

**CLASS DEVIATION
FINDINGS AND DETERMINATION
DEPARTMENT OF ENERGY ACQUISITION REGULATION (DEAR) PART 915 -
CONTRACTING BY NEGOTIATION**

Findings

1. The objective of this class deviation is to update the Department of Energy Acquisition Regulation (DEAR) part 915 - *Contracting by Negotiation* to implement the changes to the Federal Acquisition Regulation (FAR) part 15 - *Contracting by Negotiation* by the Federal Acquisition Regulatory Council (FAR Council) through the Revolutionary FAR Overhaul (RFO) initiative and make other deregulatory revisions to DEAR part 915 pursuant to Executive Order (E.O.) 14275, *Restoring Common Sense to Federal Procurement*.
2. On April 15, 2025, President Donald J. Trump issued 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 FAR Council. The goal is to refocus 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 - Remove duplicative or outdated language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 implement enterprise deregulation as follows: Phase one, FAR Council deviation guidance, and phase two, formal rulemaking. During phase one, the FAR Council issued plain language model deviation text for all applicable FAR parts.

4. On September 30, 2025, the FAR Council issued model deviation text for FAR part 15 and the corresponding sections of FAR part 52, which the Department of Energy (DOE) and the National Nuclear Security Administration (NNSA) adopted through a class deviation (Attachment 3), issued via Policy Flash 2026-20 on January 2, 2026.
5. DOE, including NNSA, is implementing E.O. 14275 and the related FAR revisions from the RFO through updates to its FAR supplement (the DEAR) via class deviations. These

class deviations update FAR references in the DEAR, and make additional substantive changes, when necessary, driven by the RFO revisions to the relevant FAR parts and the requirements of E.O. 14275 and OMB Memorandum M-25-26.

During phase one of the RFO – when the FAR is updated via class deviations incorporating the RFO model text – the DEAR will not be updated to align with the new FAR numbering structure. Once the RFO revisions to the FAR are finalized through formal rulemaking, the DEAR will be updated through formal rulemaking to align with the revised FAR numbering structure.

6. Accordingly, DEAR part 915 is revised to update internal references following the RFO, as implemented by DOE/NNSA class deviation, and make plain language edits to improve readability, including changes to the active voice. The plain language edits are not intended to change existing DEAR requirements, but rather to improve clarity pursuant to the federal plain language guidelines as directed by the Plain Writing Act of 2010 (Pub. L. 111-274). Additionally, the DEAR is revised to replace the term “shall” with “must” or “will,” to impose requirements.

Specifically, DEAR part 915 is updated to:

- a. Add new section 915.000 *Scope* to provide a notation that all references within part 915 are to be read as implemented through the DOE and NNSA class deviations that implemented the RFO at DOE and NNSA. This avoids having to reference the DOE/NNSA class deviations after every FAR reference, which breaks up the sentence structure, disrupts flow, and reduces readability.
- b. Delete the content and mark as reserved section 915.200 *Scope of subpart* because it is unnecessary to state the inapplicability of the subpart to certain subjects (e.g., Program Opportunity Notices for Commercial Demonstrations) when those subjects are covered elsewhere.
- c. Delete the content and mark as reserved section 915.201 *Exchanges with industry before receipt of proposals* because Head of the Contracting Activity approval of solicitations for planning purposes is not statutorily based or required by the principles of sound procurement as it is counter to the policy of empowering contracting officers with greater discretion and responsibility.
- d. Section 915.207-70 *Handling proposals and information during evaluation*, delete paragraphs (a) through (e) since these requirements are adequately addressed at FAR 3.104 *Procurement integrity*.
- e. Section 915.207-70 *Handling proposals and information during evaluation*, delete paragraph (g) because these requirements are adequately addressed at FAR subpart 24.2 - *Freedom of Information Act*.
- f. Delete the content and mark as reserved section 915.305 *Proposal evaluation* because these requirements are adequately addressed at DEAR 915.207-70 *Handling proposals and information during evaluation*.
- g. Reserve subpart 915.3 *Source Selection* because the section under it is deleted pursuant to 6.f. above.
- h. Delete the content and mark as reserved section 915.404-2000 *Information to support proposal analysis* because the content in this section is not statutorily

based or required by the principles of sound procurement as it is procedural in nature, better suited for non-regulatory guidance. In addition, the subject is adequately addressed at FAR 15.406.

