



# Federal Communications Commission Enterprise Acquisition Center

FCC Class Deviation RFO-2026-23 – Supplement 1

TO: FCC Enterprise Acquisition Center

FROM: Sunny Diemert, Senior Procurement Executive

DATE: May 12, 2026

SUBJECT: Supplement to Certain FCC Implementing Deviations in Support of Executive Order 14275, Restoring Common Sense to Federal Procurement.

1. Purpose: This supplement provides updates and amendments to certain FCC implementing deviations.

2. Background: In accordance with Executive Order (E.O.) 14275 on Restoring Common Sense to Federal Procurement between May and September 2025, the FAR Council issued model deviation text by FAR part in support of the Revolutionary FAR Overhaul (RFO) initiative. This initiative is intended to make the FAR more concise, understandable, and focused on core procurement requirements.

In accordance with OMB Memorandum M-25-26, FCC issued implementing class deviations following release of each RFO FAR part deviation text. More information about the purpose of the RFO initiative and background on individual model deviation language can be found in the original GSA implementing deviation for each part.

Subsequent review has identified the need to update and amend FCC’s implementing deviations for RFO FAR parts 5, 8, 9, 12, 13, and 23. The specific changes and rationale are discussed below.

### 3. Summary of Supplement Updates

RFO FAR parts 5, 12, 13, and 23	
Background	RFO FAR parts 5, 12, 13, and 23 included corresponding definition updates to part 2, but the implementing FCC 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.
Supplement Update	In FCC’s class deviations implementing RFO FAR parts 5, 12, 13, and 23, section 4, “Instructions”, is updated to add the following bullet: <ul style="list-style-type: none"> <li>The FCC acquisition workforce must use the definitions (Part 2 - Deviations of Words and Terms) found on <a href="https://www.acquisition.gov/far-overhaul">Acquisition.gov/far-overhaul</a>.</li> </ul> <p>The remainder of the deviation is unchanged.</p>

RFO FAR part 8	
Background	<p>The FAR Council initially released the RFO FAR part 8 model deviation text on August 14, 2025 which required use of Office of Federal Property Policy best-in-class (BIC) contracts. On August 29, 2025 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>FCC’s class deviation implementing RFO FAR 8 is amended as follows, to reflect the updated RFO FAR part 8 model deviation text:</p>
Supplement Update 1	<p>Section 3, “Summary of Changes”, is updated as follows:</p> <p>3. Summary of Changes. 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 source guidance.</li> <li>• <del>Makes 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>
Supplement Update 2	<p>The fourth bullet in the “Retained” section of the table in Section 3, “Summary of Changes”, 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> [OFPP-designed “Required Use”] contracts or BPAs are now <del>required</del>[mandatory] <del>to be used</del> 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> [“required use” contract] is not suitable, agencies should consider use of an existing governmentwide contract, BPA, or shared service.</li> </ul>
Miscellaneous	<ul style="list-style-type: none"> <li>• OFPP is expected to provide more information about “required use” contracts in the future.</li> </ul>

RFO FAR part 9	
Background	<p>The FCC 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>
Supplement Update 1	<p>The third bullet in the “Retained” section of the table in Section 3, “Summary of Changes”, is updated as follows:</p>

	<p><u>From:</u> All existing provisions and clauses are retained (or remain reserved if previously reserved) with no changes to the text.</p> <p><u>To:</u> 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>○ 52.509-12 (Provision), Certification Regarding Tax Matters</li> <li>○ 52.209-14 (Clause), Reserve Officer Training Corps and Military Recruiting on Campus</li> </ul>
<p>Supplement Update 2</p>	<p>A new section title “Updated” is added to the table in Section 3, “Summary of Changes”. 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>
<p>Supplement Update 3</p>	<p>Section 4, “Instructions”, is updated to add the following bullets:</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 RFO FAR part 52.</li> </ul>

	<ul style="list-style-type: none"> <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 clauses, the contracting officer may be required to separately address certain aspects in the contract.</li> </ul> <p>All other bullets in section 4, “Instructions” are unchanged.</p>
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4. Applicability. This supplement to applicable class deviations applies to all FCC procurements.

5. Authority: This class deviation is issued under the authority of E.O. 14275, OMB Memo M-25- 26, 48 CFR 1.4, and RFO FAR 1.304.

6. Effective Date: This class deviation is effective as dated and shall remain in effect until it is incorporated into the FAR or until this class deviation is otherwise rescinded.

7. Point of Contact: Questions regarding this class deviation may be directed to FCC’s Senior Procurement Executive, Sunny Diemert, at [sunny.diemert@fcc.gov](mailto:sunny.diemert@fcc.gov).

