

MKU-DEV-2025-44

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

DATE: December 1, 2025

SUBJECT: Class Deviations for FAR Part 16 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 16 for purposes of implementing the Federal Acquisition Regulatory Council's ("the Council's" or "RFO") model deviation text to FAR Part 16.
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 September 30, 2025, the FAR Council issued completed revisions for FAR Part 16, Types of Contracts, and FAR Part 52 provisions and clauses. The updated text clarifies complicated policies and procedures for selecting contract type and gives the acquisition workforce new tools and flexibilities to support the guiding principles for the FAR System.

Key new improvements and flexibilities to part 16 include:

- **Innovative contract types** that empower contracting officers to use novel contract structures. Examples of innovative contract types are expected to be included in the FAR Companion and other strategic acquisition guidance.
- Significant **task and delivery order procedure simplification** that will help reduce administrative errors, enhance consistency, and streamline the ordering process for both federal buyers and multiple-award contract holders.
- **On-and-off ramps** to maintain current, competitive, and innovative pools of vendors on multiple-award contracts.
- **Blanket purchase agreements** are allowed for repetitive requirements under all multiple award contracts, providing consistency with ordering procedures for Federal Supply Schedules.

Statutory requirements retained in the RFO FAR part 16 model deviation include, but may not be limited to, the following:

- 10 U.S.C. §§ 3321 et seq and 41 U.S.C. §§ 3901 et seq, Specific Types of Contracts
- 10 U.S.C. §§ 3371 et seq, Undefined Contractual Actions
- 10 U.S.C. §§ 3401 et seq and 41 U.S.C. 4101 §§ et seq, Task and Delivery Order Contracts
- 41 U.S.C. § 3302, Requirements for Purchase of Property and Services Pursuant to Multiple Award Contracts
- Pub. L. 109-364 Section 814 and 41 U.S.C. § 4711, Linking of Award and Incentive Fees to Acquisition Outcomes

Change	Description
Retained	<ul style="list-style-type: none"> • 16.001, “Definitions,” is retained without changes. • All provisions and clauses have been retained (or remain reserved) with no changes except for four noted in the “Moved/Updated” section below.
Moved/Updated	<ul style="list-style-type: none"> • 16.000, “Scope of Part,” is updated to add an important new sentence: “Except for limited instructions regarding the placement of task and delivery orders, the entirety of this part applies to the pre-solicitation phase and is meant to guide in acquisition planning.” • Subpart 16.1, “Selecting Contract Types,” has been significantly restructured to consolidate policies, emphasize documentation, and provide greater flexibility to contracting officers. • 16.101(a), “Policies,” clarifies that “contract types that promote the best interests of the Government, but are not described in this regulation, are permitted for use in accordance with agency procedures”. <ul style="list-style-type: none"> ○ This replaces the more restrictive policy in the former 16.102(b), which stated that unlisted contract types “shall not be used, except as a deviation under subpart 1.4.”

