

**CLASS DEVIATION
FINDINGS AND DETERMINATION
FEDERAL ACQUISITION REGULATION (FAR) PART 16 - TYPES OF CONTRACTS
REGARDING IMPLEMENTATION OF EXECUTIVE ORDER 14402, PROMOTING
EFFICIENCY, ACCOUNTABILITY, AND PERFORMANCE IN FEDERAL
CONTRACTING**

Findings

1. **Objective.** The objective of this class deviation supplement is to implement Executive Order (E.O.) 14402, *Promoting Efficiency, Accountability, and Performance in Federal Contracting*, and Federal Acquisition Regulatory Council (FAR Council) memorandum titled “Agency Implementation of Executive Order 14402, Promoting Efficiency, Accountability, and Performance in Federal Contracting.” The FAR Council memorandum implements E.O. 14402 by updating the Federal Acquisition Regulation (FAR) model deviation text for part 16 - *Types of Contracts*, and the relevant section of part 52 - *Solicitation Provisions and Contract Clauses*.
2. **Background.**
 - a. On January 2, 2026, the Department of Energy (DOE) / National Nuclear Security Administration (NNSA) issued a class deviation to implement the FAR Council’s Revolutionary Federal Acquisition Regulation (FAR) Overhaul (RFO) model deviation to FAR part 16 - *Types of Contracts* and relevant sections of part 52 - *Solicitation Provisions and Contract Clauses*. The class deviation was transmitted by Policy Flash PF 2026-21.
 - b. On April 30, 2026, President Trump issued E.O. 14402, *Promoting Efficiency, Accountability, and Performance in Federal Contracting*, which established fixed-price contracts as the default and preferred method of procurement (91 FR 24325, May 5, 2026). Section 3 of the E.O. directs the Director of the Office of Management and Budget (OMB) to issue guidance to agencies to ensure consistent implementation of the E.O. and to propose amendments to the FAR, consistent with the policy in section 1 of the E.O. in coordination with the FAR Council. Section 2(f) of the E.O. directs agencies to utilize applicable deviations from provisions of the FAR to comply with the provisions of the E.O.
 - c. On June 25, 2026, the FAR Council issued a memorandum regarding “Agency Implementation of Executive Order 14402, Promoting Efficiency, Accountability, and Performance in Federal Contracting,” which provided guidance to agencies implementing E.O. 14402.
3. **Action.** To implement the FAR Council memorandum and the requirements of E.O. 14402, the class deviation implementing the Revolutionary Federal Acquisition Regulation (FAR) Overhaul (RFO) for part 16 - *Types of Contracts* and relevant sections

of part 52 - *Solicitation Provisions and Contract Clauses* is updated by this class deviation supplement pursuant to the attached FAR Council memorandum.

- a. Pursuant to FAR 16.104(d)(2), the approval authority for the justification required for covered DOE contracts valued at or above \$10 million is the cognizant non-career Head of Departmental Element (HDE) for the program, or for programs that do not have a non-career HDE, the cognizant Under Secretary. For programs or offices that do not have an Under Secretary or non-career HDE, the approval authority is the Deputy Secretary. For covered NNSA contracts valued at or above \$10 million the approval authority is the Under Secretary for Nuclear Security, Administrator of the NNSA.
 - b. For Blanket Purchase Agreements (BPA), pursuant to FAR 16.104(c)(4), the justification requirements of E.O. 14402, as implemented in FAR 16.104, apply at the BPA level for single award BPAs and at the order level for multiple award BPAs, and will be based on the value of each covered order.
 - c. Pursuant to FAR 16.104(e)(3), the approval requirements described in Section 2, paragraph (b)(ii) of the E.O., as implemented in FAR 16.104, do not apply to contracts that involve research and development.
4. The attached FAR Council memorandum provides revisions to the model deviation text for FAR part 16 and the applicable section of part 52.

Determination

In accordance with FAR 1.304 *Class deviations* (as implemented by DOE and NNSA class deviation), Department of Energy Acquisition Regulation (DEAR) 901.404 *Class deviations*, and the attached FAR Council memorandum, it is hereby determined that a class deviation supplement is appropriate for the class deviation implementing the RFO model deviation text for FAR part 16 and applicable sections of part 52. Specifically, DOE/NNSA will use the revised RFO model deviation text for part 16 and applicable sections of part 52 in lieu of the model deviation text originally issued, as described in section 3 above. Contracting officers will implement the FAR Council memorandum's guidance in new solicitations and resulting contracts and existing contracts, as described in the FAR Council memorandum. 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 effective until cancelled or incorporated into the FAR.

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Attachment:

FAR Council memorandum “Agency Implementation of Executive Order 14402, Promoting Efficiency, Accountability, and Performance in Federal Contracting”