



# UNITED STATES DEPARTMENT OF EDUCATION

## OFFICE OF FINANCE AND OPERATIONS

September 12, 2025

### ACQUISITION ALERT 2025-24

TO: Heads of Contracting Activities

FROM: Calvin J. Mitchell Jr.  
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Senior Procurement Executive

SUBJECT: FAR Class Deviation for FAR Part 12

- 1. Purpose.** This Acquisition Alert (AA) adopts a class deviation to Federal Acquisition Regulation (FAR) Part 12 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR Part 12.
- 2. Background.** On April 15, 2025, the 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." On May 31, 2025, the enclosed class deviation was issued for the use of all Revolutionary FAR Overhaul (RFO) model deviation texts and corresponding EDAR deviations.
- 3. Summary of Changes.** FAR Part 12, Acquisition of Commercial Products and Commercial Services, is significantly updated. The part has been fundamentally re-engineered in its structure, scope, and operational mechanics to make federal buying faster, simpler, and more aligned with commercial practices. These changes reflect an effort to create a user-centric part that champions flexibility, and innovation when acquiring commercial products and services.

Statutory requirements retained in the RFO FAR Part 12 model deviation include, but may not be limited to, the following:

- 10 U.S.C. §§ 3451 et seq, Procurement of Commercial Products and Commercial Services
- 10 U.S.C. § 3453 and 41 U.S.C. § 3307, Preference for Commercial Products and Commercial Services
- 10 U.S.C. § 3771 and 41 U.S.C. § 2302, Rights in Technical Data
- 10 U.S.C. § 3805 and 41 U.S.C. § 4505, Payments for Commercial Products and Commercial Services

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- 41 U.S.C. § 103, Commercial Product
- 41 U.S.C. § 103a, Commercial Service
- 41 U.S.C. § 104, Commercially Available Off-the-Shelf Item
- 41 U.S.C. § 1708, Procurement Notice
- Pub. L. 103-355, Federal Acquisition Streamlining Act of 1994 (FASA)
- Pub. L. 105-261 Sec 803, Defense Commercial Pricing Management Improvement

Change	Description
Retained	<ul style="list-style-type: none"> <li>• The revised part <b>structure consolidates</b> all relevant guidance into <b>process-oriented</b> subparts: <ul style="list-style-type: none"> <li>○ Subpart 12.1 - <b>Presolicitation</b></li> <li>○ Subpart 12.2 - <b>Solicitation, Evaluation, and Award</b></li> <li>○ Subpart 12.3 - <b>Postaward</b></li> <li>○ Subpart 12.4 - <b>Micro-purchases</b></li> </ul> </li> <li>• <b>Definitions related to this part</b>, such as “Commercially Available Off-the-Shelf Item or COTS Item” and “Nondevelopmental Item” still remain at FAR 2.101, with some edits.</li> <li>• The definition of “Commercial service” at FAR 2.101 clarifies that <b>construction</b> is included within the definition.</li> <li>• Section 12.000, “Scope”, now clarifies that <b>simplified procedures</b> authorized by statute are implemented in Part 12. This includes using <b>simplified procedures for acquisitions up to \$7.5 million</b> (or \$15 million to support responses to emergencies or major disasters, or other specified situations).</li> <li>• Tables are added that help readers find information easier: <ul style="list-style-type: none"> <li>○ Table 12-1, <b>Authority citations for restricting competition.</b></li> <li>○ Table 12-2, <b>Provisions to include as prescribed</b></li> <li>○ Table 12-3, <b>Clauses to include as prescribed</b></li> <li>○ Table 12-4, <b>Provisions and clauses to include as needed.</b></li> </ul> </li> <li>• New section 12.101, “Preference”, retains the <b>preference for commercial procurement.</b></li> <li>• New section 12.104, “Contract Type”, retains the <b>preference to utilize fixed-price contracts</b> to the maximum extent practicable.</li> <li>• <b>Labor-hour or Time-and-Material contracts</b> may still be used for commercial services, but a determination and findings must be executed by the contracting officer.</li> <li>• New section 12.201-1, “<b>Simplified Procedures</b>”, clarifies</li> </ul>

