

MKU-DEV-2025-21

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

DATE: September 10, 2025

SUBJECT: Class Deviations for FAR Part 40 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 40 for purposes of implementing the Federal Acquisition Regulatory Council's ("the Council's" or "RFO") model deviation text to FAR Part 40.
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 40, Federal Supply Schedule Contracting. Instead of navigating a patchwork of multiple subparts throughout the FAR and over a dozen different provisions and clauses to understand security requirements, readers can now refer to a single, logically organized part of the FAR, part 40, Information Security and Supply Chain Security.

- Simplified: FAR part 40 is reorganized into three key subparts:
 - Subpart 40.1 - Processing Supply Chain Risk Information (**previously reserved**)
 - Subpart 40.2 - Security Prohibitions and Exclusions
 - Subpart 40.3 - Safeguarding Information (**previously reserved**)
- Consolidated:
 - Regulatory requirements previously found at FAR subparts 4.4, 4.19 through 4.23, and 25.7 have been moved into part 40.
 - More than a dozen separate provisions (5) and clauses (9) have been merged into 4 (1 provision and 3 clauses).

Statutory requirements retained in the RFO FAR part 40 model deviation include, but may not be limited to, the following:

- 41 U.S.C. §§ 1321 et seq, Federal Acquisition Supply Chain Security Act (FASCSA)
- 41 U.S.C. § 4713, Authorities Related to Mitigating Supply Chain Risks in the Procurement of Covered Articles
- 44 U.S.C. §§ 3501 et seq, Federal Information Policy
- Pub. L. 115-91 Section 1634, Prohibition on Use of Products and Services Developed or Provided by Kaspersky Lab
- Pub. L. 115-232 Section 889, Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment
- Pub. L. 115-232 Section 1758, Requirements to Identify and Control the Export of Emerging and Foundational Technologies
- Pub. L. 115-390, Strengthening and Enhancing Cyber-capabilities by Utilizing Risk Exposure Technology Act (SECURE Technology Act)
- Pub. L. 117-328 Div R Section 102, Prohibition on the Use of TikTok
- Pub. L. 118-31 Section 1823, Prohibition on Procurement of Covered Unmanned Aircraft Systems from Covered Foreign Entities.

Change	Description
Retained	<ul style="list-style-type: none"> • New subpart 40.1 incorporates: <ul style="list-style-type: none"> ○ Sharing Supply Chain Risk Information (from FAR 4.2302): The requirement to share relevant supply chain risk information with the Federal Acquisition Security Council when applicable is moved to FAR 40.102. • Subpart 40.2 incorporates: <ul style="list-style-type: none"> ○ Kaspersky Lab (from FAR 4.20): The prohibition on hardware, software, and services from Kaspersky Lab and its affiliates is now at FAR 40.202(b). Its definitions (Kaspersky Lab covered article, Kaspersky Lab covered entity) have been moved to the new definitions section at FAR 40.201. ○ Section 889 (from FAR 4.21): The prohibition on contracting for certain Chinese telecommunications and video surveillance

	<p>equipment and services is now located at FAR 40.202(d). The definitions are centralized at FAR 40.201.</p> <ul style="list-style-type: none"> ○ ByteDance/TikTok (from FAR 4.22): The prohibition on the presence or use of TikTok applications or services on government and contractor information technology is now located at FAR 40.202(a). The definitions are centralized at FAR 40.201. ○ Federal Acquisition Supply Chain Security Act (FASCSA) (from FAR 4.23): The prohibition on violating an applicable FASCSA order is now located at FAR 40.202(e). Key definitions are centralized at FAR 40.201. The requirements for implementing FASCSA exclusion and removal orders have been streamlined and moved to FAR 40.204-1. ○ Prohibited Foreign Sources (from FAR 25.7): The prohibitions related to Office of Foreign Assets Control (OFAC) restrictions, as well as specific prohibitions against contracting with entities doing business in Sudan and Iran now reside at 40.202(f), (g), and (h). • New subpart 40.3 incorporates: <ul style="list-style-type: none"> ○ Safeguarding Classified Information within Industry (from FAR 4.4): The policies and procedures for safeguarding classified information within industry, rooted in Executive Order 12829 and the National Industrial Security Program (NISP), have been moved to the new section 40.302. ○ Basic Safeguarding of Covered Contractor Information Systems (from FAR 4.19): The requirements for the basic safeguarding of covered contractor information systems that contain Federal Contract Information (FCI) are retained and moved to the new section 40.303. • Provision and clauses consolidated to the following: <ul style="list-style-type: none"> ○ New provision 52.240-90, Security Prohibitions and Exclusions Representations and Certifications, replaces the following provisions: <ul style="list-style-type: none"> ▪ 52.204-24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment ▪ 52.204-26, Covered Telecommunications Equipment or Services—Representation ▪ 52.204-29, Federal Acquisition Supply Chain Security Act Orders—Representation and Disclosures. ▪ 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan—Certification. ▪ 52.225-25, Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran— Representation and Certifications. ○ New clause 52.240-91, Security Prohibitions and Exclusions, replaces the following clauses:
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	<ul style="list-style-type: none"> ▪ 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities ▪ 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. ▪ 52.204-27, Prohibition on a ByteDance Covered Application. ▪ 52.204-28, Federal Acquisition Supply Chain Security Act Orders—Federal Supply Schedules, Governmentwide Acquisition Contracts, and Multi-Agency Contracts. ▪ 52.204-30, Federal Acquisition Supply Chain Security Act Orders—Prohibition. ▪ 52.225-13, Restrictions on Certain Foreign Purchases. ▪ 52.240-1, Prohibition on Unmanned Aircraft Systems Manufactured or Assembled by American Security Drone Act— Covered Foreign Entities. ○ New clause 52.240-92, Security Requirements, replaces the following clause: <ul style="list-style-type: none"> ▪ 52.204-2 Security Requirements. ○ New clause 52.240-93, Basic Safeguarding of Covered Contractor Information Systems, replaces the following clause: <ul style="list-style-type: none"> ▪ 52.204-21 Basic Safeguarding of Covered Contractor Information Systems.
Removed	<ul style="list-style-type: none"> • Part 40 has been streamlined by merging and consolidating content from parts 4 and 25, removing redundancies, and improving clarity.

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 40, the Udall Foundation shall follow the RFO Part 40 model deviation text instead of FAR Part 40 as codified at 48 CFR Chapter 40. The FAR Council’s RFO Part 40 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 40 model deviation text instead of FAR Part 40 as codified at 48 CFR Chapter 40 and the RFO Part 52 model deviation text of FAR Part 52 as codified at 48 CFR Chapter 52. The Council’s RFO Parts 40 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.