



**FAR CLASS DEVIATION 2026-01
Amendment 1**

MEMORANDUM TO: Heads of the Contracting Activities (HCAs)

FROM: Jennifer D. Johnson *Jennifer Johnson*
Jennifer Johnson (Mar 16, 2026 07:42:42 EDT)
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SUBJECT: **Amendment 1** to Federal Acquisition Regulation (FAR) Class Deviation (CD) No. 2026-01 in Support of Executive Order (EO) 14275, “Restoring Common Sense to Federal Procurement;” Deviation to FAR Parts 13, 14, 15, 16, 19, 22, 23, 25, 32, 37, 41, 42, 47, 53, and Applicable Portions of 52 – ***Updated RFO FAR Part 19 Guidance***

- 1. EFFECTIVE DATE:** Immediately
- 2. EXPIRATION DATE:**

This CD remains in effect until the changes described herein are incorporated in the FAR, superseded, or otherwise rescinded.

3. PURPOSE:

FAR CD 2026-01, issued and effective on 11/21/2025, implemented requirements to comply with [EO 14275, *Restoring Common Sense to Federal Procurement*](#), for the purposes of implementing the Federal Acquisition Regulatory Council’s (FAR Council) changes to RFO FAR parts 13, 14, 15, 16, 19, 22, 23, 25, 32, 37, 41, 42, 47, 53, and Applicable Portions of 52. It also incorporates and adopts the FAR Council’s model deviation text to the affected FAR parts.

Amendment 1 to FAR CD 2026-01 provides guidance to adopt updated RFO FAR part 19 model deviation text (***updated on February 20, 2026***), including the updated clause at FAR 52.219-9, and provides clarifying guidance related to competing 8(a) orders when the acquisition is below the competitive threshold (see 19.108-7(a)(2)).

- Amendment 1 only updates the guidance in FAR CD 2026-01 related to RFO FAR part 19 model deviation text and FAR clause 52.219-9, Small Business Subcontracting Plan.
- The guidance in FAR CD 2026-01 related to all other RFO FAR parts and associated provisions and clauses remain unchanged and in effect.

4. APPLICABILITY:

The requirements in this CD apply to all HHS Divisions for applicable solicitations, contracts, and orders.

5. ROLES AND RESPONSIBILITIES:

Heads of the Contracting Activities (HCAs) must ensure this CD is disseminated to the acquisition workforce and ensure compliance with the requirements in the CD. Additionally, HCAs must review and update any applicable internal procedures and guidance to reflect the policies and guidance contained herein.

6. BACKGROUND:

On April 15, 2025, EO 14275, *Restoring Common Sense to Federal Procurement*, was signed. Section 2 of the EO 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.”

Between September 18, 2025 – September 30, 2025, the FAR Council issued RFO model deviation text for RFO FAR parts 13, 14, 15, 16, 19, 22, 23, 25, 32, 37, 41, 42, 47, 53 and updated corresponding affected part 52.

On November 21, 2025, HHS issued FAR CD 2026-01 approving a class deviation to FAR parts 13, 14, 15, 16, 19, 22, 23, 25, 32, 37, 41, 42, 47, 53 and updated corresponding affected part 52.

On February 20, 2026, GSA decommissioned the Electronic Subcontracting Reporting System (eSRS.gov), moving subcontracting reporting to SAM.gov, as part of the ongoing effort to modernize the suite of federal acquisition systems. To align with this change, the FAR Council has amended the FAR part 19 model deviation text.

This Amendment 1 provides guidance to implement the updated RFO FAR part 19 model deviation text, including the updated clause at FAR 52.219-9, Small Business Subcontracting Plan. In addition, it provides clarifying guidance related to competing 8(a) orders when the acquisition is below the competitive threshold (see 19.108-7(a)(2)).

7. POLICY/GUIDANCE:

HHS contracting staff must continue to comply with the policy/guidance as stated in FAR CD 2026-01, issued and effective on 11/21/2025, except where updated below.