- i. Delete the content and mark as reserved section 915.404-2700 *Audit as an aid in proposal analysis* because the content in this section is not statutorily based or required by the principles of sound procurement as the guidance is counter to the requirements at FAR 15.406, which gives contracting officers discretion regarding requesting audit assistance, whereas this section requires contracting officers to request audit support (subject to certain requirements related to contract type and dollar value) or obtain a waiver. This makes requesting audit support the default position in the DEAR, in contrast to FAR 15.406, which requires that contracting officers request field pricing assistance only if the contracting officer does not have adequate information to support price reasonableness or their negotiation position.
- j. Section 915.404-4000 *Profit*, delete paragraphs (c) and (d) because the information contained in these paragraphs is primarily background information not appropriate for regulation, or, the subject is adequately addressed at FAR 15.404-9(c)(5), which states that contracting officers “may use the basic contract's profit or fee rate as the prenegotiation objective for a change or modification, if that change or modification calls for essentially the same type and mix of work as the basic contract and is of relatively small dollar value compared to the total contract value.” The implication of this requirement is that if the modification is for a significantly different scope, a new profit or fee rate determination would be required.
- k. Revise section 915.404-4710 *General*, paragraph (b) to include a reference to sections 915.404-4800 and 970.1504 for determining profit or fee for construction and construction management contracts and Management and Operating contracts, respectively.
- l. Delete the content and mark as reserved section 915.404-4730 *Documentation* because the content in this section is not statutorily based or required by the principles of sound procurement as it is procedural in nature, better suited for non-regulatory guidance. In addition, the subject is adequately addressed at FAR 15.408.
- m. Delete the content and mark as reserved section 915.404-4740 *Exceptions* because the content in this section is not statutorily based or required by the principles of sound procurement as it is partially redundant of the requirements at 915.404-4700 *DOE structured profit and fee system*, and partially advisory in nature, better suited for non-regulatory guidance.
- n. Revise section 915.404-4750 *Special considerations—contracts with nonprofit organizations (other than educational institutions)* to delete paragraph (a) since it does not include any regulatory requirements and combine and streamline the contents of paragraphs (b) and (c).
- o. Delete the content and mark as reserved section 915.404-4760 *Contracts with educational institutions* because the content in this section is not statutorily based or required by the principles of sound procurement as it simply points to DEAR part 970 for the requirements when universities manage or operate Government-

owned laboratories (i.e., management and operating contracts). This pointer is not necessary to be in regulation since DOE contracting officers are familiar with management and operating contracting format and the associated requirements at DEAR part 970.

- p. Delete the content and mark as reserved section 915.404-4770 *Alternative techniques* because the content in this section is not statutorily based or required by the principles of sound procurement as it is advisory in nature, better suited for non-regulatory guidance.
- q. Delete the content and mark as reserved section 915.404-4780 *Weighted guidelines application considerations* because the content in this section is not statutorily based or required by the principles of sound procurement as it simply points to DOE's internal procedures for application of weighted guidelines. This pointer is not necessary to be in regulation since DOE contracting officers are familiar with DOE's internal policies, guidance, and procedures.
- r. Section 915.404-4810 *General*, delete paragraph (c) because it states an obvious requirement that profit and fee objectives for construction and construction management contracts will be developed in accordance with the subpart. This requirement is obvious from the content of the subpart itself, and is therefore unnecessary.
- s. Revise section 915.602 *Policy* to delete DOE internal procedures for the processing of unsolicited proposals, which is better suited for non-regulatory internal guidance.
- t. Delete the content and mark as reserved section 915.603 *General* because the content in this section is not statutorily based or required by the principles of sound procurement. Section 915.602 already defines the subject areas in which DOE seeks unsolicited proposals, none of which are related to support services. Since the existing policy in section 915.602 fully addresses DOE's interests, additional text encouraging or discouraging other types of proposals is unnecessary.
- u. Delete the content and mark as reserved section 915.607 *Criteria for acceptance and negotiation of an unsolicited proposal* because the applicability of DOE's cost participation policy is adequately addressed in section 915.605 *Content of unsolicited proposals*.

Determination

In accordance with DEAR 901.404 *Class deviations*, to fully comply with the requirement of E.O. 14275 and the revised FAR part 15 (Attachment 4), it is hereby determined that a class deviation is appropriate pursuant to OMB memorandum M-25-26 (Attachment 5), using the attached deviation text for DEAR part 915 (Attachment 2) and applicable section of DEAR part 952. Specifically, DOE/NNSA will use the deviation text for part 915 in lieu of 48 Code of Federal Regulations (CFR) part 915 and the deviation text for the applicable section of part 952 in lieu of the corresponding applicable section at 48 CFR 952.215-70. 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 upon issuance and will remain in effect until cancelled or incorporated into the DEAR.

Derek Passarelli,
Senior Procurement Executive
Department of Energy

William J. Quigley,
Deputy Associate Administrator
Office of Partnership and Acquisition Services
Senior Procurement Executive
National Nuclear Security Administration

Attachments:

1. DEAR parts 915 and 952 Deviation Text – Track Changes
2. DEAR parts 915 and 952 Deviation Text – Final
3. Class Deviation to Adopt Revolutionary FAR Overhaul (RFO) part 15 - Contracting by Negotiation
4. RFO FAR parts 15 and 52 Model Deviation Text
5. OMB Memorandum M-25-26, *Overhauling the Federal Acquisition Regulation*