



FAR CLASS DEVIATION 2025-07

MEMORANDUM TO: Heads of the Contracting Activities (HCAs)

FROM: Jennifer D. Johnson
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Office of Acquisitions (OA)
Office of Assistant Secretary for Financial Resources (ASFR)
Department of Health and Human Services (HHS)

Jennifer D. Johnson
Jennifer Johnson (HHS), 2025 14:38:11 (DT)

SUBJECT: Federal Acquisition Regulation (FAR) Class Deviation (CD) No. 2025-07 in Support of Executive Order (EO) 14275, "Restoring Common Sense to Federal Procurement;" Deviation to FAR Parts 35, 36, 50, and Applicable Portions of 52.

1. EFFECTIVE DATE:

Immediately upon signature.

2. EXPIRATION DATE:

This CD remains in effect until the changes described herein are incorporated in the FAR, superseded, or otherwise rescinded.

3. PURPOSE:

This FAR CD implements requirements to comply with [EO 14275, Restoring Common Sense to Federal Procurement](#), for the purposes of implementing the Federal Acquisition Regulatory Council's changes to FAR parts 35, 36, 50, and applicable portions of part 52. It also incorporates and adopts the FAR Council's model deviation text to the affected FAR parts.

4. APPLICABILITY:

The requirements in this CD apply to all HHS Operating Divisions and Staff Divisions (OpDiv/StaffDiv) 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.”

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- Remove duplicative or outdated language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. This initiative will make the FAR more concise, understandable, and focused on core procurement requirements.

On July 24, 2025, the FAR Council issued the RFO model deviation text for FAR parts 35, 36, and applicable portions of part 52. On July 31, 2025, the FAR Council issued the RFO model deviation text for FAR part 50 and applicable portions of part 52.

7. POLICY/GUIDANCE:

Effective immediately, HHS contracting staff must comply with the following:

- A. Follow the RFO FAR parts 35, 36, and 50 model deviation text, including the corresponding part 52 model deviation text, instead of FAR parts 35, 36, and 50 as codified at 48 CFR Chapter 1. The Council’s RFO model deviation texts are available in the [FAR Overhaul](#) section at Acquisition.gov, and are incorporated into this CD.

B. When issuing new solicitations, contracts, or orders:

1. **Do not include** any of the removed provisions or clauses (i.e., any provisions or clauses marked as “[Reserved]” on the [RFO FAR part 52](#) page).
2. **Include** the applicable provisions and clauses listed on the [RFO FAR part 52](#) page.
 - i. **For deviated provisions or clauses, (i.e., any provisions or clauses marked with “(DEVIATION DATE)”**, utilize the RFO FAR model deviation text at [RFO FAR part 52](#).

C. For open solicitations:

1. **Amend the solicitation to remove** any provisions and clauses that have been removed by the RFO FAR model deviation text (i.e., any provisions or clauses marked as “[Reserved]” on the [RFO FAR part 52](#) page).

2. **Amend the solicitation to include or update** any applicable deviated provisions or clauses (i.e., any provision or clauses marked with “(DEVIATION DATE)”) to reflect the RFO FAR model deviation text at [RFO FAR part 52](#).

D. For existing contracts and orders:

1. **At the next available opportunity, modify the contract or order to remove** any clauses that have been removed by the RFO FAR model deviation text (i.e., any clauses marked as “[Reserved]” on the [RFO FAR part 52](#) page).
2. **At the next available opportunity, modify the contract or order to include or update** any applicable deviated clauses (i.e., any clauses marked with “(DEVIATION DATE)”) to reflect the RFO FAR model deviation 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 parts 35, 36, and 50 model deviation text, and corresponding FAR part 52 model deviation text, are available at <https://www.acquisition.gov/far-overhaul>, and are incorporated into this CD.

Summary of Changes:

FAR part 35, Research and Development Contracting, moves away from a prescriptive, specialized regulatory framework for research and development (R&D) contracting toward a streamlined structure that empowers acquisition professionals and makes the federal R&D environment more attractive for innovative commercial firms. The part is streamlined from 25 to 20 components (subparts, sections, subsections) that are reorganized in a more logical flow of the procurement lifecycle. This significant update greatly improves the usability of the content.

FAR part 36, Construction and Architect-Engineer Contracts, has undergone a comprehensive revision that includes a complete structural reorganization to align with the acquisition lifecycle, enhanced clarity, and a strategic consolidation of policies coupled with the elimination of outdated requirements. In addition, multiple clauses and provisions were removed reflecting an almost 20% reduction in clauses and provisions.

