



# Global Acquisitions

U.S. DEPARTMENT *of* STATE

## Acquisition Alert 26-18

**TO:** All Contracting Activities

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**SUBJECT:** Federal Acquisition Regulation (FAR) Class Deviation for FAR Part 37 in Support of Executive Order on Restoring Common Sense to Federal Procurement

- 1. Introduction:** The purpose of this Acquisition Alert is to issue a FAR class deviation to part 37 for purposes of implementing the Federal Acquisition Regulatory Council's model deviation text to that part.
- 2. Background:** On April 15, 2025, Executive Order (E.O.) 14275 on Restoring Common Sense to Federal Procurement was signed. Section 2 of the E.O. establishes 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."

The FAR is being updated to:

- Remove language that is not required by statute;
- Remove duplicative or outdated language;
- Clarify or provide plain language;
- Revise language for the new FAR framework; and
- Retain language necessary for governmentwide acquisition standards.

This project is referred to as the Revolutionary FAR Overhaul (RFO) initiative. This class deviation is issued under the authority of E.O. 14275, OMB M-25-25, and 48 CFR 1.4.

### ***Deviation Summary***

FAR part 37, Service Contracting, has been reorganized and streamlined to highlight the policy priorities of topics like Performance-Based Acquisition (PBA), personal services rules, and the prohibition on contracting for inherently governmental functions. See details as outlined below:

- The service contract definition has been updated and moved to a new section, 37.001, Definition.
- **37.1, Performance-based Acquisition**, is a new subpart consolidating and elevating PBA policy while retaining the mandate to use PBA methods to the maximum extent practicable, listing the same exceptions (architect-engineer services, construction, utility services, and incidental services), and retaining the required order of precedence for contract types.
  - The language clarifies that this policy applies to acquisitions of commercial services using FAR part 12 procedures.
  - This section also clarifies the relationship between the Performance Work Statement (PWS) and the Statement of Objectives (SOO), stating that the SOO is used to guide PWS development but does not become part of the contract.
  - The PBA section also incorporates the requirements for describing work in terms of outcomes and using measurable performance standards.
- **37.2, Personal Services**, retains the requirement that agencies must not contract for personal services unless specifically authorized by statute.
  - 37.201-2, Characteristics of personal services contracts, replaces the previous six-factor descriptive guide at former 37.104(d).
- **37.402-1** clarifies the types of Advisory and Assistance Services (A&AS) agencies may contract for.
- **37.402-3, A&AS contracts for the evaluation of proposals**, clarifies the process for determining whether A&AS should be retained for proposal evaluation.
- **37.6, Nonpersonal Health Care Services**, clarifies the timing of contracting officer actions regarding medical liability insurance.
  - 37.601-2, Procedures explicitly instructs the contracting officer to insert the necessary insurance coverage values into paragraph (a) of the clause at 52.237-7.
- **37.8, Other Service Considerations**, is a new subpart consolidating various standalone content previously scattered throughout former subpart 37.1.

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- The following provisions and clauses are updated to correct cross-references:
  - 52.237-7 (Clause), Indemnification and Medical Liability Insurance
  - 52.237-8 (Provision), Restriction on Severance Payments to Foreign Nationals
  - 52.237-9 (Clause), Waiver of Limitation on Severance Payments to Foreign Nationals

Statutory requirements retained in the RFO FAR part 37 model deviation include:

- Employment Authorities (5 U.S.C. §§ 3101 et seq)
- Severable Services Contracts for Periods Crossing Fiscal Years (10 U.S.C. § 3133 and 41 U.S.C. § 3902)
- Specific Costs not Allowable (10 U.S.C. § 3744 and 41 U.S.C. § 4304)
- Contracts for Professional and Technical Services (10 U.S.C. § 4507)
- Requirement for Background Checks (34 U.S.C. § 20351)
- Wage Rate Requirements (40 U.S.C. §§ 3141 et seq)
- Contracting Functions Performed by Federal Personnel (41 U.S.C. § 1709)
- Advisory and Assistance Services (41 U.S.C. § 4105)
- Service Contract Labor Standards (41 U.S.C. §§ 6701 et seq)
- Improvements in Procurements of Services (Pub. L. 106-398, Sec 821)

Non-statutory subsections removed from FAR part 37 include-

- Former sections 37.105, 37.107, 37.108, 37.111, and 37.604 covering competition, service contract labor standards, small business certificates of competency, service extensions, and Quality Assurance Surveillance Plans
- Former 37.102 (paragraphs b, e, f, g, h, i, j), which included general policy statements regarding relying on the private sector, cost effectiveness, fraud prevention, workforce training, and lowest price technically acceptable (LPTA) limitations
- Former subpart 37.5, Management Oversight of Service Contracts
- Definition of Nonpersonal services contract, previously at section 37.101
- Examples of various types of service contracts (former section 37.101), factors that aid in determining whether a contract is for personal services (former section 37.104), Strategic inclusion of “continuity of services” and “option to extend services” clauses (former section 37.111), and Management Oversight of Service Contracts, relevant information pertaining to best practices (former subpart 37.5) will be moved to the FAR Companion Guide.

***Corresponding DOSAR Deviation Summary***

Based on the Council's model deviated language, a class deviation is hereby issued to the Department of State Acquisition Regulation (DOSAR) to make the following corresponding changes:

- Adjusting section titles and numbering to mirror FAR part 37 changes,
- Removing 637.102-71 Safety Considerations because the corresponding citations have been removed from FAR part 36 and DOSAR part 636, and
- Other administrative updates.

**3. Acquisition Impact:** The changes resulting from this class deviation affect all DoS procurements issued on or after the effective date of the AA.

**4. Action Required:** The acquisition workforce must follow the RFO part 37 model deviation text instead of FAR part 37 as codified at 48 CFR Chapter 1. The FAR Council's RFO model deviation text is available at [Acquisition.gov/far-overhaul](https://www.acquisition.gov/far-overhaul), and is incorporated into this class deviation.

- a. For new solicitations or contracts, when using any provisions or clauses that have been revised, utilize the RFO model deviation language at RFO FAR part 52. Do not include any of the removed provisions or clauses in future solicitations and contracts.
- b. For open solicitations or awarded contracts, the contracting officer has discretion regarding the need to enforce or amend the provisions or clauses. Note that without some of the removed provisions or clauses, the contracting officer may be required to separately address certain aspects in the contract.

**5. Effective Date:** The model deviated language was released on September 25, 2025; however, this deviation will be effective on February 27, 2026.

**6. Expiration Date:** This Acquisition Alert expires upon incorporation into the FAR, DOSAR, and/or DOSAM.

**7. Additional Information:** Questions regarding this Acquisition Alert may be directed to [AcquisitionPolicy@state.gov](mailto:AcquisitionPolicy@state.gov).

**8. Attachments:** [DOSAR Part 637 Deviation Line In Line Out](#)

**9. Referenced Documents, Checklists, Guides and Templates:**  
[FAR Part 37 Practitioner Album](#)