Re: Federal Acquisition Regulation: Revolutionary Federal Acquisition Regulation Overhaul (implementing Executive Order 14275, "Restoring Common Sense to Federal Procurement")

Filed via: Regulations.gov (https://www.regulations.gov) â€” submit this comment separately to each of the following four dockets:

- Docket No. FAR-2026-0001 (FAR Case 2026-001), RIN 9000-AO86 â€” FAR Parts 1, 2, 4, 33, 39, 40, 52, 53 â€” comment at https://www.regulations.gov/commenton/FAR-2026-0001-0001
- Docket No. FAR-2026-0002 (FAR Case 2026-002), RIN 9000-AO87 â€” FAR Parts 6, 7, 10, 18, 26, 37, 41, 52 â€” comment at https://www.regulations.gov/commenton/FAR-2026-0002-0001

Docket No. FAR-2026-0005 (FAR Case 2026-005), RIN 9000-AO90 â€” FAR Parts 5, 24, 29, 52 â€" comment at https://www.regulations.gov/commenton/FAR-2026-0005-0001

Docket No. FAR-2026-0007 (FAR Case 2026-007), RIN 9000-AO92 â€" FAR Parts 3, 49 â€" comment at https://www.regulations.gov/commenton/FAR-2026-0007-0001

Comment deadline: July 23, 2026

To the Federal Acquisition Regulatory Council:

I write in formal opposition to the Revolutionary Federal Acquisition Regulation Overhaul, the four-docket rulemaking package implementing Executive Order 14275, and I submit this comment to place specific facts of law and record on the administrative docket for each of the above listed proceedings. The stated justification for this undertaking, that the Federal Acquisition Regulation has become an "excessive and overcomplicated regulatory framework" whose provisions must be eliminated to stop "the inefficient use of American taxpayer dollars," is a conclusory policy label rather than the reasoned explanation the Administrative Procedure Act requires when an agency reverses specific, longstanding rules. The Supreme Court held in Motor Vehicle Manufacturers Association v. State Farm, 463 U.S. 29 (1983), that an agency changing its course by rescinding a rule is obligated to supply a reasoned analysis for the change beyond what is required when an agency does not act in the first instance, and that a rescission is arbitrary and capricious if the agency entirely failed to consider an important aspect of the problem or offered an explanation that runs counter to the evidence before it. Section 5 U.S.C. 553(c) requires that after notice and an opportunity for public comment, the agency incorporate in the rules it adopts a concise general statement of their basis and purpose, a statutory command that presupposes a genuine, provision-specific rationale rather than a generalized invocation of efficiency. The FAR Council's preamble asserts throughout that it "reviewed" each part to separate statutory from discretionary requirements, yet the operative distinction it draws, between what is "obsolete, duplicative, or nonstatutory," supplies no reasoned basis for concluding that the specific safeguards discussed below are excessive rather than integral to sound procurement, and a court applying State Farm would be entitled to demand more.

The most consequential deficiency appears in the proposed rule for Docket No. FAR-2026-0007, which revises FAR Part 3, Improper Business Practices and Personal Conflicts of Interest. The FAR Council's own supplementary information confirms that this rulemaking removes section 3.301, General, as merely "informational," strips the agency guidance codified at section 3.406, Records, eliminates section 3.907, the whistleblower protections tied to the American Recovery and Reinvestment Act, and removes what the preamble itself calls "outdated antitrust violation instructions," along with references to the ethical-conduct framework of Executive Order 11222. Whatever the merit of removing any single obsolete cross-reference, the cumulative effect is to thin out the regulatory scaffolding surrounding anti-kickback, gratuities, and conflicts-of-interest enforcement precisely in the part of the FAR devoted to policing self-dealing and improper business practices. The Government Accountability Office has repeatedly documented why that scaffolding exists. In GAO-21-309, DOD Fraud Risk Management: Actions Needed to Enhance Department-Wide Approach, Focusing on Procurement Fraud Risks, GAO reported that the Department of Defense Inspector General found in 2020 that approximately one in five of its ongoing investigations, 395 of 1,716, were related to procurement fraud, encompassing schemes such as bid rigging, inflated prices, and conflicts of interest. GAO's broader fraud risk work, in GAO-24-105833, Fraud Risk Management: 2018-2022 Data Show Federal Government Loses an Estimated 233 Billion Dollars to 521 Billion Dollars Annually to Fraud, similarly documents that federal procurement and award activity is a persistent and material fraud vector across the government. Against this documented record, removing conflicts-of-interest and improper-business-practices text from Part 3 without a provision-by-provision explanation of why each specific safeguard no longer serves an anti-corruption function is exactly the kind of unexplained reversal of a considered, protective policy that State Farm forbids.

