



**U.S. Department  
of Transportation**

1200 New Jersey Ave., S.E.  
Washington, DC 20590

Office of the Secretary  
of Transportation

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**SUBJECT:** Class Deviation No. 2026-22, Supplement to Certain Federal Acquisition Regulation (FAR) Deviations (Part 5, 8, 9, 12, 13, and 23), in Support of Executive Order 14275 on Restoring Common Sense to Federal Procurement

**FROM:** Chrishaun Jones  
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Date: 2026.01.12 19:51 -05'00'

**TO:** Department of Transportation Chiefs of the Contracting Offices

- I. Purpose:** This class deviation (CD) supplement is issued under Federal Acquisition Regulation (FAR) part 1 and Transportation Acquisition Regulation (TAR) part 1201 and authorizes a class deviation to FAR part 25 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR part 25.
- II. Effective Date:** Immediately.
- III. Background:** On April 15, 2025, [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- Remove duplicative or outdated language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.

Subsequent review has identified the need to update and amend DOT's implementing deviations for RFO FAR Parts 5, 8, 9, 13, and 23.

Summary of Supplement Updates are as follows-

RFO FAR parts 5, 12, 13, and 23	
<b>Background</b>	RFO FAR parts 5, 12, 13, and 23 included corresponding definition updates to part 2, but the implementing DOT deviations did not provide instructions to the workforce on how to use the revised part 2 definitions in concert with existing definitions in part 2.
<b>Supplement Update</b>	<p>In DOT’s class deviations implementing RFO FAR parts 5, 12, 13, and 23, section 4, “Required Action,” is updated to add the following sentence after, “A line-out version of the changes may also be found here for reference.”</p> <p>“The DOT acquisition workforce must use the definitions (Part 2 – Definitions of Words and Terms) found on Acquisition.gov/far-overhaul.”</p> <p>The remainder of the deviation is unchanged.</p>

RFO FAR part 8	
<b>Background</b>	<p>The FAR Council initially released the RFO FAR part 8 model deviation text on August 14, which required use of Office of Federal Property Policy best-in-class (BIC) contracts. On August 29, OFPP updated the model deviation text to reference “required use” contracts at 8.104 instead of BIC contracts. It is understood that OFPP will be establishing a new class of “required use” contracts (and associated criteria) that will be separate from BIC contracts. “Required use” contracts will be mandatory. BICs may be prioritized, but are not mandatory.</p> <p>DOT’s class deviation implementing RFO FAR Part 8 is amended as follows, to reflect the updated RFO FAR part 8 model deviation text:</p>
<b>Supplement Update 1</b>	<p>Section 3, “Background” is updated as follows:</p> <p>FAR part 8, Required Sources of Supplies and Services, is significantly updated. The model deviation language:</p> <ul style="list-style-type: none"> <li>• Enhances usability by restructuring and organizing the part in the logical flow of the acquisition lifecycle.</li> <li>• Simplifies mandatory guidance.</li> <li>• <del>Make the use of Governmentwide Best in Class (BIC) contracts mandatory</del> [Makes the use of OFPP – designated “Required Use” contracts mandatory.]</li> <li>• Retains focus on the importance of the AbilityOne Program</li> </ul>

<b>Supplement Update 2</b>	<p>The fourth bullet in the “Retained” section of the table in Section 3, “Background,” is updated as follows:</p> <ul style="list-style-type: none"> <li>• Use of Existing Contracts. 8.104 replaces section 8.004, “Use of Other Sources.” <del>Best in class (BIC)</del><b>[OFPP – designated “Required Use”]</b> contracts or BPAs are now <del>required</del><b>[mandatory]</b> to be used when a commercial product or commercial service meets an agency’s need, unless approved by the Head of the Contracting Activity (HCA). If a <del>BIC</del><b>[“required use” contract]</b> is not suitable, agencies should consider use of an existing governmentwide contract, BPA, or shared service.</li> </ul>
<b>Miscellaneous</b>	<ul style="list-style-type: none"> <li>• OFPP is expected to provide more information about “required use” contracts in the future.</li> </ul>

<b>RFO FAR part 9</b>	
<b>Background</b>	<p>The DOT implementing deviation stated that all existing provisions and clauses are retained (or remain reserved if previously reserved) with no changes to the text. The implementing class deviation is amended as follows to highlight that some provisions and clauses were updated.</p>
<b>Supplement Update 1</b>	<p>The third bullet in the “Retained” section of the table in Section 3, “Background,” is updated as follows:</p> <p>From: All existing provisions and clauses are retained (or remain reserved if previously reserved) with no changes to the text.</p> <p>To: The following provision and clause are retained (or remain reserved if previously reserved) with no changes to the text:</p> <ul style="list-style-type: none"> <li>• 52.209-8 remains reserved</li> <li>• 52.209-12 (Provision), Certification Regarding Tax Matters</li> <li>• 52.209-14 (Clause), Reserve Officer Training Corps and Military Recruiting on Campus</li> </ul>
<b>Supplement Update 2</b>	<p>A new section titled “Updated” is added to the table in Section 3, “Background.” The following bullet is added.</p>

