

CLASS DEVIATION
FINDINGS AND DETERMINATION
FEDERAL ACQUISITION REGULATION (FAR) PART 14 - SEALED BIDDING

Findings

1. The objective of this class deviation is to implement the Federal Acquisition Regulatory Council's model deviation text to the Federal Acquisition Regulation (FAR) Part 14 - *Sealed Bidding*, and applicable sections of FAR Part 52 - *Solicitation Provisions and Contract Clauses*.
2. On April 15, 2025, President Donald J. Trump issued Executive Order (E.O.) 14275, *Restoring Common Sense to Federal Procurement*. Section 2 of the E.O. established 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."
3. On May 2, 2025, the Office of Management and Budget (OMB) issued memorandum M-25-26, *Overhauling the Federal Acquisition Regulation*, initiating a major overhaul of the FAR (Revolutionary FAR Overhaul, or "RFO"). The memorandum tasked the Office of Federal Procurement Policy (OFPP) with leading the RFO, in coordination with the other members of the Federal Acquisition Regulatory Council – i.e., the General Services Administration (GSA), the Department of Defense (DOD), and the National Aeronautics and Space Administration (NASA) and federal buying agencies. The goal is refocusing the FAR on its statutory roots. To that end, 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 - Remove duplicative or outdated language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

The OMB memorandum M-25-26 established a two phased approach to implementing enterprise deregulation as follows: Phase one, FAR Council deviation guidance, and phase two, formal rulemaking. Phase one involves the FAR Council issuing guidance on a rolling basis with clear, plain language model deviation text organized by FAR part. The goal is streamlining the regulation by aligning it more closely to its statutory base. According to the memorandum, agencies should adopt this model deviation text within 30 days by issuing either individual or class deviations.

4. On May 2, 2025, the FAR Council issued further implementing guidance in a memorandum titled *Deviation Guidance to Support the Overhaul of the Federal Acquisition Regulation*. Pursuant to the FAR Council's memorandum, "agencies that adopt the Council's RFO class deviation text without change, or require different text only to address statutory direction unique to the agency, do not need to coordinate with the Council."

5. On September 25, 2025, the FAR Council issued model deviation text for FAR Part 14 and corresponding provisions and clauses at FAR Part 52. RFO FAR Part 14 has been simplified to make the regulation more accessible, clear, and efficient for acquisition teams. Updates include structural reorganization for logical flow, streamlining through consolidation and plain language, and modernization for current practices. Statutory requirements retained in the RFO FAR Part 14 model deviation include, but are not limited to, the following:

- 10 U.S.C. § 3201 and 41 U.S.C. § 3301, *Full and Open Competition*
- 10 U.S.C. § 3206 and 41 U.S.C. § 3306, *Planning and Solicitation Requirements*
- 10 U.S.C. § 3301 and 41 U.S.C. § 3701, *Basis of Award and Rejection*
- 10 U.S.C. § 3302 and 41 U.S.C. § 3702, *Sealed Bids*
- 10 U.S.C. § 3702 and 41 U.S.C. § 3502, *Required Cost or Pricing Data and Certification*
- 41 U.S.C. § 1708, *Procurement Notice*
- 41 U.S.C. § 2301, *Use of Electronic Commerce in Federal Procurement*

In addition, the following table provides a non-exhaustive list of non-statutory requirements that have been revised and retained, or removed from Part 14:

Change	Description
Retained	<ul style="list-style-type: none"> • The following provision and clauses are retained (or remain reserved) with no changes: <ul style="list-style-type: none"> ○ 52.214-1 and 52.214-2 remain reserved ○ 52.214-4 (Provision), <i>False Statements in Bids</i> ○ 52.214-6 (Provision), <i>Explanation to Prospective Bidders</i> ○ 52.214-8 and 52.214-9 remain reserved ○ 52.214-10 (Provision), <i>Contract Award—Sealed Bidding</i> ○ 52.214-11 remains reserved ○ 52.214-12 (Provision), <i>Preparation of Bids</i> ○ 52.214-13 remains reserved ○ 52.214-14 (Provision), <i>Place of Performance—Sealed Bidding</i> ○ 52.214-15 (Provision), <i>Period for Acceptance of Bids</i> ○ 52.214-16 (Provision), <i>Minimum Bid Acceptance Period</i> ○ 52.214-17 remains reserved ○ 52.214-18 (Provision), <i>Preparation of Bids—Construction</i> ○ 52.214-19 (Provision), <i>Contract Award—Sealed Bidding—Construction</i> ○ 52.214-20 (Provision), <i>Bid Samples</i> ○ 52.214-21 (Provision), <i>Descriptive Literature</i> ○ 52.214-22 (Provision), <i>Evaluation of Bids for Multiple Awards</i>

