

MKU-DEV-2025-46

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

DATE: December 1, 2025

SUBJECT: Class Deviations for FAR Part 23 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 23 for purposes of implementing the Federal Acquisition Regulatory Council's ("the Council's" or "RFO") model deviation text to FAR Part 23.
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 23, Sustainable Acquisition, Material Safety, and Pollution Prevention, and FAR Part 52 provisions and clauses. The updated text 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"> • The following provision and clauses are retained (or remain reserved) with no changes: <ul style="list-style-type: none"> ○ 52.223-4 (Provision), Recovered Material Certification ○ 52.223-5 (Clause), Pollution Prevention and Right-to-Know Information ○ 52.223-6 remains reserved ○ 52.223-8 remains reserved ○ 52.223-9 (Clause), Estimate of Percentage of Recovered Material Content for EPA-Designated Items ○ 52.223-13 thru 52.223-18 remain reserved
Moved/Updated	<ul style="list-style-type: none"> • 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.” • 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. • Section 23.101, “Definitions” is updated to include: <ul style="list-style-type: none"> ○ New definitions: <ul style="list-style-type: none"> ▪ Energy-efficient product ▪ Low standby power device ▪ Sustainable product ○ Definitions updated for clarity: <ul style="list-style-type: none"> ▪ EPA-designated item ▪ USDA-designated product category • 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"> ○ 23.102 presents a clear mandate that agencies must procure sustainable products to the maximum extent practicable. ○ 23.103 outlines three direct steps for the Contracting Officer when procuring sustainable products. ○ 23.104 provides clear priorities for acquisition teams when procuring sustainable products. ● Section 23.106, “Restrictions,” provides improved clarity on products the Contracting Officer is prohibited from purchasing. ● Subpart 23.2, “Energy Savings Performance Contracts,” is updated for clarity and efficiency. ● Section 23.201, “Definition” is added to provide a formal definition for “Energy savings performance contract.” ● 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. ● 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"> ○ 23.401, “Definitions,” is updated to remove definition of “Federal agency” and add definitions for: <ul style="list-style-type: none"> ▪ “Pollution prevention” ▪ “Toxic chemical” (from 23.001) ● 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"> ○ 52.223-1 (Provision), Biobased Product Certification ○ 52.223-2 (Clause), Reporting of Biobased Products Under Service and Construction Contracts ○ 52.223-3 (Clause), Hazardous Material Identification and Safety Data ○ 52.223-7 (Clause), Notice of Radioactive Materials ○ 52.223-11 (Clause), Ozone-Depleting Substances ○ 52.223-12 (Clause), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners ○ 52-223-23 (Clause), Sustainable Products ● The FAR Companion is expected to include best practice and guidance on the following: <ul style="list-style-type: none"> ○ Energy Savings Performance Contracts (ESPCs) ○ Resources for Statutory Environmental Purchasing Programs.
<p>Removed</p>	<ul style="list-style-type: none"> ● 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. ● “Environmental management systems,” formerly section 23.404 is deleted. This deletion is based on the revocation of E.O. 14057.

	<ul style="list-style-type: none"> • “Waste reduction program,” formerly section 23.405 is deleted. This deletion is based on the revocation of E.O. 14057. • “Greenhouse Gas Emissions,” formerly subpart 23.5 is deleted. This deletion is based on the revocation of E.O. 14057. • 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"> ○ 52.223-10 (Clause), Waste Reduction Program ○ 52.223-19 (Clause), Compliance with Environmental Management Systems ○ 52.223-20 (Clause), Aerosols ○ 52.223-21 (Clause), Foams ○ 52.223-22 (Provision), Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation.
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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 23, the Udall Foundation shall follow the RFO Part 23 model deviation text instead of FAR Part 23 as codified at 48 CFR Chapter 23. The FAR Council’s RFO Part 23 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 23 model deviation text instead of FAR Part 23 as codified at 48 CFR Chapter 23 and the RFO Part 52 model deviation text of FAR Part 52 as codified at 48 CFR Chapter 52. The Council’s RFO Parts 23 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.