



# Memorandum

April 29, 2026

TO: ACQUISITIONS MANAGEMENT BRANCH PERSONNEL

FROM: Isabel Luengo McConnell, Procurement Executive  
National Labor Relations Board

A handwritten signature in black ink, appearing to read "Isabel Luengo McConnell".

SUBJECT: Federal Acquisition Regulation (FAR) Class Deviation for FAR Parts 9, 12, 22, and 52 in Support of Executive Order 14398, Addressing DEI Discrimination by Federal Contractors

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**1. Effective Date:** Immediately

**2. Expiration Date:** This Class Deviation remains in effect until the changes described herein are incorporated in the FAR, superseded, or otherwise rescinded.

**3. Purpose.** This supplement approves changes to the Revolutionary Federal Acquisition Regulation Overhaul (RFO) class deviations to FAR parts 9, 12, 22, and 52 to implement the FAR Council's updates to the deviations to address the language described in Executive Order (E.O.) 14398.

**4. Authority.** This class deviation is issued under the authority of E.O. 14398, E.O. 14275, [OMB Memo M-25-26](#), 48 CFR 1.4, and RFO FAR 1.304.

**5. Background.**

- E.O. 14398 was issued on March 26, 2026, establishing that agencies should not do business with contractors that engage in any racially discriminatory diversity, equity, and inclusion (DEI) activities.
- In accordance with Section 5 of E.O. 14398, the FAR Council is issuing a deviation to update the model deviation text for these parts.

**6. Summary of Changes.**

- Part 9 - References the new clause and makes clear that failure to comply with the clause may result in debarment or suspension of the contractor.
- Part 12 - Prescribes the new clause for commercial acquisition.

- Part 22 - Establishes the new policy and prescribes the new clause.
- Part 52 - Establishes the new clause 52.222-90, *Addressing DEI Discrimination by Federal Contractors* (APR 2026), and incorporates it into the table in clause 52.244-6 (APR 2026) identifying clauses that must be included in subcontracts for commercial products or commercial services.

## 7. Instructions.

- The NLRB acquisition workforce must follow the new model deviation text.
- For new solicitations and resulting contracts:
  - **Beginning April 29, 2026**, amend open solicitations and insert the clause at FAR 52.222-90, *Addressing DEI Discrimination by Federal Contractors* (APR 2026) in new solicitations and resulting contracts valued over the micro-purchase threshold, including those for commercial products and commercial services, except those that result in contracts for which the place of delivery or performance is outside the United States. In accordance with FAR 1.107(d), amend any open solicitations to incorporate the clause.
- For existing contracts:
  - In accordance with FAR 1.107(d) (NLRB deviation dated July 24, 2025), Contracting Officers **must make every effort to bilaterally modify existing contracts by July 24, 2026**. If a contractor refuses to agree to a bilateral modification, the Contracting Officer should consider whether, without the modification, the contract no longer meets the agency's needs and should therefore be terminated for convenience.
  - Insert the clause at FAR 52.222-90, *Addressing DEI Discrimination by Federal Contractors* (APR 2026), in all existing contracts (i.e., definitive contracts and indefinite-delivery contracts) valued over the micro-purchase threshold, including those for commercial products and commercial services, except those for which the place of delivery or performance is outside the United States.
  - Modification of contracts with a final expiration no later than December 31, 2026, is at the Contracting Officer's discretion.

**8. FAR 52.222-90 Collection of Information.** The FAR Council is seeking clearance from OMB for collecting information related to the FAR clause 52.222-90. The clearance will provide coverage for all agencies using the clause. The clause requires that contractors must—

- Furnish all information and reports, including providing access to books, records, and accounts, as required by the Contracting Officer, for purposes of ascertaining compliance with the clause (FAR 52.222-90(b)(2));

- Report any subcontractor's known or reasonably knowable conduct that may violate the clause to the Contracting Officer and take any appropriate remedial actions directed by the Contracting Officer (FAR 52.222-90(b)(4)); and
- Inform the Contracting Officer if a subcontractor sues the contractor and the suit puts at issue, in any way, the validity of the clause (FAR 52.222-90(b)(5)).

Until clearance is received, you may still enforce the requirement for contractors to submit existing records regarding compliance with the requirements of the clause in connection with individual investigations, such as records that may be requested by the Equal Employment Opportunity Commission or the Department of Justice as part of an investigation of an alleged violation of the clause.

You should further expect that contractors will alert the appropriate Contracting Officer of potential violations of the clause or lawsuits relating to the clause.

Once clearance is received, the Director, Acquisitions Management Branch will communicate to the workforce that you can begin to enforce full compliance with FAR clause 52.222-90 requirements.

**9. Applicability.** This class deviation applies to all NLRB solicitations and contracts.

**10. Point of Contact:** Questions or comments on this class deviation may be directed to Delfina St. Clair, Director, Acquisitions Management Branch, at [Delfina.St.Clair@nlrb.gov](mailto:Delfina.St.Clair@nlrb.gov).