	<p>that for acquisitions valued up to \$7.5 million, the agency use a request for quotations (RFQ) followed by a purchase order (vs. RFP/Part 15 procedures for acquisitions over \$7.5M).</p> <ul style="list-style-type: none"> <li>● New section 12.201-1(b) provides clear guidance as to <b>the legal effect of quotations</b>.</li> <li>● New section 12.201-1(d) encourages agencies to use additional innovative approaches to the maximum extent practicable when soliciting quotations and issuing purchase orders.</li> <li>● New section 12.201-2, “<b>Other Procedures</b>”, provides clear instruction that for acquisitions valued at greater than \$7.5 million, agencies are to use the procedures in the new subpart 12.2 in conjunction with the procedures in Part 15 for requests for proposals (RFPs) or Part 14 for invitations for bids (IFBs), as appropriate. Use of an RFP is the preferred method because it includes consideration of past performance when evaluating offers (see the new 12.203(a)(2)).</li> <li>● The deviated text clarifies that <b>construction can now be procured commercially</b>. When using the procedures in this subpart to acquire construction, comply with the requirements in Part 36 for construction contracts and subpart 22.4 on labor standards.</li> <li>● The contracting officer has <b>broad discretion in establishing how quotations will be evaluated</b>. For example, the contracting officer may perform a comparative evaluation of quotations.</li> <li>● The deviated text emphasizes that evaluation procedures are not subject to Part 15 or 14. <b>Contracting officers are not required to have evaluation plans, score quotations, or establish a competitive range before communicating with quoters or soliciting revised quotations (see 12.203(c)(2)).</b></li> <li>● The part is revised to clarify that if commercial products or commercial services that meet agency needs are available from any priority source identified in <b>Part 8, including existing contracts awarded for Governmentwide use (e.g., the Federal Supply Schedules and Governmentwide acquisition contracts)</b>, agencies must procure the commercial products or commercial services from that source. If not available, agencies use the streamlined procedures for solicitation, evaluation, and award in the new subpart 12.2.</li> <li>● <b>Timely quotations and offers</b>. The deviated text instructs</li> </ul>
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	<p>contracting officers to exercise good business judgment in deciding whether to accept a quotation or offer received after the due date or time.</p> <ul style="list-style-type: none"> <li>• The <b>definition of and requirements for subcontracts are retained</b>, and will be moved to Part 44.</li> <li>• The following provisions and clauses are <b>retained with plain language and other edits</b>. <ul style="list-style-type: none"> <li>○ <b>52.212-1</b>, Instructions to Offerors-Commercial Products and Commercial Services</li> <li>○ <b>52.212-2</b>, Evaluation-Commercial Products and Commercial Services</li> <li>○ <b>52.212-4</b>, Terms and Conditions-Commercial Products and Commercial Services</li> </ul> </li> </ul>
Removed	<ul style="list-style-type: none"> <li>• A total of 46 <b>clauses and provisions from other FAR parts are removed as they are no longer required</b> for commercial contracts. This change reflects an approximate 30% reduction in the number of clauses and provisions that are applicable to commercial contracts.</li> <li>• Further, the following clause and provision are <b>removed as they are unnecessary</b>. The majority of the references are no longer required, and any required references are retained through other means: <ul style="list-style-type: none"> <li>○ <b>52.212-3</b>, Offeror Representations and Certifications-Commercial Products and Commercial Services</li> <li>○ <b>52.212-5</b>, Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Products and Commercial Services</li> </ul> </li> </ul>

This table is not an exhaustive list.