	<ul style="list-style-type: none"> ○ This update represents a deliberate shift from a restrictive to a permissive framework, empowering contracting officers to use novel and innovative contract structures consistent with the “Guiding Principles for the System” in RFO FAR 1.102. ● 16.104, “Solicitation Provision,” updates the prescription for using the provision at “52.216-1, Type of Contract.” <ul style="list-style-type: none"> ○ It has been changed from mandatory (“The contracting officer shall...insert”) to discretionary (“The contracting officer may...insert”). ○ A new Alternate I has been added for use when the solicitation allows offerors to propose an alternative contract type, reinforcing the push for greater flexibility and industry input. ● Subpart 16.2, “Fixed-Price Contracts,” is retained and streamlined to include updated guidance for ease of the reader. ● Subpart 16.3, “Cost-Reimbursement Contracts,” has been substantially streamlined and reorganized by consolidating descriptions and relocating all incentive-based contract types to subpart 16.4, “Incentive Contracts.” This restructuring declutters the subpart by removing redundant text and consolidating guidance for complex incentive contract types. <ul style="list-style-type: none"> ○ New 16.302, “Cost contracts,” and 16.303, “Cost-sharing contracts,” are reduced to single-sentence descriptions, whereas the former text included separate subsections for “Description,” “Application,” and “Limitations.” ○ The content for “Cost-Plus-Incentive-Fee” (former 16.304) and “Cost-Plus-Award-Fee” (former 16.305) contracts has been deleted from this subpart and moved to 16.405 and 16.402-3, respectively. ● Subpart 16.4, “Incentive Contracts,” has undergone a complete reorganization to consolidate all incentive-related policies and contract type descriptions into a single subpart. The changes centralize content, particularly for award-fee contracts, to ensure consistent application. ● Subpart 16.5, “Indefinite-Delivery Contracts,” has been revised to clearly outline for the acquisition workforce the types of task and delivery order contracts and how to utilize them. ● 16.504-4, “On-ramps and off-ramps,” is a new subsection that authorizes “on-ramping” (adding new contractors) and “off-ramping” (removing contractors) from a multiple-award contract during its ordering period. ● The content of the former 16.505, “Ordering,” is now distributed across three new sections: <ul style="list-style-type: none"> ○ New 16.506, “Postaward Procedures for Placement of Task and Delivery Orders,” consolidates the general administrative requirements for contents of orders (formerly in 16.505(a)(7)) and other general post-award rules.
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	<ul style="list-style-type: none"> ○ New 16.507, “Additional ordering procedures for multiple-award contracts,” is now the central location for all rules related to the requirement to provide fair opportunity to be considered for orders or Blanket Purchase Agreements (BPA). It is broken down by dollar value and contains the rules for orders below the micro-purchase threshold (MPT), fair opportunity for orders and BPAs above the MPT, exceptions to fair opportunity, brand-name justifications, and the new authorization for BPAs. <ul style="list-style-type: none"> ▪ 16.507-2(a)(2), under “Fair opportunity procedures,” emphasizes that the contracting officer has broad discretion to develop appropriate order placement procedures and encourages innovative techniques highlighted in the Periodic Table of Acquisition Innovations. ▪ 16.507-2(c)(3), “Blanket Purchase Agreements,” is a new subsection that explicitly authorizes the establishment of BPAs under multiple-award IDIQ contracts to fill repetitive needs, if authorized in the master contract. <ul style="list-style-type: none"> • Note - Contracting Officers must establish ordering procedures in the BPA that ensure BPA holders (but not other multiple-award contractors) are provided the fair opportunity procedures in 16.507-3 through -5. ▪ 16.507-3 through -5 consolidate fair opportunity procedures and documentation requirements for orders valued above the MPT, above the SAT, and above \$7.5 million (\$6 million prior to October 1, 2025). ▪ 16.507-4(a), clarifies the requirement to provide fair notice of intent to place an order for orders or BPAs valued above the SAT. ▪ 16.507-5(a) clarifies additional fair notice requirements for orders or BPAs valued above \$7.5 million (\$6 million prior to October 1, 2025) (previously at 16.505(b)(1)(iii)-(iv)). ○ New 16.508, “Protests of orders,” consolidates all rules regarding the protest of task and delivery orders (previously at 16.505(a)(10)). • Subpart 16.6, “Time-and-Materials, Labor-Hour, and Letter Contracts” is improved for readability and to provide clarity on these high-risk contract types. • Subpart 16.7, “Agreements,” is updated with structural formatting updates to improve clarity. • The following provision and clauses have been updated to reflect plain language, update cross-references, or to correspond with updates made within the part:
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	<ul style="list-style-type: none"> ○ 52.216-1 (Provision), Type of Contract ○ 52.216-7 (Clause), Allowable Cost and Payment ○ 52.216-21 (Clause), Requirements ○ 52.216-22 (Clause), Indefinite Quantity ● The FAR Companion is expected to include best practice information on the following: <ul style="list-style-type: none"> ○ Selecting contract types ○ Factors in selecting contract type ○ Guidance when ceiling prices are established for fixed-price contracts with prospective price redetermination ○ Guidance on cost controls of fixed-ceiling-price contracts with retroactive price redetermination ○ Guidance on when to consider use of a completion or term form of a cost-plus-fixed-fee contract ○ Guidance on application of technical performance incentives ○ Guidance on structuring and applying firm and successive target fixed-price incentive contracts ○ Guidance on application of cost-plus-incentive fee contracts
Removed	<ul style="list-style-type: none"> ● Obsolete American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (ARRA) Provision (from former 16.505(a)(11)): All requirements related to publicizing orders funded by the ARRA have been removed as obsolete.

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 16, the Udall Foundation shall follow the RFO Part 16 model deviation text instead of FAR Part 16 as codified at 48 CFR Chapter 16. The FAR Council’s RFO Part 16 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 16 model deviation text instead of FAR Part 16 as codified at 48 CFR Chapter 16 and the RFO Part 52 model deviation text of FAR Part 52 as codified at 48 CFR Chapter 52. The Council’s RFO Parts 16 and 52 model deviation text are available at Acquisition.gov, under the “FAR Overhaul” link, and are incorporated into this class deviation.

For new solicitations or contracts, 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.

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 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.