FAR part 50, Extraordinary Contractual Actions and the SAFETY Act has been updated for clarity and practical use.

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

RFO FAR part 35:

- 31 U.S.C. § 6303, Using Procurement Contracts
- 10 U.S.C. § 4126, Use of Federally Funded Research and Development Centers

RFO FAR part 36:

- 10 U.S.C. § 3241 and 41 U.S.C. § 3309, Design-Build Selection Procedures
- 15 U.S.C. § 644(w), Administration of Construction Change Orders
- Pub. L. 92-582, Brooks Act of 1972
- Pub. L. 103-355, Federal Acquisition Streamlining Act of 1994
- Pub. L. 108-136, Services Acquisition Reform Act of 2003

RFO FAR part 50:

- 50 U.S.C. § 1431 et seq, National Defense Contracts
- 6 U.S.C. § 441 et seq, Support Anti-Terrorism by Fostering Effective Technologies
- E.O. 10789, Contracting Authority in Connection With National-Defense Functions

FAR Part	Change	Description
35	Retained	<ul style="list-style-type: none"> • The definitions of “Applied Research” and “Development” are retained at 35.001. • The section titled “Policy” (moved from 35.003 to 35.002) is retained and has been streamlined to remove reference to “Recoupment.” • New subparts 35.1, Presolicitation, 35.2, Evaluation and Award, and 35.3, Postaward create logical organization in alignment with the acquisition lifecycle, creating clear points of reference. <ul style="list-style-type: none"> ○ “Solicitations” (moved from 35.007 to 35.101) has been updated to include plain language improvements. ○ “Broad agency announcements” (moved from 35.016 to 35.102) retains core substance and unique procedures and has been updated with plain language improvements. ○ “Evaluation for award” (moved from 35.008 to 35.201) has been updated to include plain language improvements. ○ “Scientific and technical reports” (moved from 35.010 to 35.301) has been updated to include plain language improvements. • Policies and procedures for “Federally Funded Research and Development Centers” (moved from 35.017 to 35.4) are retained with plain language improvements.
35	Removed	<ul style="list-style-type: none"> • The definition of “Recoupment” at section 35.001. • Section 35.002, “General” provided the context for R&D contracting. Its removal streamlines the part. • Section 35.004, “Publicizing Requirements” was removed as largely duplicative of FAR part 5. • Section 35.005, “Work Statement” was removed to provide acquisition teams greater flexibility in crafting requirements best suited for the R&D effort. • Section 35.006, “Contracting Methods and Contract Type” was removed as duplicative of FAR part 16.

FAR Part	Change	Description
		<ul style="list-style-type: none"> • The sections titled “Subcontracting research and development effort” (35.009), “Data” (35.011), “Patent Rights” (35.012), “Insurance” (35.013), and “Government property and title” (35.014) are removed as they are covered elsewhere in the FAR: Part 44 for Subcontracting; Part 27 for Data and Patents; Part 28 for Insurance; and Part 45 for Government Property. • Section 35.015, “Contracts for research with educational institutions with educational institutions and nonprofit organizations” is removed. However, education institutions are still highlighted as an organization-type that should be considered during evaluation for award at 35.201. • Requirements for Standard Form 298, Report Documentation Page, are removed. This provides more flexibility to complete reports in the best suited manner for the R&D effort.
36	Retained	<ul style="list-style-type: none"> • The scope of the part is simplified to define the part's coverage to "construction, which includes dismantling, demolition or removal of improvements; and architect-engineer services". • The definition of “Firm” is retained in the part. • The section titled “Policy” is moved from 36.104 to 36.002 and revised to consolidate critical high-level requirements: <ul style="list-style-type: none"> ○ Agencies must require the use of Project Labor Agreement for Federal construction projects with a total estimated construction cost at or above \$35 million unless an exception applies. ○ Market research for construction contracts valued at or above \$35 million must involve a current and proactive examination of the market conditions in the project area. ○ For design and construction selection, the contracting officer must use either design-bid-build procedures, two-phase design-build procedures, or another acquisition procedure authorized by law. ○ Agencies must implement high-performance sustainable building practices. • New subparts 36.1, Pre-Solicitation, 36.2, Evaluation and Award and 36.3, Postaward create logical organization in alignment with the acquisition lifecycle, creating clear points of reference. • The contracting officer is required to evaluate the need for liquidated damages during acquisition planning. The FAR was previously silent as to the timing of this evaluation. • Clauses retained with plain language adjustments include: <ul style="list-style-type: none"> ○ 52.236-2, Differing Site Conditions ○ 52.236-3, Site Investigation and Conditions Affecting the Work