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Sunny Diemert  
Senior Procurement Executive (SPE)



## Federal Communications Commission Enterprise Acquisition Center

FCC Class Deviation RFO-2026-23

TO: FCC Enterprise Acquisition Center

FROM: Sunny Diemert, Senior Procurement Executive

DATE: May 11, 2026

SUBJECT: FAR Class Deviation for FAR Part 23 in Support of Executive Order 14275, Restoring Common Sense to Federal Procurement.

1. Purpose: This memorandum approves a class deviation to Federal Acquisition Regulation (FAR) part 23 for purposes of implementing the Federal Acquisition Regulatory Council's (the Council's) model deviation text to FAR part 23.

2. Background: [Executive Order \(E.O.\) 14275, Restoring Common Sense to Federal](#), signed April 15, 2025, mandates a comprehensive review and simplification of the Federal Acquisition Regulation.

The FAR is being updated to:

- Eliminate non-statutory language
- Remove redundant or obsolete language
- Enhance clarity through plain language
- Align with the new FAR framework
- Preserve essential 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.

3. Summary of Changes. FAR part 23, Sustainable Acquisition, Material Safety, and Pollution Prevention, has been revised to enhance clarity and efficiency, and to ensure compliance with current statutory requirements. The updated FAR part maintains existing statutory mandates for energy efficiency, biobased products, energy savings performance contracts, hazardous material identification, and pollution prevention. Requirements related to clean energy and waste reduction, previously driven by the now-revoked E.O. 14057, have been removed.

Statutory requirements retained in the RFO FAR part 23 model deviation include, but may not be limited to, the following:

- 7 U.S.C. § 8102, Biobased Markets Program
- 42 U.S.C. § 6361, Federal Energy Conservation Programs

- 42 U.S.C. § 6962, Resource Conservation and Recovery Act of 1976
- 42 U.S.C. § 8259b, Federal Procurement of Energy Efficient Products
- 42 U.S.C. §§ 7671 et seq, Stratospheric Ozone Protection
- 42 U.S.C. §§ 13101 et seq, Pollution Prevention Act of 1990

