

**CLASS DEVIATION
FINDINGS AND DETERMINATION
FEDERAL ACQUISITION REGULATION (FAR) PART 25 – FOREIGN ACQUISITION**

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 25 – Foreign Acquisition, 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”), 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:
 - 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

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 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 30, 2025, the FAR Council issued model deviation text for RFO FAR Part 25 – Foreign Acquisition, and the corresponding clauses at FAR Part 52 – Solicitation Provisions and Contract Clauses. RFO FAR Part 25 has been updated and reorganized to improve clarity, remove obsolete material, and logically group related content for enhanced usability by acquisition professionals. Statutory and other requirements retained in the RFO FAR Part 25 model deviation include, but are not limited to, those identified in the following:

- 19 U.S.C. §§ 2501 et seq, Trade Agreements Act of 1979
- 22 U.S.C. § 3305, The American Institute in Taiwan
- 41 U.S.C. §§ 8301 et seq, Buy American
- E.O. 10582, Prescribing Uniform Procedures for Certain Determinations Under the Buy-American Act
- E.O. 13881, Maximizing Use of American-Made Goods, Products, and Materials
- E.O. 14005, Ensuring the Future Is Made in All of America by All of America's Workers
- Pub. L. 103-465, World Trade Organization Government Procurement Agreement (WTO GPA), as approved in the Uruguay Round Agreements Act
- Free Trade Agreements (FTA) and Other International Agreements
 - Pub. L. 98-67, Caribbean Basin Economic Recovery Act
 - Pub. L. 99-47, United States-Israel Free Trade Area Implementation Act of 1985
 - Pub. L. 108-77, United States-Chile Free Trade Agreement Implementation Act
 - Pub. L. 108-78, United States-Singapore Free Trade Agreement Implementation Act
 - Pub. L. 108-286, United States-Australia Free Trade Agreement Implementation Act
 - Pub. L. 108-302, Morocco Free Trade Agreement Implementation Act
 - Pub. L. 109-53, Dominican Republic-Central America-United States Free Trade Agreement Implementation Act
 - Pub. L. 109-169, United States-Bahrain Free Trade Agreement Implementation Act
 - Pub. L. 109-283, United States-Oman Free Trade Agreement Implementation Act
 - Pub. L. 110-138, United States-Peru Trade Promotion Agreement Implementation Act
 - Pub. L. 112-41, United States-Korea Free Trade Agreement Implementation Act
 - Pub. L. 112-42, United States-Columbia Trade Promotion Agreement Implementation Act
 - Pub. L. 112-43, United States-Panama Trade Promotion Agreement Implementation Act
 - Pub. L. 116-113, United States-Mexico-Canada Agreement (USMCA) Implementation Act

Other key changes include, but are not limited to the following:

Retained:

- Section 25.001, “General”, is retained with minor updates to remove reference to the American Recovery and Reinvestment Act (ARRA) of 2009 (Pub. L. 111-5), which is no longer active.
- Section 25.003, “Definitions”, is retained with minor edits throughout.
- Subpart 25.8, “Other International Agreements and Coordination”, is retained because it is anchored in international treaties and agreements that are part of international law.
- Subpart 25.9, “Customs and Duties”, is retained in full because it implements statutory customs requirements and duty requirements.
- Subpart 25.10, “Additional Foreign Acquisition Regulations”, is mostly retained as statutorily required.
 - Section 25.1003, “Tax on Certain Foreign Procurements”, is deleted as this content is implemented in part 29. The FAR Companion is expected to include best practice information on tax on foreign procurements.
- The following provisions and clauses are retained (or remain reserved) with no changes:
 - 52.225-2 (Provision), Buy American Certificate
 - 52.225-5 (Clause), Trade Agreements
 - 52.225-6 (Provision), Trade Agreements Certificate
 - 52.225-7 (Provision), Waiver of Buy American Statute for Civil Aircraft and Related Articles
 - 52.225-8 (Clause), Duty-Free Entry
 - 52.225-10 (Provision), Notice of Buy American Requirement—Construction Materials
 - 52.225-12 (Provision), Notice of Buy American Requirement—Construction Materials Under Trade Agreements
 - 52.225-14 (Clause), Inconsistency between English Version and Translation of Contract
 - 52.225-15 & 52.225-16 remain reserved
 - 52.225-17 (Provision), Evaluation of Foreign Currency Offers
 - 52.225-18 (Provision), Place of Manufacture
 - 52.225-19 (Clause), Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States
 - 52.225-26 (Clause), Contractors Performing Private Security Functions Outside the United States.

Moved/Updated:

- Section 25.002, “Applicability of Subparts”, has been updated to align with the part 25 organizational structure and is expected to be moved to the FAR Companion.
- Subpart 25.1, “Buy American—Supplies”, is retained and updated.