- A. Contracting staff must follow the RFO FAR part 19 model deviation text (**updated on February 20, 2026**), and begin using the corresponding updated, deviated FAR clause 52.219-9, Small Business Subcontracting Plan. The Council’s RFO updated model deviation texts are available in the [FAR Overhaul](#) section at [Acquisition.gov](#), and are incorporated into this CD.

B. When FAR clause 52.219-9 is applicable:

1. **For new solicitations, contracts, or orders:** Use the February 2026 updated, deviated FAR clause 52.219-9 text at [RFO FAR part 52](#).
2. **For open solicitations:** Amend the solicitation to include the February 2026 updated, deviated FAR clause 52.219-9 text at [RFO FAR part 52](#).
3. **For existing contracts and orders:** At the next available opportunity, modify the contract or order to include the February 2026 updated, deviated FAR clause 52.219-9 text at [RFO FAR part 52](#).

8. AUTHORITY:

This CD is issued under the authority of EO 14275, 48 CFR 1.4, RFO FAR 1.304, and OMB [M-25-26](#).

9. DEVIATION:

The RFO FAR part 19 model deviation text (*updated on February 20, 2026*), and the updated clause at FAR 52.219-9, are available at <https://www.acquisition.gov/far-overhaul>, and are incorporated into this CD.

Summary of Changes:

FAR part 19, Small Business, is streamlined and emphasizes the importance of small businesses in Federal procurement by making the regulations clearer, more intuitive, and easier for the acquisition workforce to implement. The deviated text preserves most substantive requirements while reorganizing them to align with the actual workflow of a contracting professional.

The part reinforces that it is the Government's **policy to provide maximum practicable opportunities in its acquisitions to small business, 8(a) participants, and other small business socioeconomic categories** (i.e. veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns).

For contracts, it keeps the rule of two (meaning contracting officers must set aside requirements when there are two or more small businesses identified who can provide the supplies or service) above the micro-purchase threshold (MPT). The rule of two is required by statute between the MPT and the Simplified Acquisition Threshold (SAT). The FAR Council retained the rule of two above the SAT as essential to sound procurement.

Key highlights:

- **Discretion for contracting officers.** The deviated text clarifies that a contracting officer's decision to set-aside or not-set aside an order placed under a multiple-award contract is an exercise of discretion and not a basis for a protest.
- **Removing re-representation requirements when ordering off an existing contract.** Agency small business credit is driven by the size determination made by the contracting officer at the

contract level and updated when certain contract level events take place (e.g. option exercise, novations).

- **Competing 8(a) orders.** Where an acquisition is below the competitive threshold (see 19.108-7(a)(2)), contracting officers must first try conducting the acquisition as a competitive 8(a) order using SBA-approved government-wide contracts before proceeding with a sole source 8(a) award.
 - ***Amendment 1 Clarifying Guidance:*** *When an acquisition is below the competitive threshold **and** if there is an SBA-approved government-wide contract for competition amongst 8(a) contract-holders at any dollar value, contracting officers must first try competing the 8(a) order under the SBA-approved government-wide contracts when one is available, and document the contract file with the outcome before proceeding with a sole source 8(a) award. For available government-wide 8(a) contracts, please refer to the FAR RFO [Category Management Buying Guide](#).*
- **Automatic 8(a) release.** A requirement is automatically released from the 8(a) program if the follow-on will be set aside under the HUBZone, SDVOSB, or WOSB programs. Release does not have to be formally requested in this situation.

February 20, 2026 updates to RFO FAR part 19 include:

- Remove references to the Electronic Subcontracting Reporting System (eSRS.gov) and update to reflect Subcontract Plan Reporting (SPR) where appropriate
- Removes prescriptive manual process steps for contractors and contracting officers to review/approve/reject subcontract reports submitted to the new system. The new system will implement business rules to prevent reporting of most common errors.
- Agencies are given discretion for how to monitor subcontract reports, with best practices to be developed in the FAR companion. The new system will create reports to identify reporting needing the greatest attention.
- Extends the reporting requirement of Individual Subcontract Reports from 30 days after the reporting period to 45 days to align the FAR to SBA's current regulations.
- Additionally, 8(a) competitive, HUBZone sole source, Service-Disabled Veteran-Owned Small Business (SDVOSB) sole source, and women-owned small business (WOSB) sole source thresholds were updated.