Change	Description
Retained	<ul style="list-style-type: none"> <li>• The following provision and clauses are retained (or remain reserved) with no changes:               <ul style="list-style-type: none"> <li>○ 52.223-4 (Provision), Recovered Material Certification</li> <li>○ 52.223-5 (Clause), Pollution Prevention and Right-to-Know Information</li> <li>○ 52.223-6 remains reserved</li> <li>○ 52.223-8 remains reserved</li> <li>○ 52.223-9 (Clause), Estimate of Percentage of Recovered Material Content for EPA-Designated Items</li> <li>○ 52.223-13 thru 52.223-18 remain reserved</li> </ul> </li> </ul>
Moved / Updated	<ul style="list-style-type: none"> <li>• 13.303, “Contractor Financing and Payments”, now directs readers to part 32 for payment procedures, including fast payment procedures.</li> <li>• 13.401, “General”, for micropurchases, now points to part 12 when making purchases below the micropurchase threshold (MPT) ensuring that the simplest and most common type of acquisition is governed by a single, consistent set of rules, regardless of whether the item is commercial or noncommercial.</li> </ul>
Removed	<ul style="list-style-type: none"> <li>• Section 23.000, “Scope of Part”, is updated to align with the new part title. It removes references to “environment”, replaces “sustainable products and services” with “sustainable acquisition” and adds the phrase “preventing pollution”.</li> <li>• Subpart 23.1, “Sustainable Products”, is updated to remove “and Services” from the subpart title. The “Scope of Part” at 23.100 is streamlined and removes redundant references to content covered in FAR part 12.</li> <li>• Section 23.101, “Definitions” is updated to include:               <ul style="list-style-type: none"> <li>○ New definitions:                   <ul style="list-style-type: none"> <li>▪ Energy-efficient product</li> <li>▪ Low standby power device</li> <li>▪ Sustainable product</li> </ul> </li> <li>○ Definitions updated for clarity:                   <ul style="list-style-type: none"> <li>▪ EPA-designated item</li> <li>▪ USDA-designated product category</li> </ul> </li> </ul> </li> <li>• Sections 23.102, “Policy”, 23.103, “Procedures”, and 23.104, “Priorities”, streamline and consolidate former sections in this subpart.               <ul style="list-style-type: none"> <li>○ 23.102 presents a clear mandate that agencies must procure sustainable products to the maximum extent practicable.</li> <li>○ 23.103 outlines three direct steps for the contracting officer when procuring sustainable products.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ 23.104 provides clear priorities for acquisition teams when procuring sustainable products.</li> <li>● Section 23.106, “Restrictions”, provides improved clarity on products the contracting officer is prohibited from purchasing.</li> <li>● Subpart 23.2, “Energy Savings Performance Contracts”, is updated for clarity and efficiency.</li> <li>● Section 23.201, “Definition” is added to provide a formal definition for “Energy savings performance contract”.</li> <li>● Subpart 23.3, “Material Safety”, updates its title from “Hazardous Material Identification, Material Safety Data, and Notice of Radioactive Materials”. The content is updated for clarity, streamlining and/or to remove outdated content.</li> <li>● Subpart 23.4, “Pollution Prevention”, updates its title from “Pollution Prevention, Environmental Management Systems, and Waste Reduction”. The content is updated for clarity, streamlining, and/or to remove outdated content. <ul style="list-style-type: none"> <li>○ 23.401, “Definitions”, is updated to remove definition of “Federal agency” and add definitions for: <ul style="list-style-type: none"> <li>▪ “Pollution prevention”</li> <li>▪ “Toxic chemical” (from 23.001)</li> </ul> </li> </ul> </li> <li>● The following provision and clauses are updated for clarity, to mirror updates made throughout the part, and/or to update cross-references or remove outdated content: <ul style="list-style-type: none"> <li>○ 52.223-1 (Provision), Biobased Product Certification</li> <li>○ 52.223-2 (Clause), Reporting of Biobased Products Under Service and Construction Contracts</li> <li>○ 52.223-3 (Clause), Hazardous Material Identification and Safety Data</li> <li>○ 52.223-7 (Clause), Notice of Radioactive Materials</li> <li>○ 52.223-11 (Clause), Ozone-Depleting Substances</li> <li>○ 52.223-12 (Clause), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners</li> <li>○ 52-223-23 (Clause), Sustainable Products</li> </ul> </li> <li>● The FAR Companion is expected to include best practice and guidance on the following: <ul style="list-style-type: none"> <li>○ Energy Savings Performance Contracts (ESPCs)</li> <li>○ Resources for Statutory Environmental Purchasing</li> <li>○ Programs</li> </ul> </li> </ul>
Removed	<ul style="list-style-type: none"> <li>● The definitions of “Environmental” and “Greenhouse gas”, previously at 23.001, are deleted, as they were primarily relevant to the now-deleted subpart 23.5.</li> <li>● “Environmental management systems”, formerly section 23.404 is deleted. This deletion is based on the revocation of E.O. 14057.</li> <li>● “Waste reduction program”, formerly section 23.405 is deleted. This deletion is based on the revocation of E.O. 14057.</li> <li>● “Greenhouse Gas Emissions”, formerly subpart 23.5 is deleted. This deletion is based on the revocation of E.O. 14057.</li> </ul>

	<ul style="list-style-type: none"> <li>• The following provision and clauses are removed and marked reserved based on the revocation of E.O. 14057 or because they are not required by statute or otherwise essential to sound procurement: <ul style="list-style-type: none"> <li>○ 52.223-10 (Clause), Waste Reduction Program</li> <li>○ 52.223-19 (Clause), Compliance with Environmental Management Systems</li> <li>○ 52.223-20 (Clause), Aerosols</li> <li>○ 52.223-21 (Clause), Foams</li> <li>○ 52.223-22 (Provision), Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation.</li> </ul> </li> </ul>
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This table is not an exhaustive list.

4. Instructions:

- The FCC acquisition workforce must follow the RFO part 23 and corresponding part 52 model deviation text instead of FAR parts 23 and 52 as codified at 48 CFR Chapter 1. The Council’s RFO part 23 model deviation text is available at [Acquisition.gov/far-overhaul](https://www.acquisition.gov/far-overhaul), and is incorporated into this class deviation.
- 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.
- 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.
- The FCC workforce must review templates and related standard operating procedures to align with this class deviation and remove unnecessary processes and steps.

5. Applicability: This class deviation applies to all FCC procurements.

6. Authority: This class deviation is issued under the authority of EO 14275, OMB Memo M-25-26, 48 CFR 1.4, and RFO FAR 1.304.

7. Effective Date: This class deviation is effective as dated and shall remain in effect until it is incorporated into the FAR or until this class deviation is otherwise rescinded.

8. Point of Contact: Questions regarding this class deviation may be directed to FCC’s Senior Procurement Executive, Sunny Diemert, at [sunny.diemert@fcc.gov](mailto:sunny.diemert@fcc.gov).

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