#### 4. Instructions.

- The Department of Education’s acquisition workforce shall follow the RFO Part 12 and corresponding 52 model deviation text instead of FAR Part 12 and 52 as codified at 48 CFR Chapter 1. The Council’s RFO Part 12 model deviation text is available at <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-12> and is incorporated into this class deviation. A separate Acquisition Alert will be issued for any corresponding changes to the EDAR 3412.
- For new solicitations or contracts, when using any provisions or clauses that have been revised, utilize the RFO model deviation language at <https://www.acquisition.gov/far-overhaul/far-part-deviation-guide/far-overhaul-part-52>. Do not include any of the removed provisions or clauses in future solicitations and contracts.

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- A clause matrix describing changes is available [here](#).
  - 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.
  - For any solicitation or contract using RFO provisions or clauses, contracting officers may include the following language:  
*“System updates may lag policy updates. The System for Award Management (SAM) may continue to require entities to complete representations based on provisions that are not included in this solicitation. Contracting officers will rely on representations from offers based on provisions in the solicitation. Entities are not required to, nor are they able to, update their entity registration to remove these representations in SAM.”*
  - Review templates and related standard operating procedures to align with this deviation and remove unnecessary processes and steps.
5. **Training.** Acquisition Professionals are highly encouraged to complete “Practitioner Album: FAR Part 12 - Acquisition of Commercial Products and Commercial Services” at [https://www.acquisition.gov/sites/default/files/practitioner\\_albums/far-part-12-acquisition-of-commercial-products-and-commercial-services/content/index.html#](https://www.acquisition.gov/sites/default/files/practitioner_albums/far-part-12-acquisition-of-commercial-products-and-commercial-services/content/index.html#/) within 30 days. Please complete the Practitioner Album and mark “yes” under the completion attestation within FAI CSOD.
  6. **Effective Date.** This class deviation to FAR Part 12 is effective November 3, 2025 and remains in effect until rescinded or incorporated into the FAR.
  7. **Points of Contact.** Direct questions regarding this class deviation to your respective policy points of contact.
  8. **Enclosure.** Determination and Findings - Class Deviation for the Revolutionary FAR Overhaul

**DETERMINATION AND FINDINGS**  
Department of Education, All Contracting Activities  
Class Deviation for the Revolutionary FAR Overhaul

This approves a class deviation to all Federal Acquisition Regulation (FAR) and Department of Education Acquisition Regulation (EDAR) parts for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text.

**Findings**

On April 15, 2025, the 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 more plain language
- Revise language for the new FAR framework
- Retain language necessary for governmentwide acquisition standards

This project is referred to as the Revolutionary FAR Overhaul (RFO) initiative.

In explaining the Federal Acquisition System, the RFO FAR Part deviation text establishes bedrock principles. Most centrally, it sets a "mission first" message at the top of the guiding principles. The RFO model deviation also increases the emphasis on the best use of taxpayer dollars and calls out the value of time as another guiding principle. Additionally, it retains a focus on satisfying the customer, maximizing use of commercial products and services, promoting competition, and encouraging innovation.

The FAR Council Deviation guidance allows for agencies to deviate agency acquisition regulation supplements as it relates to the RFO.

**Determination**

In accordance with FAR 1.404 and EDAR 3401.404, I hereby issue a class deviation for the use of all RFO model deviation texts and corresponding EDAR deviations. The adoption date for each RFO part model deviation text will be the date of the corresponding Acquisition Alert. EDAR deviation texts may be issued in a separate Acquisition Alert. All Department of Education contracting activities must follow the RFO model deviation texts instead of the FAR Parts codified at 48 CFR. Should the language of the RFO FAR contradict any statutorily granted procurement authorities to the Department of Education including the Office of Federal Student Aid, the statutorily granted authorities prevail.

In the unlikely event that the Department wishes to vary from a RFO model deviation text, a separate deviation will be issued. This class deviation will remain in effect until incorporated into the FAR, EDAR or rescinded.

**RICHARD LUCAS** Digitally signed by RICHARD LUCAS  
Date: 2025.05.31 08:30:12 -04'00'

Richard Lucas

Acting Chief Acquisition Officer (CAO)

Date