	<ul style="list-style-type: none"> <li>• The following provisions and clauses have been updated to reflect plain language, update cross-references, or to correspond with updates made within the part: <ul style="list-style-type: none"> <li>○ 52.209-1 (Clause), Qualification Requirements</li> <li>○ 52.209-2 (Provision), Prohibition on Contracting with Inverted Domestic Corporations-Representation</li> <li>○ 52.209-3 (Clause), First Article Approval-Contractor Testing <ul style="list-style-type: none"> <li>▪ Note - The Alternates are not updated</li> </ul> </li> <li>○ 52.209-4 (Clause), First Article Approval-Government Testing <ul style="list-style-type: none"> <li>▪ Note - The Alternates are not updated</li> </ul> </li> <li>○ 52.209-5 (Provision), Certification Regarding Responsibility Matters</li> <li>○ 52.209-6 (Clause), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, Proposed for Debarment, or Voluntarily Excluded</li> <li>○ 52.209-7 (Provision) Information Regarding Responsibility Matters</li> <li>○ 52.209-9 (Clause), Updates of Publicly Available Information Regarding Responsibility Matters</li> <li>○ 52.209-10 (Clause), Prohibition on Contracting with Inverted Domestic Corporations</li> <li>○ 52.209-11 (Provision), Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law</li> <li>○ 52.209-13 (Provision) Violation of Arms Control Treaties or Agreements-Certification</li> </ul> </li> </ul>
<b>Supplement Update 3</b>	<p>Section 4, “Required Actions,” is updated to add the following bullets after the first paragraph:</p> <ul style="list-style-type: none"> <li>• For new solicitations or contracts, when using any provisions or clauses that have been revised, utilize the RFO model deviation language at <a href="#">RFO FAR Part 52</a>.</li> <li>• 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 clause, the contracting officer may be required to separately address certain aspects in the contract.</li> </ul> <p>The rest of Section 4, “Required Actions,” is unchanged.</p>

<b>Miscellaneous</b>	<ul style="list-style-type: none"> <li>• For ease of reference, GSA’s Office of Acquisition Policy has created a helpful tool to easily find and sort provision and clauses changes: RFO Part 52 P&amp;C Table.</li> </ul>
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- IV. Applicability:** This supplement to applicable class deviations applies to all DOT OAs, OST, and OIG, excluding the FAA in accordance with TAR 1201.104(d).
- V. Expiration Date:** This CD will remain in effect until it is incorporated into the FAR or is otherwise rescinded, whichever occurs first.
- VI. Point of Contact:** Questions or comments regarding this deviation may be directed to [DOTAcquisitionPolicy@dot.gov](mailto:DOTAcquisitionPolicy@dot.gov).



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**SUBJECT:** Class Deviation No. 2025-23 from the Federal Acquisition Regulation for FAR Part 12 in Support of Executive Order 14275 on Restoring Common Sense to Federal Procurement

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**TO:** Department of Transportation Chiefs of the Contracting Offices

- I. Purpose:** This class deviation (CD) is issued under Federal Acquisition Regulation (FAR) part 1 and Transportation Acquisition Regulation (TAR) part 1201 and authorizes a class deviation to FAR part 12 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR part 12.
- II. Effective Date:** Immediately.
- III. Background:** On April 15, 2025, [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.

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
- 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

The following table is not an exhaustive list but includes notable updates to FAR part 12.

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> </ul>

	<ul style="list-style-type: none"> <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 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).</li> <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 contracting officers to exercise good business judgment in deciding whether to accept a quotation or offer received after the due date or time.</li> <li>• The <b>definition of and requirements for subcontracts are retained</b>, and will be moved to part 44.</li> </ul>
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	<ul style="list-style-type: none"> <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>
<b>Removed</b>	<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>

**IV. Required Actions:** All DOT Operating Administrations (OAs), the Office of the Secretary of Transportation (OST), and the Office of the Inspector General (OIG), excluding the Federal Aviation Administration (FAA) per RFO TAR 1201.104(d) shall follow the [RFO FAR part 12 model deviation text](#) instead of FAR part 12 as codified at 48 CFR chapter 1. The Council’s RFO FAR part 12 model deviation text is available at [Acquisition.gov/far-overhaul](#) and is incorporated by reference into this CD. A line-out version of the changes may also be found [here](#) for reference.

For new solicitations or contracts, when using any provisions or clauses that have been revised, utilize the RFO model deviation language at [RFO FAR part 52](#). Do 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.”*

Contracting activities must review templates and related standard operating procedures to align with this class deviation and remove unnecessary processes and steps.

Heads of the Contracting Activities (HCAs) must ensure this deviation is disseminated to the acquisition workforce and ensure compliance with the requirements in the revised FAR part 12 guidance.

- V. **Applicability:** This CD applies to all DOT OAs, OST, and OIG, excluding the FAA in accordance with TAR 1201.104(d).
- VI. **Expiration Date:** This CD will remain in effect until it is incorporated into the FAR or is otherwise rescinded, whichever occurs first.
- VII. **Point of Contact:** Questions or comments regarding this deviation may be directed to [DOTAcquisitionPolicy@dot.gov](mailto:DOTAcquisitionPolicy@dot.gov).