Statutory requirements and government directives retained in the affected RFO FAR model deviation text include, but are not limited to, the following:

RFO FAR part 19:

- 10 U.S.C. § 3203 and 41 U.S.C. § 3303, Exclusion of Particular Source or Restriction of Solicitation to Small Business Concerns
- 15 U.S.C. §§ 631 et seq, Small Business Act
- 41 U.S.C. § 3104, Small Business Concerns

FAR Part	Change	Description
19	02/20/2026 Updates	<ul style="list-style-type: none"> • Remove references to eSRS.gov and update to reflect SPR where appropriate • Removes prescriptive manual subcontractor report review/approval/reject process steps • Individual Subcontract Reports reporting requirement extended from 30 days to 45 days • Threshold updates – 8(a) competitive, HUBZone sole source, SDVOSB sole source, WOSB sole source • Update 52.219-9 (Clause), Small Business Subcontracting Plan
19	Retained	<ul style="list-style-type: none"> • The following provision and clauses are retained (or remain reserved) with no changes: <ul style="list-style-type: none"> ○ 52.219-5, Reserved ○ 52.219-7 (Clause), Notice of Partial Small Business Set-Aside ○ 52.219-11 (Clause), Special 8(a) Contract Conditions ○ 52.219-12 (Clause), Special 8(a) Subcontract Conditions ○ 52.219-13 (Clause), Notice of Set-Aside of Orders ○ 52.219-15, Reserved ○ 52.219-17 (Clause), Section 8(a) Award ○ 52.219-18 (Clause), Notification of Competition Limited to Eligible 8(a) Participants ○ 52.219-19 thru 52.219-26, Reserved ○ 52.219-31 (Provision) Notice of Small Business Reserve
19	Moved / Updated	<ul style="list-style-type: none"> • FAR part 19 was retitled from “Small Business Programs” to “Small Business”. • Throughout the part, references to the Dynamic Small Business Search (DSBS) site were updated to the Small Business Search (SBS) website at https://search.certifications.sba.gov/. • 19.000, “Scope of part”, is updated to remove unnecessary citations and content. • 19.001, “Definitions” is retained and has been updated to include numerous definitions that were previously spread throughout the part. Most of the definitions have been retained with no, or only minor edits. The only exception is the definition of “Similarly situated entity” which has been removed from this section and is retained only within clause 52.219-14, Limitations on Subcontracting. • The revised part structure now reflects the acquisition lifecycle: <ul style="list-style-type: none"> ○ Subpart 19.1 - Pre-solicitation ○ Subpart 19.2 - Evaluation and Award ○ Subpart 19.3 - Post-award

FAR Part	Change	Description
		<ul style="list-style-type: none"> • Subpart 19.1, “Pre-solicitation”, consolidates all policies and procedures applicable before issuance of a solicitation, creating a single point of reference for acquisition planning and market research. <ul style="list-style-type: none"> ○ 19.101, “Small business goals”, is new and serves as an introduction to the Government’s small business policy and the tools available to achieve agency small business goals. <ul style="list-style-type: none"> ▪ Within 19.101(a): <ul style="list-style-type: none"> • The general policy statement on providing maximum practicable opportunities is relocated from 19.201(a). • The requirement to measure and report small business participation is relocated from 19.202-5(b). ▪ 19.101(b) is a new and valuable addition that functions as a "roadmap" for contracting officers. It lists the various acquisition strategies available and provides direct cross-references to the corresponding sections within the new part 19. ○ 19.102, “Coordination”, consolidates all requirements for coordinating with the Small Business Administration (SBA) and the agency's Office of Small and Disadvantaged Business Utilization (OSDBU) (or for the Department of Defense, the Director of the Office of Small Business Programs (OSBP)). <ul style="list-style-type: none"> ▪ General principles of cooperation with the SBA are relocated from 19.401. ▪ Rules regarding SBA Procurement Center Representatives (PCRs) are relocated from 19.402. ▪ The mandatory 30-day notification to the SBA PCR for certain acquisitions is relocated from 19.202-1(e). ▪ The procedures for a contracting officer to reject an SBA recommendation and the subsequent SBA appeal process are relocated from 19.502-8. ○ 19.103, “Small business size standards”, consolidates content from the former subpart 19.1, specifically former sections 19.102 and 19.103. The content concerning NAICS codes, size standards, and the appeal process for NAICS code designations remains substantively the same but is now logically situated within the pre-solicitation subpart.