- Section 25.103 adopts the centralized waiver process for individual nonavailability determinations.
 - Submission to MIAO: The new 25.103(b)(2)(iii) requires contracting officers to submit a proposed individual nonavailability waiver for review and posting to the public-facing website, MadeinAmerica.gov, using a digital waiver portal managed by the MIAO.
 - Prohibition on Award: The contracting officer may not make an award until: (1) the MIAO has completed its review of the proposed waiver; (2) the MIAO has waived the review requirement; or (3) a specific exception to the posting requirement applies.
 - Procedural Details: Subparagraphs (b)(2)(iii)(A) through (D) require the use of a standardized digital form, specify that certain information will be made public, establish MIAO review times, and outline exceptions for urgent requirements. In cases of urgency, a report must be filed within 30 days of award.
- Subpart 25.2, “Buy American—Construction Materials”, is retained and revised to align with the changes in subpart 25.1 and to streamline its content.
 - Section 25.203, “Preaward Determinations”
 - Section 25.203(a) has been streamlined. The instructions for offerors are more appropriately located within the solicitation provisions (e.g., 52.225-10 and 52.225-12).
 - Section 25.204, “Evaluating Offers of Foreign Construction Material”, has been revised for clarity and restructured.
- Subpart 25.4, “Trade Agreements”, is updated to remove the specific requirement for post-award notices previously at 25.408(a)(5), as it is redundant of content in other FAR parts.
- Subpart 25.5, “Evaluating Foreign Offers—Supply Contracts”
 - The examples and tables formerly at section 25.504, “Evaluation Examples” are removed and expected to be included in the FAR Companion.
- Subpart 25.6, “Solicitation Provisions and Contract Clauses”, is a relocation of the former Subpart 25.11. The content and structure are largely identical. Subpart 25.11 is now reserved.
- Subpart 25.7, “Contracts Performed Outside the United States”, is a relocation of the former Subpart 25.3. The content and structure are largely identical. Subpart 25.3 is now reserved.
- The following provision and clauses have been updated to reflect plain language, update cross-references, or make corresponding updates within the part:
 - 52.225-1 (Clause), Buy American—Supplies
 - 52.225-3 (Clause), Buy American—Free Trade Agreements—Israeli Trade Act

- 52.225-4 (Provision), Buy American—Free Trade Agreements—Israeli Trade Act Certificate
- 52.225-9 (Clause), Buy American—Construction Materials
- 52.225-11 (Clause), Buy American—Construction Materials Under Trade Agreement

Removed:

- Subpart 25.6, “American Recovery and Reinvestment Act-Buy American statute-Construction Materials”, is deleted as obsolete because the content was specific to construction projects funded by the ARRA of 2009 which is no longer active.
- Subpart 25.7, “Prohibited Sources”, is deleted, along with the following provisions and clauses, because this content has been moved to RFO FAR part 40.
 - 52.225-13 (Clause), Restrictions on Certain Foreign Purchases
 - 52.225-20 (Provision), Prohibition on Conducting Restricted Business Operations in Sudan—Certification.
 - 52.225-25 (Provision), Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications.
- The following provisions and clauses were deleted as obsolete because the content was specific to construction projects funded by the ARRA of 2009 which is no longer active:
 - 52.225-21 (Clause), Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute— Construction Materials
 - 52.225-22 (Provision), Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute— Construction Materials
 - 52.225-23 (Clause), Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute— Construction Materials Under Trade Agreements
 - 52.225-24 (Provision), Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute— Construction Materials Under Trade Agreements

Determination

In accordance with FAR 1.304 *Class deviations* 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 Part 25 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 25 and the applicable sections of Part 52 (Attachment 3). Specifically, DOE/NNSA will follow the RFO model deviation text for Part 25 in lieu of 48 Code of Federal Regulations (CFR) Part 25, and the RFO model deviation text for the applicable sections of Part 52 in lieu of the

corresponding applicable sections of 48 CFR Part 52.225-1 through 52.225-26. 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 upon issuance, and will remain effective until cancelled or incorporated into the FAR.

DEREK
PASSARELLI

Digitally signed by DEREK
PASSARELLI
Date: 2026.01.14 22:39:32 -07'00'

Derek Passarelli,
Senior Procurement Executive
Department of Energy

WILLIAM
QUIGLEY

Digitally signed by WILLIAM
QUIGLEY
Date: 2026.01.06 12:33:15
-05'00'

William J. Quigley,
Deputy Associate Administrator
Office of Partnership and Acquisition
Services
Senior Procurement Executive
National Nuclear Security Administration

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 25 and 52 Model Deviation Text