The rulemaking under Docket No. FAR-2026-0007 also narrows accountability in Part 49 in ways the preamble does not adequately justify. The proposed rule converts the mandatory audit of termination settlement proposals at FAR 49.107 into a "permissive, risk-based" determination left to the discretion of the termination contracting officer, removing the certified cost-or-pricing-data threshold that has served as an objective trigger for independent audit review of settlements negotiated in a noncompetitive environment. The same rule compresses the contractor's time to submit a termination settlement proposal from one year to ninety days and the inventory schedule deadline from 120 days to 60 days. Discretion substituted for a fixed audit trigger removes a check that does not depend on any single contracting officer's judgment call, and the FAR Council offers only the assertion that risk will still be managed appropriately, not a reasoned account of how removing the objective threshold protects the government's interest in verifying settlement costs it must ultimately pay from public funds.

The companion rulemaking under Docket No. FAR-2026-0001 narrows the transparency function of Part 33's bid protest system in a manner that compounds the accountability deficit created by the Part 3 and Part 49 changes. The proposed rule strikes the FAR's own regulatory text implementing Government Accountability Office bid protest procedures and replaces it with a bare cross-reference to the GAO's separate regulations at 4 CFR part 21, on the stated rationale that the FAR text merely "repeats or summarizes" those regulations. Removing the FAR's self-contained protest procedures reduces the visibility that contracting officers, offerors, and the public have into the standards governing one of the principal mechanisms by which unsuccessful offerors, and by extension the taxpaying public, can obtain independent review of a contract award. Bid protests exist within the framework Congress built through the Competition in Contracting Act of 1984, codified in relevant part at 41 U.S.C. 3301, which the Government

Accountability Office has explained requires executive agencies to obtain full and open competition through competitive procedures and was enacted, according to the Act's own statement of purpose, to eliminate procurement procedures and practices that unnecessarily inhibit full and open competition for contracts. The Government Accountability Office's own description of its bid protest function states that for nearly one hundred years it has provided an objective, independent, and impartial forum for resolving disputes over the award of federal contracts, consistent with Congress's mandate in the Competition in Contracting Act, and it resolves more than one thousand protests annually. Consolidating FAR-based protest procedures into an external cross-reference may be defensible as a matter of drafting economy, but the FAR Council has not explained why the resulting loss of a self-contained, publicly accessible protest framework in the FAR itself does not undermine the competitive, transparent contracting structure Congress deliberately built into the statute that CICA enacted.

Taken together, the four dockets that compose this rulemaking package do not supply the part-by-part reasoned explanation that State Farm requires before an agency may reverse specific, previously adopted taxpayer-protection and anti-corruption measures. The FAR Council's briefing materials repeatedly substitute the general policy label of Executive Order 14275, that the FAR has become "excessive," for an evidentiary showing that the specific safeguards removed from Part 3, Part 49, and Part 33 are actually the excessive, non-essential provisions the Executive Order targets, as opposed to core protections that Congress and prior rulemakings deliberately built into the procurement system precisely because self-dealing, conflicts of interest, and inadequate competition oversight are documented, recurring risks in federal contracting. A wholesale, multi-part rescission spread across four separate dockets, each asserting the same generalized efficiency rationale without addressing the specific anti-corruption or competition-oversight function of the provisions being removed, is precisely the unreasoned and unexplained policy reversal that the Administrative Procedure Act, as construed in State Farm, prohibits agencies from adopting.

This comment, and the GAO findings, statutory text, and case law it cites, is submitted to create and preserve a factual and legal record documenting the specific safeguards being removed and the reasons those removals are inadequately justified, so that the record is available to support future administrative, legislative, or judicial oversight should the harms of diminished procurement safeguards materialize. I urge the FAR Council to withdraw or substantially revise this rulemaking package to provide the individualized, evidence-based justification the law requires before removing any specific conflicts-of-interest, audit, or bid protest safeguard from the Federal Acquisition Regulation.

Respectfully submitted,

Concerned Citizen