FAR Part	Change	Description
		<ul style="list-style-type: none"> ○ 19.104, “Small business set-asides”, consolidates the rules for total and partial small business set-asides, the nonmanufacturer rule, and related clause prescriptions. <ul style="list-style-type: none"> ▪ Relocated from former 19.502-2, this section retains that for contracts above the micro-purchase threshold, the contracting officer must set the contract aside for small business if there is a reasonable expectation of obtaining competitive offers from two or more responsible small business concerns (the rule of two). ▪ An important change – by changing the word “acquisition” to “contract” at 19.104-1(a), set-aside requirements (the rule of two) are clarified. Set-aside at the master contract level is mandatory, set-aside is encouraged but discretionary at the order level (see 19.111). ▪ The procedures for partial set-asides are consolidated from former 19.502-3 (for contracts other than multiple-award) and former 19.502-4 (for multiple-award contracts) into a single, unified subsection at 19.104-2. The new subsection does not distinguish between multiple-award or other than multiple-award contracts, as the underlying principles are identical. ▪ The nonmanufacturer rule is relocated from former 19.505(c). ▪ Clause prescriptions are relocated from former 19.507. ○ Socioeconomic Programs at sections 19.105 (HUBZone), 19.106 (SDVOSB), 19.107 (WOSB), and 19.108 (8(a)). These sections represent a major structural overhaul. Previously, each socioeconomic program was addressed in its own subpart containing rules for all acquisition phases. In the deviated text, the pre-solicitation aspects of each program are relocated to subpart 19.1. ○ 19.108-7, “Competitive 8(a) and sole source 8(a) policy” is updated: <ul style="list-style-type: none"> ▪ In paragraph (b) to state that SBA may accept sole-source awards above the competitive threshold (see 19.108-7(a)(2)) if the contracting officer complies with the requirement for other than full and open competition in accordance with FAR 6.103. ▪ An important change in paragraph (d) – where an acquisition is below the competitive threshold,

FAR Part	Change	Description
		<p>contracting officers must first try conducting the acquisition as a competitive 8(a) order using SBA-approved government-wide contracts that permit it before proceeding with a sole source 8(a).</p> <ul style="list-style-type: none"> ○ 19.108-11, “Release requirements for non-8(a) procurement”, a requirement is automatically released from the 8(a) program if the follow-on will be set aside under the HUBZone, SDVOSB, or WOSB programs. Release does not have to be formally requested from the SBA in this situation. ○ 19.109, “Small business subcontracting plans”, centralizes all pre-solicitation requirements related to subcontracting plans, which were previously located throughout subpart 19.7. ○ 19.110, “Price evaluation preference for HUBZone small business concerns”, relocates the rules for applying the HUBZone price evaluation preference from former 19.1307(a) and the associated clause prescription from former 19.1309(b). ○ 19.111, “Orders under multiple-award contracts”, consolidates rules for orders under multiple-award contracts that were previously in different locations throughout the part. It combines guidance on assigning NAICS codes to orders (from former 19.102(b)(3)) with the rules for setting aside orders (from former 19.504). The section retains that set-asides for orders are discretionary. ○ 19.112, “Reserves”, relocates the content governing the use of reserves on multiple-award contracts from former 19.503 and the associated prescription from former 19.507(g). ● Subpart 19.2, “Evaluation and Award”, centralizes all policies and procedures applicable after offers are received but before a contract is awarded. <ul style="list-style-type: none"> ○ 19.201, “Small business size and socioeconomic status determination”, consolidates protest and representation procedures into a single location. This change simplifies the process for contracting officers, who previously had to consult separate sections for each type of protest. The following sections are consolidated here: <ul style="list-style-type: none"> ▪ Representation by the offeror at initial award (from former 19.301-1) ▪ Protest of a small business representation (from former 19.302)

