

MKU-DEV-2025-19

**MEMORANDUM FOR MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION (UDALL FOUNDATION)
CONTRACTING ACTIVITIES**

DATE: September 10, 2025

SUBJECT: Class Deviations for FAR Part 12 in support of Executive Order 14275, *Restoring Common Sense to Federal Procurement*

FROM: David P. Brown, Executive Director

1. **Purpose.** This memorandum approves a class deviation to Federal Acquisition Regulation (FAR) Part 12 for purposes of implementing the Federal Acquisition Regulatory Council's ("the Council's" or "RFO") model deviation text to FAR Part 12.
2. **Background.** On April 15, 2025, President Trump signed Executive Order (E.O.) 14275, "Restoring Common Sense to Federal Procurement" to reform the Federal Acquisition Regulation (FAR). This E.O. further advances the intent of E.O. 14192, "Unleashing Prosperity Through Deregulation," signed on January 31, 2025, which established that the policy of the executive branch is to be prudent and financially responsible in the expenditure of funds and to alleviate unnecessary regulatory burdens placed on the American people. E.O. 14275 orders the Administrator of the Office of Federal Public Procurement Policy (OFPP), in coordination with the other members of the Federal Acquisition Regulatory Council (FAR Council), the heads of agencies, and appropriate senior acquisition and procurement officials from agencies, to amend the FAR to ensure that it contains only provisions that are required by statute or that are otherwise necessary to support simplicity and usability, strengthen the efficacy of the procurement system, or protect economic or national security interests. This project is referred to as the Revolutionary FAR Overhaul (RFO) initiative.

On May 2, 2025, the Office of Management and Budget (OMB) released Memorandum M-25-26, "Overhauling the Federal Acquisition Regulation," that directs all agencies to "Generally issue individual or class deviations to implement the FAR Council's deregulated coverage within 30 days after the Council releases its model deviation text[and] Provide copies of class deviations to the FAR Secretariat at gsaregsec@gsa.gov for public posting on Acquisition.gov."

Also on May 2, 2025, the Acting Administrator for Federal Procurement Policy at OMB released a Memorandum, "Deviation Guidance to Support the Overhaul of the Federal Acquisition Regulation." This Memorandum advises that agencies using the RFO model class deviation text do not need to further coordinate with the Council; class deviations that differ from the RFO model text require Council approval unless the difference is necessary to address agency-specific statutory direction.

On August 14, 2025, the FAR Council issued completed significant revisions for FAR Part 12, Acquisition of Commercial Products and Commercial Services, and FAR Part 52 provisions and clauses. 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 are not 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
- 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"> • The revised part structure consolidates all relevant guidance into process-oriented subparts: <ul style="list-style-type: none"> ○ Subpart 12.1 - Presolicitation ○ Subpart 12.2 - Solicitation, Evaluation, and Award ○ Subpart 12.3 - Postaward ○ Subpart 12.4 - Micro-purchases • Definitions related to this part, such as “Commercially Available Off-the-Shelf Item or COTS Item” and “Nondevelopmental Item” still remain at FAR 2.101, with some edits. • The definition of “Commercial service” at FAR 2.101 clarifies that construction is included within the definition. • Section 12.000, “Scope,” now clarifies that simplified procedures authorized by statute are implemented in part 12. This includes using simplified procedures for acquisitions up to \$7.5 million (or \$15 million to support responses to emergencies or major disasters, or other specified situations). • Tables are added that help readers find information easier: <ul style="list-style-type: none"> ○ Table 12-1, Authority citations for restricting competition ○ Table 12-2, Provisions to include as prescribed ○ Table 12-3, Clauses to include as prescribed ○ Table 12-4, Provisions and clauses to include as needed • New section 12.101, “Preference”, retains the preference for commercial procurement.

	<ul style="list-style-type: none"> • New section 12.104, “Contract Type,” retains the preference to utilize fixed-price contracts to the maximum extent practicable. • Labor-hour or Time-and-Material contracts may still be used for commercial services, but a determination and findings must be executed by the contracting officer. • New section 12.201-1, “Simplified Procedures,” clarifies 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). • New section 12.201-1(b) provides clear guidance as to the legal effect of quotations. • 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. • New section 12.201-2, “Other Procedures,” 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)). • The deviated text clarifies that construction can now be procured commercially. 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. • The contracting officer has broad discretion in establishing how quotations will be evaluated. For example, the contracting officer may perform a comparative evaluation of quotations. • The deviated text emphasizes that evaluation procedures are not subject to part 15 or 14. 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)). • 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 part 8, including existing contracts awarded for Governmentwide use (e.g., the Federal Supply Schedules and Governmentwide acquisition contracts), 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. • Timely quotations and offers. The deviated text instructs contracting officers to exercise good business judgment in deciding whether to accept a quotation or offer received after the due date or time. • The definition of and requirements for subcontracts are retained and will be moved to part 44.
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	<ul style="list-style-type: none"> The following provisions and clauses are retained with plain language and other edits: <ul style="list-style-type: none"> 52.212-1, Instructions to Offerors-Commercial Products and Commercial Services 52.212-2, Evaluation-Commercial Products and Commercial Services 52.212-4, Terms and Conditions-Commercial Products and Commercial Services
Removed	<ul style="list-style-type: none"> A total of 46 clauses and provisions from other FAR parts are removed as they are no longer required for commercial contracts. This change reflects an approximate 30% reduction in the number of clauses and provisions that are applicable to commercial contracts. Further, the following clause and provision are removed as they are unnecessary. The majority of the references are no longer required, and any required references are retained through other means: <ul style="list-style-type: none"> 52.212-3, Offeror Representations and Certifications-Commercial Products and Commercial Services 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Products and Commercial Services

This table is not an exhaustive list.

3. **Determination.** To fully comply with E.O. 14275, OMB implementation guidance, and direction related to use of model deviations, and the model deviations for revised FAR Part 12, the Udall Foundation shall follow the RFO Part 12 model deviation text instead of FAR Part 12 as codified at 48 CFR Chapter 12. The FAR Council's RFO Part 8 model deviation text is available at Acquisition.gov, under the "FAR Overhaul" link. This deviation applies to all solicitations and new contracts as of the date of the Memorandum. This deviation does not apply to contracts signed and executed on or before the date of this Memorandum.
4. **Instructions.** The Udall Foundation acquisition workforce shall follow the RFO Part 12 model deviation text instead of FAR Part 12 as codified at 48 CFR Chapter 12 and the RFO Part 52 model deviation text of FAR Part 52 as codified at 48 CFR Chapter 52. The Council's RFO Parts 12 and 52 model deviation text are available at Acquisition.gov, under the "FAR Overhaul" link, and are incorporated into this class deviation.

When using any provisions or clauses that have been revised, the Udall Foundation acquisition workforce shall use the RFO model deviation language at RFO FAR part 52 and shall not include any of the removed provisions or clauses in future solicitations and contracts. 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.

The Udall Foundation acquisition workforce shall review templates and related standard operating procedures to align with this deviation and remove unnecessary processes or steps.

A copy of this Class Deviation will be provided to the FAR Secretariat at gsaregsec@gsa.gov.

5. **Applicability.** This class deviation applies to all Udall Foundation procurements.
6. **Authority.** This class deviation is issued under the authority of E.O. 14275, OMB Memo M-25-26, and 48 CFR 1.4, and RFO FAR 1.304.
7. **Effective Date.** This class deviation is effective immediately and remains in effect until rescinded or incorporated into the FAR.

Points of Contact. Questions regarding this class deviation may be directed to the Udall Foundation General Counsel, Gwendolyn Franks, at franks@udall.gov.