

**CLASS DEVIATION
FINDINGS AND DETERMINATION
DEPARTMENT OF ENERGY ACQUISITION REGULATION (DEAR) PART 919 -
SMALL BUSINESS**

Findings

1. The objective of this class deviation is to update the Department of Energy Acquisition Regulation (DEAR) part 919 - *Small Business* to implement the changes to the Federal Acquisition Regulation (FAR) part 19 - *Small Business* by the Federal Acquisition Regulatory Council (FAR Council) through the Revolutionary FAR Overhaul (RFO) initiative and make other deregulatory revisions to DEAR part 919 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 - Remove duplicative or outdated language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 26, 2025 (revised: February 20, 2026), the FAR Council issued model deviation text for FAR part 19 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 (Attachments 3 and 4), issued via Policy Flash 2026-10 on December 10, 2025. On February 20, 2026, the FAR Council updated the model deviation text for FAR part 19 to reflect the General Services Administration’s decommissioning of the Electronic Subcontracting Reporting System (eSRS.gov), and moving subcontracting reporting to SAM.gov. On March 12, 2026, DOE and NNSA supplemented their class deviation for FAR part 19 via Policy Flash PF 2026-35 to adopt the revised model deviation text.

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 919 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,” for consistency with the FAR.

Specifically, DEAR part 919 is revised to:

- a. Update the part title from “Small Business Programs” to “Small Business” for consistency with FAR part 19.
- b. Add new section 919.000 *Scope* to provide a notation that all references within part 919 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.
- c. Reserve subpart 919.5—*Set-Asides for Small Business* because the content under this subpart is deleted, as follows:
 - i. Delete the content and mark as reserved section 919.501 *General* because the content in paragraph (c) is duplicative of FAR requirements – specifically FAR 19.102(a) and (g), which require contracting officer coordination with the Small Business Administration (SBA) and the Director, Office of Small and Disadvantaged Business Utilization (OSDBU) / Office of Small Business Programs (OSBP), and DOE internal guides provide implementing procedures for that coordination, and paragraph (g), because this requirement is not statutorily based, is not included in the FAR, or required by the principles of sound procurement.
 - ii. Reserve section 919.502 *Setting aside acquisitions* because the content under this section is deleted, as follows: Delete the content and mark as reserved subsection 919.502-2 *Total small business set-asides* because this requirement is duplicative of statutory requirements, since contracting

- officers are required by statute to follow the Brooks Act when procuring architect-engineering services, regardless of set-asides procedures.
- iii. Delete the content and mark as reserved section 919.503 *Setting aside a class of acquisitions for small business* because the agreement with the SBA referenced in the section is no longer in effect.
 - d. Reserve subpart 919.8—*Contracting With the Small Business Administration (The 8(a) Program)* because the content under this subpart is deleted, as follows: Delete the content and mark as reserved subsection 919.805-2 *Procedures* because contracting officers are required to comply with the requirements referenced in this subsection by the FAR.
 - e. Delete the content and mark as reserved section 919.7002 *Definitions* because these definitions are covered in FAR 2.101.
 - f. Rename section 919.7004 from “General prohibitions” to “Limitations” to more accurately reflect the revised content within the section. The content is revised to delete the reference to DOE not reimbursing the costs of a mentor in providing any form of developmental assistance to a protégé except as provided in 919.7003(b) because this is just a reference to section 919.7003, and 919.7003 addresses this constraint. Instead, this section is revised to add a term limitation for the length of Mentor-Protégé agreements, which is described at 919.7010(e) in the current Mentor-Protégé Program class deviation, issued by Policy Flash PF 2025-15 on January 21, 2025 (Attachments 6 and 7).
 - g. Delete the content and mark as reserved section 919.7006 *Incentives for DOE contractor participation* because the contents of paragraph (a) are not a firm requirements but optional requirements that are better suited for non-regulatory guidance, and the content in paragraph (b) is unnecessary as large business firms receive subcontracting credit for their small business subcontractors under FAR 19.109 and 19.206.
 - h. Delete the content and mark as reserved sections 919.7009 *Process for participation in the program*, 919.7010 *Contents of Mentor-Protégé Agreement*, 919.7012 *Review and approval process of agreement by OSDBU*, and 919.7013 *Reports*, because the contents of these sections are not statutorily based or required by the principles of sound procurement as they are procedural in nature, better suited for non-regulatory guidance. The firm requirements from these sections, such as review and approval of Mentor-Protégé agreements (and extensions thereof) by OSBP and concurrence by the contracting officer, have been moved to other sections (e.g., 919.7003 and 919.7004).

Determination

In accordance with DEAR 901.404 *Class deviations*, to fully comply with the requirement of E.O. 14275 and the revised FAR part 19 (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 919 (Attachment 2) and applicable section of DEAR part 952. Specifically, DOE/NNSA will use the deviation text for part 919 in lieu of 48 Code of Federal Regulations (CFR) part 919 and the current class deviation for the DOE Mentor-Protégé

Program, issued by Policy Flash PF 2025-15 on January 21, 2025 (Attachments 6 and 7), and the deviation text for the applicable section of part 952 in lieu of the corresponding applicable section at 48 CFR 952.219-70 and the applicable section from the current class deviation for the DOE Mentor-Protégé Program, issued by Policy Flash PF 2025-15 on January 21, 2025. 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.

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Attachments:

1. DEAR parts 919 and 952 Deviation Text – Track Changes
2. DEAR parts 919 and 952 Deviation Text – Final
3. Class Deviation to Adopt Revolutionary FAR Overhaul (RFO) part 19 - Small Business
4. RFO parts 19 and 52 Model Deviation Text Feb-2026
5. OMB Memorandum M-25-26, *Overhauling the Federal Acquisition Regulation*
6. Class Deviation to the Department of Energy's Mentor Protégé Program at Department of Energy Acquisition Regulation (DEAR) 919.70 (issued January 21, 2025)
7. Deviation Text DEAR 919.70 Mentor-Protégé Program - Final (issued January 21, 2025)