercial product and service acquisitions and consolidating them in Part 12 to eliminate confusion. Text relating to posting requirements and minimum time frames are in Tables 5-1 through 5-4, similar to the deviation text, but with modifications to those tables to remove references to commercial product or service acquisitions. The proposed rule also modifies the deviation text of FAR 5.302 with respect to public announcement of awards over $5.5 million, making the announcement permissive rather than mandatory; posting on the official "government point of entry" under overhauled FAR 5.301 is not affected.

- Proposed FAR Part 24 removes duplicative text about Privacy Act training, consistent with the deviation text. Proposed FAR 24.102, General, which describes contractor and agency liability for violations of the Privacy Act, has been revised from the deviation text. The most notable revision is with respect to FAR 24.102(c), which clarifies that if an agency fails to require a contractor to operate a "system of records" in accordance with the Privacy Act, and an individual is harmed due to the contractor's violation of the Act, "the agency may be liable" and "[t]his provision does not apply to contractors performing design, development, or other activities that do not involve operating a system of records on behalf of the agency." According to the drafters, this revision clarifies "the scope of civil liability when contractors handle systems of records" and "eliminates ambiguity regarding contractors performing design, development, or other activities that do not involve operating such systems."
- FAR Part 29 has minor changes from the deviation text. Citations to tax laws are clarified in FAR 29.201, the definition of "state and local taxes" is moved from Part 2 to proposed Subpart 29.3 because it is only used in Part 29, and FAR 29.304(b) is revised to note that a Government Purchase or Fleet Card is acceptable evidence of exemption from state or local taxes.

FAR Case 2006-007 addresses the overhaul of FAR Parts 3 and 49 as well as the FAR Part 52 clauses associated with those parts.

- The changes to FAR Part 3 are primarily stylistic and streamlining, consistent with the overhaul's goal of using plain language, removing informational guidance that is not required by law, and removing outdated or duplicative text. The FAR Council proposes to revise the deviation text for FAR 3.104-4(d) to augment and clarify the process to follow when the contracting officer believes a contractor has improperly marked material as proprietary information, contractor bid or proposal information, or under FAR 52.215-1(e) (Restriction on disclosure and use of data).

- The proposed changes to FAR Part 49 are more substantive, particularly in the area of terminations for convenience. The proposed rule revises the FAR to replace the mandatory termination settlement proposal audit requirement for proposals at or above the certified cost or pricing data threshold to a permissive risk-based approach, whereby the termination contracting officer determines if audit support is warranted based on the facts and the risk of the settlement proposal instead of a dollar threshold. In addition, the proposed rule adopts a much more accelerated timeline for submission of termination settlement inventory schedules and proposals. The timeline for submission of inventory schedules would be cut in half from 120 days to 60 days, with any extension request due within 30 days of the termination notice instead of 120 days. The deadline for submission of termination settlement proposals would be cut from one year to 90 days, with an extension request due within 60 days instead of one year.

Notes

* The authors, attorneys with Wiley Rein LLP, may be contacted at ksacilotto@wiley.law, twhoward@wiley.law, and csizemore@wiley.law, respectively.

1. The proposed rules can be found https://www.federalregister.gov/documents/2026/06/23/2026-12559/federal-acquisition-regulation-revolutionary-federal-acquisition-regulation-overhaul-parts-1-2-4-33, https://www.federalregister.gov/documents/2026/06/23/2026-12560/federal-acquisition-regulation-revolutionary-federal-acquisition-regulation-overhaul-parts-6-7-10-18, https://www.federalregister.gov/documents/2026/06/23/2026-12561/federal-acquisition-regulation-revolutionary-federal-acquisition-regulation-overhaul-parts-5-24-and, and https://www.federalregister.gov/documents/2026/06/23/2026-12562/federal-acquisition-regulation-revolutionary-federal-acquisition-regulation-overhaul-parts-3-and-49.

2. https://www.acquisition.gov/far-overhaul.

3. https://www.acquisition.gov/sites/default/files/page_file_uploads/far-companion.pdf.