	<ul style="list-style-type: none"> ○ 52.214-24 (Provision), <i>Multiple Technical Proposals</i> ○ 52.214-25 (Provision), <i>Step Two of Two-Step Sealed Bidding</i> ○ 52.214-27 (Clause), <i>Price Reduction for Defective Certified Cost or Pricing Data—Modifications—Sealed Bidding</i> ○ 52.214-29 (Clause), <i>Order of Precedence—Sealed Bidding</i> ○ 52.214-30 remains reserved ○ 52.214-32 and 52.214-33 remain reserved ○ 52.214-34 (Provision), <i>Submission of Offers in the English Language</i> ○ 52.214-35 (Provision), <i>Submission of Offers in U.S. Currency</i>
Moved / Updated	<ul style="list-style-type: none"> ● The revised part structure now reflects the acquisition lifecycle: <ul style="list-style-type: none"> ○ Subpart 14.1 - <i>General</i> ○ Subpart 14.2 - <i>Presolicitation</i> ○ Subpart 14.3 - <i>Evaluation and Award</i> ○ Subpart 14.4 - <i>Postaward</i> ● Subpart 14.1, <i>General</i>, streamlines and consolidates the five sections that were previously within the former subpart 14.1, <i>Use of Sealed Bidding</i>. ● Subpart 14.2, <i>Presolicitation</i>, consolidates nearly all pre-award activities related to the solicitation process into a single chronological subpart. It is constructed from content previously located in subpart 14.2 (<i>Solicitation of Bids</i>), subpart 14.3 (<i>Submission of Bids</i>), and subpart 14.5 (<i>Two-Step Sealed Bidding</i>). ● Subpart 14.3, <i>Evaluation and Award</i>, consolidates activities that occur from bid receipt until contract award. It is primarily constructed from content that was previously located in parts of subpart 14.3 (<i>Submission of Bids</i>) and subpart 14.4 (<i>Opening of Bids and Award of Contract</i>). ● Subpart 14.4, <i>Postaward</i>, is designed to cleanly separate pre-award and post-award issues which are governed by different procedures. <ul style="list-style-type: none"> ○ 14.401, <i>Mistakes after award</i> relocates content previously found at 14.407-4. Placing this topic in a distinct <i>Postaward</i> subpart categorizes it as a matter of contract administration, fundamentally different from mistakes discovered before an award is made. The text has been revised for clarity and procedural requirements remain intact. ○ 14.402, <i>Pricing modifications</i> is a new section that provides a direct cross-reference to FAR Part 15 for policies and procedures related to cost and price negotiation for modifications. This is a logical and helpful

	<p>addition providing clear guidance for a common post-award activity.</p> <ul style="list-style-type: none"> • The following provisions and clauses are updated. Updates are primarily for clarity and cross-referencing corrections. <ul style="list-style-type: none"> ○ 52.214-3 (Provision), <i>Amendments to Invitations for Bids</i> ○ 52.214-5 (Provision), <i>Submission of Bids</i> ○ 52.214-7 (Provision), <i>Late submissions, modifications, and withdrawals of bids</i> ○ 52.214-23 (Provision), <i>Late submissions, modifications, revisions, and withdrawals of technical proposals under two-step sealed bidding</i> ○ 52.214-26 (Clause), <i>Audit and Records—Sealed Bidding</i> ○ 52.214-28 (Clause), <i>Subcontractor Certified Cost or Pricing Data—Modifications—Sealed Bidding</i>
Removed	<ul style="list-style-type: none"> • Section 14.105, <i>Solicitations for informational or planning purposes</i> is removed to align with streamlining efforts. • Subsection 14.202-3, <i>Bid envelopes</i> is removed to align with modernization efforts. • Subsection 14.202-7, <i>Facsimile Bids</i> is removed to align with modernization efforts. • Section 14.211, <i>Release of Acquisition Information</i> is removed because the content is adequately covered in other parts of the FAR. • Subsection 14.408-7, <i>Documentation of Award</i> is removed because the content is adequately covered elsewhere in the part or other parts of the FAR. • Subsection 14.408-8, <i>Protests against Award</i> is removed because the content is adequately covered elsewhere in the FAR. • Provision 52.214-31, <i>Facsimile Bids</i> is deleted to align with the modernization efforts.

Determination

In accordance with FAR 1.304 *Class deviations* (as implemented by DOE/NNSA class deviation) and Department of Energy Acquisition Regulation (DEAR) 901.404 *Class deviations*, to fully comply with the requirement of E.O. 14275 and the revised FAR Parts 14 and 52, it is hereby determined that a class deviation is appropriate pursuant to OMB memorandum M-25-26 (Attachment 1) and the FAR Council memorandum (Attachment 2) issued on May 2, 2025, using the RFO model deviation text for Part 14 and applicable sections of Part 52 (Attachment 3). Specifically, DOE/NNSA will use the RFO model deviation text for Part 14 in lieu of 48 Code of Federal Regulations (CFR) Part 14, and the RFO model deviation text for the applicable sections of Part 52 in lieu of the corresponding applicable sections at 48 CFR 52.214-1 through 52.214-35. Once approved, the Department will share the deviation widely among its workforce to ensure full awareness of and compliance with the revisions to the affected regulations. This class

deviation is effective November 3, 2025, and will remain effective until cancelled or incorporated into the FAR.

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Attachments:

OMB Memorandum M-25-26, *Overhauling the Federal Acquisition Regulation*
FAR Council Memorandum, *Deviation Guidance to Support the Overhaul of the Federal
Acquisition Regulation*
RFO Parts 14 and 52 Model Deviation Text