FAR Part	Change	Description
		<ul style="list-style-type: none"> ○ 52.236-5, Material and Workmanship ○ 52.236-6, Superintendence by the Contractor ○ 52.236-7, Permits and Responsibilities ○ 52.236-8, Other Contracts ○ 52.236-9, Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements ○ 52.236-10, Operations and Storage Areas ○ 52.236-11, Use and Possession Prior to Completion ○ 52.236-12, Cleaning Up ○ 52.236-13, Accident Prevention ○ 52.236-14, Availability and Use of Utility Services ○ 52.236-15, Schedules for Construction Contracts ○ 52.236-16, Quantity Surveys ○ 52.236-17, Layout of Work ○ 52.236-18, Work Oversight in Cost-Reimbursement Construction Contracts ○ 52.236-20, [remains Reserved] ○ 52.236-21, Specifications and Drawings for Construction ○ 52.236-22, Design Within Funding Limitations ○ 52.236-23, Responsibility of the Architect-Engineer Contractor ○ 52.236-24, Work Oversight in Architect-Engineer Contracts ○ 52.236-25, Requirements for Registration of Designers
36	Removed	<ul style="list-style-type: none"> • Definitions previously scattered between 36.001 and 36.102 are removed, leaving only a single definition, "Firm," at 36.001. • The "Applicability" section, previously at 36.101, is removed. • The reference to evaluation of contract performance, previously at 36.201, has been removed. The new subpart 36.3, Postaward, refers contracting officers to FAR part 42 for general contract administration functions. • The timing of requirement to prepare and furnish the Government estimate of construction costs to the contracting officer is clarified to be done "before receipt of proposals" instead of what was previously "at the earliest practicable time." The instructions were also moved from 36.203 to 36.101-6. • The section titled "Disclosure of the magnitude of construction projects", previously at 36.204, is removed. This information may still be disclosed based on the strategy needs of the acquisition team. • Supplemental procedures for sealed bidding are removed. Acquisition teams desiring to utilize sealed bidding should review part 14. • The requirements for a site inspection during the solicitation phase, previously at 36.210 and 36.523, and conducting a preconstruction

FAR Part	Change	Description
		<p>conference after award, previously at 36.212 and 36.522, are removed.</p> <ul style="list-style-type: none"> • The “Procedures” section for two-phased design-build selection, previously at 36.303, has been moved to 36.101-2 and significantly streamlined. The contracting activity retains discretion to issue one or two solicitation documents for the procurement phases. • The section titled, “Performance of Work by the Contractor”, formerly located at 36.501 and the implementing clause at 52.236-1 are removed. This requirement, often referred to as the “12 percent rule,” mandated that prime contractors perform a specified minimum percentage of the total contract work with their own forces. This requirement is separate from the clause at 52.219-14, Limitations of Subcontracting. • Specific evaluation requirements for architect-engineer contracts, previously at 36.602-1 and 36.603, are removed. Contracting activities now have additional flexibility in evaluating offeror qualifications. • Clauses and provisions removed include: <ul style="list-style-type: none"> ○ 52.236-1, Performance of Work by the Contractor ○ 52.236-4, Physical Data ○ 52.236-19, Organization and Direction of the Work ○ 52.236-26, Preconstruction Conference ○ 52.236-27, Site Visit (Construction) ○ 52.236-28, Preparation of Proposals-Construction
50	Retained	<ul style="list-style-type: none"> • All subparts and sections throughout the part are retained. • All provisions and clauses are retained, specifically: <ul style="list-style-type: none"> ○ Clause 52.250-1, Indemnification Under Public Law 85-804 ○ Provision 52.250-2, SAFETY Act Coverage Not Applicable ○ Provision 52.250-3, SAFETY Act Block Designation/Certification ○ Provision 52.250-4, SAFETY Act Pre-qualification Designation Notice ○ Clause 52.250-5, SAFETY Act—Equitable Adjustment. <ul style="list-style-type: none"> ▪ This clause was updated with plain language edits.
50	Removed	<ul style="list-style-type: none"> • Plain language edits were made throughout to enhance readability and remove redundant, unclear, or non-essential language, decreasing the word count by more than 500 words.

** 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 OpDiv/StaffDiv 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.