FAR Part	Change	Description
		<ul style="list-style-type: none"> ▪ Small disadvantaged business status and reviews (from former 19.304 and 19.305) ▪ Protesting HUBZone status (from former 19.306) ▪ Protesting SDVOSB status (from former 19.307) ▪ Protesting WOSB/EDWOSB status (from former 19.308) ▪ Protesting 8(a) eligibility and requesting size determinations (from former 19.813 and 19.814) ○ 19.202, “Encouraging small business responses”, relocates the content from former 19.202-4(c) which requires contracting officers to provide copies of solicitations and other information to small businesses upon request. ○ 19.203, “Equal low bids”, relocates the content on handling equal low bids from former 19.202-3 and the related clause prescription from former 19.309(b). ○ 19.204, “Certificate of competency”, relocates and consolidates the entirety of former Subpart 19.6, “Certificates of Competency and Determinations of Responsibility”. Placing this topic in the "Evaluation and Award" subpart aligns it with the point in the acquisition process where a responsibility determination is made. ○ 19.205, “Evaluating and awarding set-asides”, consolidates various award-related provisions for set-asides, including: <ul style="list-style-type: none"> ▪ The determination of fair market price (from former 19.202-6). ▪ Procedures for when only one offer is received (from former 19.502-2(a) and 19.1305(c)). ▪ Rules for withdrawing a set-aside prior to award (from former 19.502-9). ○ 19.206, “Evaluating small business subcontracting plans”, consolidates all procedures related to the review, negotiation, and acceptance of subcontracting plans prior to award. It incorporates content from former sections 19.704 (“Subcontracting plan requirements”), 19.705-4 (“Reviewing the subcontracting plan”), and 19.705-5 (“Awards involving subcontracting plans”). ○ 19.207, “Evaluating offers using the HUBZone price evaluation preference”, relocates the specific methodology for applying the 10 percent price evaluation preference for HUBZone small business concerns, previously located in 19.1307(b), (c), and (d).

FAR Part	Change	Description
		<ul style="list-style-type: none"> ○ 19.208, “Evaluating and awarding under the 8(a) Program”, consolidates all evaluation and award procedures for the 8(a) program from former subpart 19.8, “Contracting with the Small Business Administration (The 8(a) Program)” including competitive procedures (former 19.805-2), contract negotiation (former 19.808), pricing (former 19.806), fair market price estimation (former 19.807), pre-award survey (former 19.809-1), effect of exiting the 8(a) program on eligibility for award (formerly 19.816), contract preparation (former 19.811), and SBA appeals (former 19.810). ● Subpart 19.3, “Post-award”, consolidates all policies and procedures applicable after a contract has been awarded. <ul style="list-style-type: none"> ○ 19.301, “Small business size re-representations”, relocates the requirements for a contractor to re-represent its size status after award. It combines the content from former 19.301-2 and 19.301-3 into a single, logically placed post-award section. The content is further updated: <ul style="list-style-type: none"> ▪ For IDIQ contracts, removes re-representation at the order level. ▪ Clarifies that agency small business credit is driven by status at the master contract level which is updated when certain contract level events take place (e.g. option exercise, novations). ○ 19.302, “Small business subcontracting plans”, consolidates all post-award responsibilities related to subcontracting plans. It incorporates procedures for requiring a plan after award due to a modification (from former 19.705-2(e)), monitoring compliance with the plan (from former 19.705-7), and other post-award responsibilities of the contracting officer (from former 19.705-6). ○ 19.303, “8(a) Program contracts”, consolidates all post-award aspects of the 8(a) program. It includes guidance on contract administration (from former 19.812), contractual obligations for contractors exiting the program (from former 19.816(a)), and post-award rules for indefinite-delivery contracts (from former 19.804-6). ● The following provisions and clauses are updated to reflect plain language or content moved from part 19 into the applicable clause or provision to avoid unnecessary duplication. <ul style="list-style-type: none"> ○ 52.219-1 (Provision) Small Business Program Representations

FAR Part	Change	Description
		<ul style="list-style-type: none"> ○ 52.219-2 (Provision), Equal Low Bids ○ 52.219-3 (Clause), Notice of HUBZone Set-Aside or Sole-Source Award ○ 52.219-4 (Provision), Notice of Price Evaluation Preference for HUBZone Small Business Concerns ○ 52.219-6 (Clause), Notice of Total Small Business Set-Aside ○ 52.219-8 (Clause), Utilization of Small Business Concerns ○ 52.219-9 (Clause), Small Business Subcontracting Plan ○ 52-219-10 (Clause), Incentive Subcontracting Program ○ 52.219-14 (Clause), Limitations on Subcontracting ○ 52.219-16 (Clause), Liquidated Damages-Subcontracting Plan ○ 52.219-27 (Clause), Notice of Set-Aside for, or Sole-Source Award to, Service-Disabled Veteran-Owned Small Business (SDVOSB) Concerns Eligible Under the SDVOSB Program ○ 52.219-28 (Clause), Post-award Small Business Program Re-representation ○ 52.219-29 (Clause), Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns ○ 52.219-30 (Clause), Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program ○ 52.219-33 (Clause), Nonmanufacturer Rule ● The FAR Companion is expected to include best practice information not required in the FAR, on the following content: <ul style="list-style-type: none"> ○ Set-asides for orders under multiple-award contracts ○ Determining the appropriate NAICS code for the solicitation ○ Framework of the Office of Small Business Disadvantaged Business (OSDBU) ○ Encouraging small business participation in acquisitions ○ Identification of manufacturers ○ Price evaluation preference for HUBZone small business concerns
19	Removed	<ul style="list-style-type: none"> ● 19.203, “Relationship among small business programs”, is removed because it is not statutorily required or essential for sound procurement. ● 19.502-5, “Insufficient reasons for not setting aside an acquisition”, has been deleted. The principles it contained are

FAR Part	Change	Description
		<p>implicit within the mandatory nature of the set-aside requirements (new section 19.104).</p> <ul style="list-style-type: none"> • 19.602-3, “Resolving differences between the agency and the SBA”, is removed because it is not statutorily required or essential to sound procurement, and it has potential to cause confusion. • 19.706, “Responsibilities of the cognizant administrative contracting officer”, is removed because it is not statutorily required or essential to sound procurement. • 19.707, “The Small Business Administration's role in carrying out the program”, is removed because it is not statutorily required or essential to sound procurement. • Separate sections on “General”, “Applicability” and “Exclusions” are removed from the HUBZone, SDVOSB, and WOSB subparts as they are unnecessary and duplicative of content elsewhere in the part. • The following clause is removed as it is not required by statute or essential to sound procurement: <ul style="list-style-type: none"> ○ 52.219-32 (Clause), Orders Issued Directly Under Small Business Reserves

** This table is not an exhaustive list.*

RFO FAR part 52 model deviation text reflects updates to provision(s) and/or clause(s) associated with affected RFO FAR parts.

10. CONTACT:

Acquisition workforce members with questions regarding this CD should contact their cognizant Division Acquisition Office or Acquisition Policy Council (APC) Representative(s), as appropriate.

The current list of APC Representatives may be found on the [Acquisition Councils and Workgroups Page](#) of the [HHS Acquisition Portal](#) (HHSAP).

All other questions should be directed to Acquisition_Policy@hhs.gov.